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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 614]

भोपाल, सोमवार, दिनांक 29 नवम्बर 2010—अग्रहायण 8, शक 1932

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 29 नवम्बर 2010

क्र. 7121-393-इक्कीस-अ-(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश फल-पौध रोपणी (विनियमन) विधेयक, 2010 (क्रमांक 29 सन् 2010) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH BILL

No. 29 of 2010

THE MADHYA PRADESH PHAL-PAUDH ROPANI (VINIYAMAN) VIDHEYAK, 2010.

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MADHYA PRADESH BILL

No. 29 OF 2010

THE MADHYA PRADESH PHAL-PAUDH ROPANI (VINIYAMAN) VIDHEYAK, 2010.

A Bill to provide for the licensing and regulation of fruit-plant nurseries in the State of Madhya Pradesh and for matters connected therewith or incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the Sixty-first year of the Republic of India as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madhya Pradesh Phal-Paudh Ropani (Viniyaman) Adhiniyam, 2010.

(2) It extends to the whole of the State of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “competent authority” means a competent authority appointed under section 3;

(b) “fruit-plant” means any plant which can produce edible fruit or nuts, and includes budwood, seedlings, grafts, layers, seeds, bulbs, suckers, rhizomes and cuttings of any such plant;

(c) “fruit-plant nursery” means any place where fruit plants are in the regular course of business propagated and sold for transplantation;

(d) “owner” in relation to a fruit-plant nursery means the person who, or the authority which, has the ultimate control over the affairs of such fruit-plant nursery; and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the fruit-plant nursery;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “rootstock” means a fruit-plant or part thereof on which any portion of a fruit-plant has been grafted or budded;

(g) “scion” means portion of a fruit-plant which is grafted or budded on to a rootstock.

Appointment of competent authorities.

3. The State Government may, by notification in the official Gazette,—

(a) appoint such persons, being Gazetted officers of the State Government, as it thinks fit to be competent authorities for the purposes of this Act; and

(b) define the limits within which a competent authority shall exercise the powers conferred and perform the duties imposed on him, by or under this Act.

Owner of every fruit-plant nursery to obtain licence.

4. No owner of a fruit-plant nursery shall, after the expiry of six months from the date of commencement of this Act or from the date on which he first becomes owner of such nursery, whichever is later, conduct or carry on the business of the fruit-plant nursery, except under and in accordance with a licence obtained by him under the provisions of this Act and the rules made thereunder.

Explanation.—Where an owner has more than one fruit-plant nursery, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such fruit-plant nursery.

5. (1) Any owner desiring to obtain a licence referred to in the last preceding section shall make an application in writing to the competent authority in such form and manner, and accompanied by such licence fee as may be prescribed by the State Government from time to time.

Application for grant and renewal of licence.

(2) On the receipt of such application, the competent authority shall make such inquiry as it considers necessary, and if the competent authority is satisfied—

- (a) that the fruit-plant nursery is suitable for the proper propagation of the fruit-plants in respect of which the licence has been applied for;
- (b) that the applicant is competent to manage such a fruit-plant nursery;
- (c) that the applicant has paid the prescribed licence fee; and
- (d) that the applicant fulfils or undertakes to fulfil such other conditions as may be prescribed, being conditions for ensuring the quality of plants to be propagated, and their sale at a reasonable price,

the Competent Authority shall grant the licence to the applicant after completion of inspection within one month, and if the competent authority is not so satisfied, it may, after giving a reasonable opportunity to the applicant of being heard and after recording a brief statement of the reasons for refusal, refuse to grant the licence and furnish a copy of such statement to the applicant:

(3) Every licence granted under this section shall be valid for the period specified therein, and may, on an application made to it be renewed from time to time by the competent authority for such period and on payment of such fee, and on such conditions, as may be prescribed, and where the competent authority refuses to renew a licence, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant :

Provided that no order refusing to renew a licence shall be made, unless the applicant is given a reasonable opportunity of being heard.

6. Every holder of a licence under this Act shall—

Duties of the holder of licence.

- (a) undertake to employ only such varieties of the fruit-plants specified in the licence in respect of scion or rootstock for propagation and sale as may be directed by the competent authority;
- (b) keep a complete record of the origin or source of every rootstock and every scion showing—
 - (i) the botanical name, together with the local name, if any, of the rootstock used;
 - (ii) the botanical name, together with the local name, if any, of the scion tree employed in raising the fruit-plants;
- (c) keep the nursery plots as well as the parent trees used for the propagation of fruit-plants free from insects, pests and plant diseases;
- (d) undertake to prepare the fruit-plants in such manner as may be directed by the competent authority;

- (e) Specify in a conspicuous manner on a label the name of every variety of fruit-plant enclosed in any package intended for sale, its age as determined in the prescribed manner and the name of the rootstock together with that of the scion of every such fruit-plant;
- (f) undertake to release for sale or distribution only such fruit-plants as are completely free from any kind of insect, pest or plant disease;
- (g) maintain a register in the form specified by the competent authority showing the name of the fruit-plant sold to any person, its age, the name of the root stock and scion and the name and address of the person purchasing it.

Power of the State Government to regulate or prohibit import, export or transport of certain fruit-plants.

7. The State Government may, for the purpose of maintaining the quality of any fruit-plants grown in any part of the State or to protect them from injurious insects, pests or plant diseases, by notification in the official Gazette, regulate or prohibit, subject to such restriction and conditions as it may impose, the bringing into, or taking out of the State or any part thereof, otherwise than across the customs frontiers as defined by the Central Government, or the transport within the State, of any fruit-plants of unknown pedigree or affected by any infectious or contagious pests or disease.

Power to cancel or suspend licences.

