

Response to Minutes of Cabinet Sub Committee

The Revenue Commission has drafted the Punjab Land Leasing and Tenancy (Safeguarding Rights and Enforcing Obligations of Lessor and Lessee) Bill, 2021 ('Bill' – for short) for the purpose of modernising the tenancy laws in Punjab State and for determining the owners/lessors and lessees rights and obligations towards each other in a fair and justifiable manner, and without impacting the proprietary and ownership rights of the owners of the land while giving their lands on lease. The 'aims' and 'objects' of the Bill spell out the intent and purpose of the same.

The Cabinet Sub-Committee deliberated on the certain concerns which were kept open. The issues raised by the Cabinet Sub-Committee from 'A' to 'F' below and the response of the Commission is as follows: -

A. Now, the lease (big companies) would be able to take literally thousands of acres of land from small and marginal farmers on long basis; this becomes a way to circumvent the provisions regarding the Ceiling Laws as enshrined in the Punjab Land Reforms Act, 1972. Under the existing law, no person can hold more than permissible area under cultivation not even as a tenant/lease.

Response: -

1. The observation that lessees [Big Companies] would be able to literally take thousands of acres of land from small and marginal farmers on long lease basis are unfounded and untenable, as most of the land leased in Punjab is by small and medium farmers. At the outset it is submitted that the purpose of the Bill is the need of the day and is essential for agriculture growth and development. Agriculture has always been a forte of Punjab and it is absolutely essential and necessary to restructure it for development of Punjab.

2. A lessee under the proposed Bill in terms of Section 6 (3) can notwithstanding anything to the contrary contained in any other enactment or law, is entitled to take land on lease from one or more than one land owner and cultivate any extent of land for agriculture and allied activities. This has been provided so as to enable the lessee to cultivate land beyond the 'permissible area' as nobody would make investment in agriculture for cultivating small area of land within the 'permissible limit' which, in any case, would not be viable.

3. At present it has been noticed that many persons take land on lease from different landowners in the name of various persons. This results in improper maintenance of records, besides, there is confusion of which land was taken by which person. The income derived by the lessee also cannot be properly accounted for.

3. Large chunks of farmland can be cultivated to make it a commercially viable venture rather than cultivation within the 'permissible area'.

4. In Punjab small land holdings have become unviable and the proposed Act gives an opportunity to lessees to take land on lease to any extent and make them productive and viable.

5. The proposed Act is bound to give a big boost to the economy of the State and at the same time give security to the rights of ownership and tenancy.

6. The proposed Act would provide for promotion of investment in agriculture, cultivation, marketing and processing activities. This will generate employment in a substantial scale. It would further generate multiplier effect in the activities which have forward and backward linkages with agriculture.

7. The NITI Aayog has in fact asked the States not to have restrictive tenancy laws, which undoubtedly have impaired agricultural growth. It is to be noted that the NITI Aayog, Government of India vide

order No. Q11022/12/2015-Agri dated 07.09.2015 constituted an Expert Committee for preparing a Model Agricultural Land Leasing Act based on critical review of the existing agricultural tenancy laws of States and keeping in view the need to legalize land leasing. The Committee under the Chairmanship of Dr. T. Haque submitted its report in March, 2016. It was *inter alia* noticed with respect to Punjab in para 1.2 (iii) under the heading "Legal Restrictions on Land Leasing" that: -

"In Punjab, law does not ban leasing out, but provides that a tenant of a big land owner above ceiling is entitled to purchase his tenanted land on continuous possession of six years".

In the report of the aforesaid Committee, the following paragraphs are apposite: -

1.3. Case for Legalization and Liberalization of Land Leasing There is a strong case for legalization and liberalization of land leasing as it would help promote agricultural efficiency, equity, occupational diversification and rapid rural transformation. In the past few decades, even socialist countries such as the Peoples Republic of China and Vietnam have liberalized agricultural land leasing with significant positive impact on economic growth as well as equity.

1.3.1 Restriction on Land Leasing and Agricultural Efficiency Legal restrictions on land leasing have affected agricultural efficiency in several ways. First, legal ban or restrictions on land leasing have led to concealed tenancy in almost all parts of the country. Informal tenants are most insecure, as they either have short duration oral leases or get

rotated from plot to plot each year so that they cannot prove continuous possession of any particular piece of land for any specified period which could give them occupancy right, according to law of a state. This provides a disincentive to tenant farmers to make any investment in land improvement for productivity enhancement. Legalisation of land leasing would ensure security of land ownership right for the land owners, which in turn would provide security of tenure to the tenants.

