

**HANDLOOMS (RESERVATION OF ARTICLES FOR
PRODUCTION) ACT, 1985**

22 of 1985

[29th March, 1985]

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STATEMENT OF OBJECTS AND REASONS The handloom industry is characterised by sizeable unemployment and under-employment which are due to factors like lack of organisation of weavers, inadequate availability of inputs, including working capital, and absence of a regular and reliable marketing system, which can absorb * (absorb) the entire production of all these, the lack of

adequate marketing system is one single factor which comes in the way of proper development of handlooms. Although a number of developmental measures have been undertaken towards improvement of the industry, yet, due to marketing difficulties, production in the handloom sector continues to suffer. The inherent technological constraints suffered by the handloom sector put it at a disadvantage when the sector is forced to compete with mill and powerloom sectors in the open market. It is in this context that reservation of certain items for exclusive production by handlooms acquires importance. The policy of reservation of certain items for exclusive production by handloom has been adopted since 1950, first under Cotton Textiles (Control) Order, 1948, and later under the provisions of Essential Commodities Act, 1955. This policy has helped the handloom sector to a considerable extent. However, during the last few years these reservation orders, issued under the Essential Commodities Act had been challenged in various courts of law. Though their validity had been upheld, it is considered desirable to have a separate legislation, so as to obviate the possibility of further litigation which may seriously affect the implementation of the reservation orders. A study group appointed by the Government to go into this question has also suggested that it would be desirable to have a separate legislation. It has been decided to accept this recommendation. [*] Word 'absorve' appears to be misprinted. It may be read as 'absorb'. 2. The Bill, apart from enabling the Central Government to reserve by notified order certain articles or class of articles for exclusive production by handlooms after taking into consideration the recommendations of an Advisory Committee constituted under the provisions of the Bill, provides for prohibition of manufacture of such articles or class of articles by powerloom or other sectors, penalties for the contravention of the provisions of the order and other matters necessary for implementing the provisions of the Bill. The Bill also provides for giving an exemption to certain articles covered by the order if the Central Government considers it necessary so to do for the purposes of export or for research in, and development of, the handloom industry. -Gaz. of Ind., 29-8-84, Pt. II, S. 2, Ext" p. 8 (No. 55).

1. Short title, extent and commencement :-

(1) This Act may be called The Handlooms (Reservation of Articles for Production) Act, 1985.

(2) It extends to the whole of India.

(3) It shall come into force on such date ¹ as the Central Government may, by notification in the Official Gazette appoint.

1. 31-3-1986 -- See Gaz. of Ind., 17-3-1986, Pt. II, S. 3(i), Ext., p. 1 (No. 133).

2. Definitions :-

In this Act, unless the context otherwise requires.

(a) "Advisory Committee" means the Advisory Committee constituted under section 4 ;

(b) "handloom" means any loom, other than powerloom;

(c) "manufacturer" includes the producer and processor, and the expression "manufacture" shall be construed accordingly;

(d) "powerloom" means a loom which is worked by power as defined in clause (g) of Section 2 of the Factories Act, 1948 ;

(e) "processor" means a person engaged in any ancillary process subsequent to the production of cloth, such as dyeing, bleaching, mercerising, calendering, embroidering, printing, raising, cloth embossing or any other finishing process, but does not include a producer, and the expression "process" shall be construed accordingly;

(f) "producer" means a person engaged in the production of cloth on any loom other than handloom, and shall include a person who owns, works or operates on, a loom for the production of cloth, and the expression "produce" shall be construed accordingly.

3. Power to specify articles for exclusive production by handlooms :-

(1) Notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951, the Central Government may, if it is satisfied, after considering the recommendations made to it by the Advisory Committee, that it is necessary so to do for the protection and development of the handloom industry by order ¹ published in the Official Gazette, direct, from time to time, that any article or class of articles shall on and from such date as may be specified in the order (hereinafter referred to as the date of reservation), be reserved for exclusive production by handlooms.

(2) Every order published under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

1. See Gaz. of Ind. , 5-8-86, Pt. II, S.3(ii),Ext.,p. 8(No.314}-for articles reserved for exclusive production by handloom.

4. Constitution of Advisory Committee :-

(1) The Central Government shall, with a view to determining the nature of any article or class of articles that may be reserved for exclusive .production by handlooms, constitute an Advisory Committee consisting of such persons as have, in the opinion of that Government the necessary expertise to give advise on the matter.

(1) The Advisory Committee shall, after considering the following matters, communicate its recommendations to the Central Government, namely :-

(a) the article or class of articles which is being produced by handlooms for mass consumption:

(b) the article or class of articles which is being produced traditionally by handlooms,

(c) the level of employment likely to be generated by the production of the article or class of articles referred to in clause (a) or clause (b) exclusively by handlooms;

(d) the protection of interests of persons engaged in the handloom industry and the need for the continued maintenance of the industry; and

(e) such other matters as the Advisory Committee may think fit.

5. Prohibition of production of articles exclusively reserved for handlooms :-

Where an order has been made under section 3 reserving any article or class of articles for exclusive production by handlooms, such article or class of articles shall not, on and from the date of reservation, be produced by any loom, other than handloom : Provided that any person who, immediately before the date of reservation of any article or class of articles, was engaged in the production of such article or class of articles in any loom, other than handloom may continue to be so engaged till the expiry of three months from the date of such reservation.

6. Power to call for information or to furnish samples :-

(1) The Central Government may, by order, require any manufacturer to furnish, for the purposes of this Act,--

(a) such information in his possession with respect to any manufacturing activity or business carried on by him or by any other person to any officer or authority specified by it in such form and within such period as may be specified by that Government in the order;

(b) such samples of any articles manufactured by him or by any other person for inspection by such officer or authority, at such places and within such period as may be specified by it in the order.