8. (1) The competent authority may suspend or cancel any licence granted or renewed under this Act on any one or more of the following grounds, namely:—

- (a) that he has parted, in whole or in part, with his control over the fruit-plant nursery or has otherwise ceased to conduct or hold such fruit-plant nursery;
- (b) that where the maximum rate or price of any variety of any fruit-plants has been fixed by the State Government by notification in the official Gazette, he has sold any such fruit-plant at a higher rate or price;
- (c) that he has, without reasonable cause, failed to comply with any of the terms and conditions of the licence or any directions lawfully given by the competent authority or has contravened any of the provisions of this Act or the rules made thereunder;
- (d) on any other prescribed ground.

(2) The competent authority may suspend the licence pending the passing of a cancellation order in respect thereof under sub-section (1).

(3) Before passing an order under sub-section (1) the competent authority shall inform the licensee, the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against such action.

(4) A copy of every order passed under sub-section (1) or (2) shall be communicated to the licensee forthwith.

Return of licence.

9. On the expiry of the period of validity specified in a licence or on receipt of an order suspending or cancelling a licence, the licensee shall return the licence to the competent authority:

Provided that such authority may, after such expiration, suspension or cancellation, give such reasonable time as it thinks fit to the owner to enable him to wind up his fruit-plant nursery.

Duplicate licence.

10. If a licence granted to an owner is, lost, destroyed, mutilated or damaged, the competent authority shall, on application and payment of the prescribed fee, issue a duplicate licence.

11. (1) Any person aggrieved by an order of a competent authority refusing to grant or renew a licence or suspending or cancelling a licence, may appeal in such form and manner within such period and to such authority, as may be prescribed:

Appeals.

Provided that the appellate authority may entertain the appeal on expiry of the prescribed period, if it is satisfied that the appellent was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellent an opportunity of being heard, pass such order on the appeal as it thinks fit.

(3) An order passed under this section shall, subject to the decisions of revision under section 12, be final.

12.(1) The State Government may on an application made to it by an aggrieved person against an order in appeal or suo moto against an order of the competent authority and also against an order in appeal, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed under this Act, call for and examine the record of any case and may pass such order thereon, as it thinks fit:

Revision.

Provided that the State Government shall not exercise the power conferred on it by this section, in respect of an order against which an appeal is pending;

Provided further that the State Government shall not pass any order under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

(2) An order passed under this section shall be final.

13. For the purpose of ascertaining the position, or examining the working of any fruit-plants nursery or place of business where the fruit-plants are sold or for any other purpose mentioned in this Act or the rules made thereunder, the competent authority or any person authorized by it or by the State Government in this behalf, shall have the right at all reasonable hours and with or without assistants—

Power of entry and inspection.

- (a) to enter into any fruit-plant nursery or place of business where the fruit-plants are sold and to inspect or examine the fruit-plants therein;
- (b) to order the production of any account book, register, record or other document relating to such nursery or such place of business and take or cause to be taken extracts from, or copies of such a document;
- (e) to ask all necessary questions and examine any person having control of, or employed in connection with, such nursery.

(2) The licensee and all persons employed in connection with such nursery or such place of business shall afford the competent authority or the authorized person all reasonable access and facilities for such inspection and examination as may be required for the purposes aforesaid and shall be bound to answer all questions to the best of their knowledge and belief to produce documents in their possession and to furnish such other information in relation to the fruit-plant nursery or place of business where fruit plants are sold as may be required by such authority or person.

14. If any person—

- (a) contravenes any of the provisions of this Act or contravenes the provisions of any rule made thereunder, the contravention of which is made punishable under this section; or

Penalties.

(b) obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed on him by or under this Act,

he shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or both.

Offences by companies

15. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person, liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purpose of this section-

(a) “company” means any body corporate, and includes a firm or other association of individuals;

(b) “director” in relation to a firm, means a partner in the firm.

Cognizance of offence.

16. No Court shall take cognizance of any offence punishable under this Act except on the report in writing of the facts constituting such offence made by the competent authority or any officer authorized by the state Government in this behalf.

Jurisdiction of court.

17. No court inferior to that of a magistrate of first class, shall try any offence punishable under this Act.

Officers and persons exercising power under this Act to be public servants.

18. All officers appointed under this Act and every person authorized to exercise any powers conferred or to perform any duties imposed on him by or under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

Protection of action taken in good faith.

19. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Power to delegate.

20. The State Government may, by notification in the official Gazette, direct that any power or duty which by this Act or by any rule made thereunder is conferred or imposed on the State Government (except the power to make rules) shall in such circumstances and subject to such conditions, if any, as may be specified in the notification, be exercised or performed also by any officer or authority subordinate to the State Government.

Power to make rules.

21. (1) The State government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form of and manner of making an application for a licence, the fees for such licence and renewal thereof, the period for which, the conditions subject to which and the form in which a licence may be granted under Section 5;
- (b) the other grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the licence under section 8;
- (c) the fees payable in respect of a duplicate licence under section 10;
- (d) the form and manner in which, the period within which and the authority to which, an appeal may be made under section 11, and the procedure to be followed by the appellate authority in disposing of the appeal;
- (e) any other matter which is to be or may be prescribed.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 14.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

22. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty :

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

The National Horticulture Mission has enunciated the need of supply of large quantities of quality planting material. Therefore, the State should evolve a system to ensure that only good quality planting material is made available to the growers. A procedure is required to be evolved for traceability of pest incidence and maintenance of record for quality rootstock and scion material. Virus indexing system should be followed by nurseries. In order to achieve these objects the State does not have an Act for regulation of nurseries. It is, therefore, proposed to enact a suitable law.

2. Hence this Bill.

Bhopal :

Dated the 22nd November, 2010

KAILASH VIJAYVARGIYA
Member-in-Charge.