Second, informal tenants do not have access to institutional credit, insurance and other support services, which affect productivity of land cultivated by them. Legalization/ formalization of land leasing would help improve tenant farmers' access to credit, insurance and input use and consequently productivity of leased in land. Other things remaining the same, the productivity of leased in land can be as good as that of owner operated land (Vyas: 1970, Bhaumik: 1993, Haque: 1996).

Third, due to legal restrictions, many land owners prefer to keep their lands fallow due to the fear of losing land right if they lease out. Keeping the land fallow results in underutilization of land and loss of agricultural output. The lifting of ban or restrictions on leasing in such cases will result in better utilization of the available land and labour and increased farm output. The Mid-term appraisal of the Tenth Five Year Plan rightly points out that restrictive tenancy laws have prevented optimum

allocation of land resources and denied the poor access to land (Govt. of India: 2005).

Fourth, lease market transfers land to those who have less land available for use, more ability to use land, and a higher adult force (Akter et al: 2006). The considerations of subsistence and family labour use are important reasons for leasing in land (Mani and Pandey: 2004). Leasing of land is used as an adjustment device by many in response to change in family labour availability, cash resources, debt situation etc (Sharma: 2004). Thus, formalization of land leasing would help improve agricultural efficiency.

1.3.2 Restriction on Land Leasing and Equity

There is ample research evidence to suggest that economic forces drive land leasing, while ban or restrictions have only reduced the extent of land available in the lease market and have reduced the welfare of poor tenants by forcing them to enter into informal arrangements, in contravention of the rules and also by restricting the poor peoples' access to land through leasing (Haque:2001; Deininger et al: 2012). According to 59th round of NSSO, about 36 percent of the tenant farmers are landless, while nearly 56 percent of the tenant households are marginal land owners, having less than one-hectare land. This category of farmers lease in more land than they lease out. Hence, if legalization of land leasing results in availability of more land for leasing in by the rural poor, such a measure would be highly

egalitarian. The landless and marginal farmers would improve their economic viability and social status. The rural poor would maximize their family income by way of farming on lease, along with access to other farm, off-farm and non-farm employment opportunities. Improved access to land on lease by the poor would help reduce their poverty and enhance economic and social status.

Besides, leasing in and leasing out takes place in all size groups of farms and in case a marginal or small farmer leases out to another marginal, small or even medium farmer, there is no justification for conferring either ownership or pre-emptive purchase right on the tenants, as the laws in some states require. After all, tenancy results from a voluntary agreement between the land owner and the tenant to lease out and lease in land for mutual benefit. Furthermore, it should be remembered in this context that land leasing laws framed in the wake of independence, have lost their relevance today. Lease farming is an economic necessity and not a symbol of feudalism, as it was thought before. The laws were enacted in the context of exploitation of the peasantry. The current situation, however, is different (Govt. of India:2005). All large intermediaries have been abolished, in all regions. While the economic and political powers of absentee landowners have eroded, the rural poor have become politically more powerful through panchayat raj institutions and other democratic process.

Therefore, it is no longer true that a formal tenancy relationship would be exploitative. In fact, the bargaining power of tenant farmers has improved quite significantly overtime. On the whole, the growth of an active land lease market, would be helpful for the rural poor to get out of poverty trap. The fear that liberalization of land leasing may result in concentration of operational holdings in a few hands, can be allayed by allowing leasing in within the existing ceiling limits in a State (if needed).

1.3.3 Land Leasing, Occupational Diversification and Rural Transformation The share of agriculture in India's Gross Domestic Product (GDP) is only about 14 percent, but agriculture employs 49 percent of the total workforce and 64 percent of the rural workforce. The high dependence of the population on agriculture is one of the main reasons for low size of land holding and for low per-capita income as well as high incidence of poverty among agricultural workers. There is a limit beyond which agriculture cannot productively absorb any additional workforce. It is therefore, absolutely necessary that there is transfer of population from agriculture to non-agriculture. Legalisation of land leasing could be an important contributing factor in this respect. It would encourage large land owners to lease out land without fear of losing their land ownership rights and invest in non-farm enterprises (with appropriate capital and technology support), which is vital for occupational diversification and

rapid rural transformation. This will reduce the pressure of population on agriculture and enable small farmers to augment their size of operational holdings by leasing in land. Also many marginal and small farmers would be better off leasing out their land to more viable farmers for rent, while seeking paid employment within or outside agriculture. This would help them to maximise incomes by way of rentals as well as wage incomes. Land owners who are otherwise forced to operate small uneconomic holdings will have the opportunity to legally lease out land to other farmers with the assurance of being able to resume possession at the end of agreed lease period. The critical need of today is to legally allow farmers to lease out without any fear of losing land ownership right and provide support for their upward occupational mobility by way of access to either self-employment or wage employment. (Emphasis added).