(2) Where any order has been issued to any manufacturer under sub-section (1), he shall comply with such order.

7. Power to enter and inspect :-

Any officer authorised by the Central Government (hereinafter referred to as the authorised officer) may enter, at all reasonable times, any place or premises of any manufacturer in which the textile articles are stored, kept or exposed for sale and may require the production for inspection of any books of account, registers, records or other documents kept therein and ask for such information relating to the manufacture storage or keeping for sale of any such articles or to any powerlooms that may be found in such place as he may think fit for the purposes of carrying into effect the provisions of this Act.

8. Power to search and seize :-

(1) If the authorised officer has any reason to believe that,-

(a) any article or class of articles specified in any order made under

section 3 is being produced in any place in contravention of such order; or

(b) any article or class of articles produced in contravention of such order are secreted in any place; or

(c) any article or class of articles is liable to forfeiture under this Act, he may enter into and search such place or premises for such article, or class of articles or any powerloom which in the opinion of the authorised officer may have been used for the production of such article or class of articles.

(2) Where, as a result of any search made under sub-section (1), any article or class of articles or any powerloom has been found and the authorised officer has reason to believe that such article or class of articles has been produced or such powerloom has been used for the production of any article or class of articles, in contravention of any order made under section 3, he may seize such article, class of articles or powerloom, together with the package, covering or receptacle, if any, in which such article or class of articles is found : Provided that where it is not practicable to seize any article or powerloom, the authorised officer may serve on the owner of the article or the powerloom, as the case may be, an order that he shall not remove, part with, or otherwise deal with, the article or powerloom except with the previous permission of such authorised officer.

(3) Where any article or powerloom is seized under sub-section (2) and no prosecution has been launched within six months of such seizure, it shall be returned to the person from whose possession it was seized.

(4) The authorised officer may also seize any documents or things which in its opinion, will be useful for, or relevant to, any proceeding under this Act.

(5) The person from whose custody any documents are seized under sub-section (4) shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised officer.

(6) If any person legally entitled to the documents or things seized under sub-section (4) objects, for any reason, to the retention by the authorised officer of the documents or things he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the documents

or things.

(7) On receipt of an application under sub-section (6), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit.

9. Search and seizure to be made in accordance with the Code of Criminal Procedure, 1973 :-

The provisions of the Code of Criminal Procedure, 1973 , relating to searches ,and seizures shall, so far as may be, apply to every search or seizure made under this Act.

10. Penalty for contravention of orders made under section 3 :-

Whoever produces any article or class of articles in contravention of an order made under section 3 ,

(a) shall be punishable with imprisonment for a term which may extend six months or with fine which may extend to five thousand rupees per loom by which the said article or class of articles is produced, or with both, and in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees per loom for everyday during which such contravention continues after conviction for the first such contravention: and

(b) the article or class of articles in respect of which the order has been contravened or any powerloom by the use of which such order is contravened, including any package, covering or receptacle in which the article or class of articles is found, shall be forfeited to the Central Government : Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of any of the articles, powerloom or any package, covering or receptacle, it may, for reasons to be recorded, refrain from doing so.

11. False statement :-

If any person,-

(a) when required by any order made under section 6 to furnish any information or sample makes any statement or furnishes any information which is false in any material particular and which he knows, or has reasonable cause to believe, to be false or does not believe it to be true, or fails to furnish such sample or damages or destroys any article from which such sample was required; or

(b) when required by the authorised officer under section 7 to produce any books of account, registers, records or other documents, fails to produce, or damages or destroys any such books registers or other documents, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees, or with both.

12. Attempts and abetment :-

Any person who attempts to contravene or abets the contravention of any order made under section 3 shall be deemed to have contravened that order.

13. Offences by companies :-

(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 had 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 purposes of this section,-

(a) "company" means any body corporate and includes a co-operative society registered or deemed to be registered under any law for the time being in force, a firm or other association of individuals; and

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

14. Offences to be cognizable :-

Notwithstanding anything contained in the Code of Criminal

Procedure, 1973 , every offence punishable under this Act shall be cognizable.

15. Power to delegate :-

The Central Government may, by order, direct that the powers exercisable by it under any provision of this Act, other than the power to make orders under section 3 or under section 18 or to make rules under section 19 , shall in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by -

(a) such officer or authority subordinate to the Central Government: or

(b) such State Government or such officer or authority subordinate to a State Government; as may be specified in the direction.

16. Power of Central Government to give directions :-

The Central Government may give such directions as it may consider necessary to a State Government as to the carrying into execution of the provisions of this Act.

17. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the Central Government, State Government or any officer or employee of the Central Government or of any State Government or any authorised officer for anything which is in good faith done or intended to be done under this Act or an order made under section 3 .

18. Power to exempt :-

(1) If the Central Government is satisfied that the demand for any article or class of articles reserved by an order under section 3 outside India is such that it is not possible for the handloom industry to meet such demand or any such article or class of articles is required to be produced for purposes of research or for the development of markets for such article or class of articles or of the handloom industry generally, it is necessary or expedient so to do, it may, by order¹ published in the Official Gazette, exempt such article or class of articles from the operation of such order, and permit such article or class of articles to be produced by any powerloom solely for the purposes of export or for research by such institutions as may be specified in the order.

(2) Every order made under this section shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

1. Pol-exemption See Gaz.. of Ind.. 6-8-1986, Pt. II, S. 3 (ii), Ext., p. 2 (No. 318).

19. Power to make rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules¹ for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. For Handlooms (Reservation of Articles for Production) Rules, 1986 - See Gaz. of Ind., 17-3-86. Pt. II. S. 3(i),Ext., p. 3 (No. 133).