

# The Hindu & BL Editorials

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### Stay and after



**By leaning towards their side with a stay on farm laws, the SC has now put the onus on farmers**

The Supreme Court's decision to stay implementation of the three contentious farm legislation while appointing an expert committee to study the issue appears, on the face of it, to be a victory for the agitating farmers. Here is the highest court of the land keeping in abeyance the operation of the laws that are perceived to be harmful to the farmers' interests and also attempting to break the deadlock in talks between them and the government by introducing a neutral body in the form of a committee that will speak to both sides and give its recommendations. Yet, it may not be as simple as that. The apex court's decision actually puts the agitating farmers on the backfoot because it's a half-victory for them for which they will now be expected to concede something in return. It would be difficult for the farmer organisations to overlook the SC's moves and insist on continuing with their agitation as that would be seen as unreasonable. Indeed, the court has advised them that the stay order should be seen as an achievement of their peaceful protest and they should now convince their members to return to their homes.

On the other hand, the Centre may be seen as on the losing side but the fact is that the court's decision should actually come as a relief for it as it now puts the onus on the farmers. While the committee will take the heat off the government for now, it's constitution is also interesting because the views of some of its members expressed in the past are favourable to the legislation. Indeed, the farmers are already complaining against the constitution of the committee. It should be interesting to watch if the government pushes actively for the next round of talks with the farmers which

are now scheduled for January 15. The government can well take the position that with the court seized of the matter, it is now up to the committee to come up with its recommendations based on which the talks can be carried forward. And that would mean it can buy two months more time, as that is the deadline given by the court to the committee to submit its report. Yet, such a tactic may not be well received because the intent of the court seems to have been mainly to break the deadlock in the dialogue. It has not gone into the substantive argument among the petitions that challenged the validity of the Constitution (Third Amendment) Act, 1954 that enables the Centre to also legislate on “Trade and Commerce in Agriculture” which is otherwise a State subject.

It may be in the interest of the farmer unions to display more flexibility. The unions now risk losing the support of public opinion if they continue to be intransigent in the face of the court staying the operation of the laws. As for the Centre, it has little to lose in approaching the talks in a positive frame of mind to end the impasse.

## Imposing a compromise: On courts and laws

### Courts should stay within their domain while ruling on laws

The **Supreme Court’s interim order** in the ongoing contestation between large sections of the farmers and the Centre over the **new farm laws** may be motivated by a laudable intention to break the deadlock in negotiations. However, it is difficult to shake off the impression that the Court is seeking to impose a compromise on the farmers’ unions. One portion of the order stays the three laws, seeks to maintain the Minimum Support Price as before and prevents possible dispossession of farmers of their land under the new laws. The stated reason is that the stay would “assuage the hurt feelings of the farmers” and encourage them to go to the negotiating table. However, it is somewhat disconcerting that the stay of legislation is effected solely as an instrument to facilitate the Court’s arrangement rather than on the basis of any identified legal or constitutional infirmities in the laws. The order forming a four-member committee may indeed help relieve the current tension and allay the government’s **fears that the Republic Day celebrations may be disrupted**, but it is not clear if it would help the reaching of an amicable settlement as the Samyukt Kisan Morcha, the umbrella body spearheading the protests, has refused **to appear before the panel**. The Court’s approach raises the question whether it should traverse beyond its adjudicative role and pass judicial orders of significant import on the basis of sanguine hope and mediational zeal.

The Court did make its position amply clear during the hearing, with the Chief Justice of India, S.A. Bobde, faulting the Centre for its failure to break the deadlock arising out of the weeks-long protest by thousands of farmers in the vicinity of Delhi, demanding nothing short of an outright repeal of the laws. It is only in the wake of the government’s perceived failure that the Court has chosen to intervene, but it is unfortunate that it is not in the form of adjudicating key questions such as the constitutionality of the laws, but by handing over the role of thrashing out the issues

involved to a four-member panel. It is not clear how the four members on the committee were chosen, and there is already some well-founded criticism that some of them have already voiced their support for the farm laws in question. The Court wants the panel to give its recommendations on hearing the views of all stakeholders. Here, the exercise could turn tricky. How will the Court deal with a possible recommendation that the laws be amended? It would be strange and even questionable if the Court directed Parliament to bring the laws in line with the committee's views. While a negotiated settlement is always preferable, it is equally important that judicial power is not seen as being used to dilute the import of the protest or de-legitimise farmer unions that stay away from the proceedings of the panel or interfere with the powers of Parliament to legislate.

## Strained ties: On Puducherry standoff

**The Puducherry Lt Gov. should heed the legitimate demands of the elected govt.** The recent **three-day-long protest, led by Puducherry Chief Minister V. Narayanasamy**, under the banner of the Secular Democratic Progressive Alliance, against Lieutenant Governor Kiran Bedi came as no surprise, given the strained ties between the two constitutional functionaries. They have been at loggerheads over many matters, most recently on the **appointment of the State Election Commissioner**, an office critical to holding elections to local bodies in the Union Territory. But the principal issue of contention is the implementation of direct benefit transfer in the public distribution system using cash, instead of free rice, being given to beneficiaries. The agitation was meant to highlight the demand of the **Congress and its allies for the recall of the Lt Governor**. As a prelude to the stir, the Chief Minister presented memoranda to President Ram Nath Kovind and Union Minister of State for Home Affairs G. Kishan Reddy, accusing Ms. Bedi of “functioning in an autocratic manner” and adopting an “obstructionist attitude” in ensuring the progress and welfare of people. On her part, Ms. Bedi has **advised him to refrain from misleading the public** about the Centre and her office. She has even attributed his “anguish and disappointment” possibly to the “diligent and sustained care” exercised by the Lt Governor’s secretariat “in ensuring just, fair and accessible administration following the laws and rules of business scrupulously”.

With the Assembly election likely in April or May, the Chief Minister leading the protest against the Lt Governor was clearly an act of political mobilisation, even though the Congress’s major ally, the Dravida Munnetra Kazhagam, chose to stay away from it. The agitation should be seen as a reflection of the political reality in the Union Territory as Mr. Narayanasamy does not have any effective Opposition. This allows him to turn all his energy and time against the Lt Governor instead of on his political adversaries at a time when the election is near. And this seems to be his strategy to ward off any criticism against his government’s “non-functioning” by laying the blame at the doorstep of the Lt Governor. On her part, Ms. Bedi should take into account the legitimate requirements of an elected government and try to accommodate Mr.

Narayanasamy's views on important matters such as the free rice scheme. After all, the Centre itself did not see any great virtue in the DBT mode when it decided to give additional food grains (rice or wheat) free of cost at five kg per person a month to ration cardholders during April-November last year — a relief measure during the COVID-19 pandemic. With the near breakdown of communication between the Lt Governor and the Chief Minister, the Centre should step in, in the interest of smooth administration.