8. The earliest Act relating to Tenancy in Punjab State is the Punjab Tenancy Act, 1887. This Act has been an effort to regulate the relationships between landowner and tenant. The rights recognized are based on customs prevailing about 133 years ago. These were, therefore, vague and not properly defined and have, in any case, outlived their utility. Besides, the said Act has served its purpose.

9. The Bill is the first attempt in this State to bring the tenancy laws on modern lines keeping in view of the changed socio-economic conditions of the State. Besides, these have been recommended by the NITI Aayog and other institutions.

10. The Acts which are proposed to be repealed are to continue to be in force for a period of five years so that the switch over to the provisions contained in the Bill remains smooth and is not sudden but over a period of time. This would not cause any hardships either to the lessor or the lessee.

11. The Punjab State, in fact, has already been making provisions for encouraging the Companies. In this regard, the following amendments have been made: -

- a) In terms of Notification dated 8.2.2008 the proviso in Rule 5 of Sub Rule (2) of the Punjab Land Reforms Rules 1973 has been added. Rule 5 of the said Rules is for; 'Selection of permissible area and furnishing of declaration'. In terms of the proviso that has been added the intimation of declaration which is to be furnished within a period of 04 months and 15 days; for the developers and promoters of a project is extended for a period of one year where such developers/promoters require the land for the purposes other than agricultural or subservient to agriculture or for pasture and has applied for change of land use to the concerned Department of the State Government within a period of 04 months and 15 days. This is for the benefit of developers/promoters of the Project.
- b) Notification dated 28.4.2011 in terms of the said notification a proviso has been added in Section 9-A of the Punjab Security of Land Tenures Act, 1953. Section 9-A of the Punjab Security of Land Tenures Act, 1953 states; "No tenant liable to ejectment under clause (1) of Sub Section (1) of the section next preceding shall be dispossessed of his tenancy

unless he is accommodated on a surplus area in accordance with the provisions of section 10-A or otherwise on some other land by the State Government". In terms of the proviso that has been added it is stated;

"Provided further that if the tenant is a company registered under the Companies Act, 1956, it shall not be entitled to claim the benefit under this section".

According to the proviso that has been added, the companies are not entitled to the benefit under Section 9-A, which is for the purpose that the land owners lease their lands to companies. Therefore, the stand that company would take over the land of small and marginal farmers is unfounded; besides, being untenable.

- c) Notification dated 22.11.2011. By the said notification Clauses (h), (i) and (j) were inserted after Section 27 of the Punjab Land Reforms Act, 1972. Besides, vide notification dated 18.12.2017 clause (j) was further substituted. Clauses (h), (i) and (j) of Section 27 of the Punjab Land Reforms Act, 1972 read as follow: -

"Exemption of certain lands from the operation of the Act. -

The provisions of this Act shall not apply to: -

(a) to (g) xxxxxx

¹ [(h) land acquired by a person for non-agricultural purposes and falling within the Municipal area as defined in clause (8-c) of Section 3 of the Punjab Municipal Act, 1911 (Punjab Act No.3 of 1911) or the urban areas as defined in clause (60) of Section 2 of the Punjab Municipal Corporation Act, 1976 (Punjab Act No.42 of 1976);

(i) land acquired by a person and put to non-agricultural use, or land in respect of which permission, wherever applicable, has been granted for its use for non-agricultural purposes by the State Government; and]

[²(j) land not covered under clause (h) and (i), acquired by a person for non-agricultural purposes such as housing, industrial, infrastructure projects, special economic zone (SEZ), tourism units (hotels and resorts), public utilities, warehousing, commercial, cultural, recreational, sports, religious, institutional;

Provided that where land is acquired for non-agricultural purposes as per provisions of clauses (h), (i) or (j), such person would be required to intimate such intention or change of land use for non-agricultural purposes to the Collector within one year from the date of publication of the Punjab Land Reforms

¹ Inserted by Punjab Act No.32 and shall be deemed to have come into force on and w.e.f. 24.01.1971 vide notification dated 22.11.2011.

² Substituted vide Punjab Act No.19 of 2017 deemed to have come into force w.e.f. 24.01.1971 vide notification dated 18.12.2017.

(Amendment) Act, 2017 or within one year from the date of acquisition of such land and in such cases, the Collector, on receipt of such intimation, shall cause the necessary entries to be recorded in the revenue record to this effect.

Explanation: - For the purposes of clauses (h), (i) and (j) of this section-

(i) where an agricultural activity is carried out primarily as an activity subservient to a non-agricultural activity or purpose of such person, in such cases, such land shall be deemed to have been acquired for non-agricultural purposes; and

(ii) a person intending to carry out any development on land covered under these clauses, shall be required to obtain necessary permission under the Punjab Regional and Town Planning and Development Act, 1995 or the Punjab New Capital (Periphery) Control Act, 1952 as may be applicable.]

The purpose of these amendments was to give agricultural land for non-agricultural purposes and also exempt it from the restrictions imposed by the Punjab Land Reforms Act, 1972.

- d) In terms of the Notification dated 18.12.2017, as noticed above, clause (j) of Section 27 of the Land Reforms Act which was inserted by above notification dated 22.11.2011 was further amended and substituted for providing and making available land

for non-agricultural purposes such as housing, industrial infrastructure projects, special economic zone [SEZ], tourism units [hotels and resorts], public utilities, warehousing, commercial, cultural, recreational, sports, religious, institutional. This is also for encouraging companies to take agricultural land to give benefit to companies for use of agricultural land. This according to the Government Press Note dated 20.09.2017, paved the way for seamless implementation of various pending infrastructure and Special Economic Zone (SEZ) projects.

12. It may also be mentioned that the projection that only companies would take the land on lease is incorrect. In fact the term "Lessee" has been defined in Section 2 (19) of the Bill to mean a person who takes land of a lessor on lease and would be liable to pay rent for the use and occupation of that land and shall include the successor-in-interest of the lessee. Therefore, the position that only big companies would be taking agriculture land on lease is not the correct position as there would be other categories of lessees that would take agriculture land on lease.

13. The observation that big companies or even others would take literally thousands of acres of land from the small farmers on long lease basis is misconceived. In terms of the Bill there is no compulsion for a landowner to give his land on lease to anyone. The Bill does not provide for compulsory leasing of land and any owner may retain his land and not give it on lease to anyone, leave alone big companies.

14. Large tracts of land, in any case, are being taken on lease by contractors without these being recorded in the land records or anywhere else. This is detrimental not only to the landowners but also the contractors and in the event of dispute everything is left to the domain of the police,

which arbitrates in its own manner. In fact, in the absence of recorded leases, there are disputes and these would be even more; besides, there may be injustice to one of the parties. The Bill seeks to protect the rights and liabilities of both the lessor and the lessee under a codified law.

15. In respect of Companies, it may be noted that agricultural land of the Punjab Land Development and Reclamation Corporation at Laddowal (Ludhiana), District Ludhiana measuring 300 acres has been leased by the Government of Punjab by order dated 25.08.2005 to M/s Bharti Enterprises (Field Fresh) at a rate of Rs.2000/- per acre per annum for setting up of a state-of-the-art Model Farm and Research and Development Centre. The said lease was for four years, renewable after every four years thereafter.

16. The State of Punjab has already conferred proprietary rights to 'occupancy tenants.' Chapter IX, Para 195 of the Punjab Settlement Manual makes a mention of 'Classes of tenants.' It is stated that tenants are usually considered to be of two kinds, 'occupancy tenants' and 'tenants-at-will'. The vernacular equivalents are *marusi* or hereditary, and *ghair-marusi* or non-hereditary. An occupancy tenant has a right to hold his land so long as he pays the rent fixed by authority, and to pass it on to his descendants on the same terms. A tenant-at-will is a tenant from year to year, and his rent is determined by the agreement between himself and his landlord. The status of the occupancy tenant depends on law whether statute or customary, the status of the tenant-at-will depends on contract, though certain stipulations, if included in a contract of letting, will be treated by the court as invalid. The 'occupancy tenants' have been conferred with proprietary rights under the Punjab Occupancy Tenant (Vesting of Proprietary Rights) Act, 1954. The proprietary rights have been conferred on almost all the 'occupancy tenants' and the said Act has served its purpose and is now no longer of any use. In any case, a period of five years has been kept under the Bill from the enforcement of the proposed Act so as to enable them to get their proprietary rights. A class of tenants, which were in the nature of occupancy

tenants, that is, tenants who were rendering some kind of service instead of paying rent were left out. For their benefit, the Commission prepared the Punjab Bhondedar, Butemar, Dohlidar, Insar Miadi, Mukarraridar, Mundhimar, Panahi Qadeem Saunjidar, or Taraddadkar (Vesting of Proprietary Rights) Bill, 2019, which has been passed by the Punjab State legislature and has been submitted to the President of India for his assent in terms of Article 31A of the Constitution.

17. The provisions of the ceiling laws would not be affected with the enactment of the Bill as an Act insofar as ownership rights are concerned. The Punjab Land Reforms Act provides that no person shall own or, hold land as owner or mortgagee with possession or tenant or partly in one capacity and partly in another in excess of the 'permissible area'. The Bill provides for cultivation of land to any extent. This is absolutely necessary in order to open the market in agriculture sector. The growth in the agriculture sector in the State is being impaired and has been attributed to restrictive tenancy laws. The Bill provides for promotion and investment in agriculture, cultivation marketing and processing activities. This would generate employment in large-scale. It would further generate multiple effect in the activities which have forward and backward linkages with agriculture. This is the need of the hour for Punjab State to make agriculture a viable activity.

B. The existing rights of the tenant under the existing laws will be diminished as soon as the new Act comes into force. These rights shall stand totally extinguished upon passage of 5 years of the new law coming into force.

Response: -

1. The issue that the existing rights of the tenant under the existing law would be diminished as soon as the new Act comes into force and would

be extinguished totally after a period of five years, in fact, is the intent of the new proposed Act.

2. The tenancy laws, as these exist, have restricted the leasing of agriculture land by the landowners. There is an inbuilt fear that once the land is leased out, the landowner would lose his proprietary rights. In this regard a reference may be made to the provisions of Section 18 of the Punjab Security of Land Tenures Act, 1953, which provides for rights of certain tenants to purchase land. In terms of the said provision a tenant of a landowner other than a small landowner who has been in continuous occupation of the land comprised in his tenancy for a minimum period of six years, or who has been restored to his tenancy under the provisions of the said Act and whose period of continuous occupation of the land comprised in his tenancy immediately before ejection and immediately after restoration of his tenancy together amount to six years or more, is entitled to purchase the land from the landowner. However, the repeal of the Punjab Security of Land Tenures Act, 1953 would be inconsequential as the rights of the tenant continue to be protected by Section 28 of the Punjab Land Reforms Act, 1972, which envisages that the Punjab Security of Land Tenures Act 1953 and the PEPSU Tenancy and Agricultural Lands Act, 1955 insofar as these are inconsistent with the provisions of the Punjab Land Reforms Act, are hereby repealed. In fact, the surplus area of a landowner is to be disposed in accordance with Section 11 of the Punjab Land Reforms Act, 1972.

3. The main reason which prevents the landowners from leasing out their lands is the fear of the 'occupancy tenant' or *marusi* usurping their land. This is the primary and main reason, which acts as a deterrent for the landowner to lease out his land. So long as the ghost and fear of the 'occupancy tenant' or *marusi* usurping the land of the landowner is not taken out, the tenancy laws would continue to be restrictive. This has in fact, been also commented upon by the NITI Aayog in its report - a reference to which has been made above. Therefore, the Bill is the need of the day and hour.

- C.** Whether the lease/tenancy agreement were to be totally free from stamp duty as well as registration fees.

Response: -

1. The lease/tenancy agreements, it has been proposed in terms of Proviso (iii) to Section 4 (1) of the Bill, should be exempt from stamp duty; however, nominal registration fee of Rs.100/- is leviable. This is for the purpose that the lessors and lessees record their rights and obligations in consonance with the provisions of the Bill. This would avoid disputes, besides, give a protection to both. In fact, even the companies would be restricted and confined to the agreed terms and conditions that are recorded. A model form of agreements is being provided for the in the Rules to be framed under Section 35 of the Bill.

2. The non-registration of lease/tenancy agreements leads to various complications. Therefore, to encourage registration of lease agreements, the Commission has proposed that no stamp duty is levied, besides, a nominal registration fee of Rs.100/- is levied.

3. It may also be mentioned that in terms of the Registration Act, 1908, registration of leases for a period of more than one year is compulsory. However, it is due to avoiding the payment of stamp duty that these are being avoided.

- D.** No benchmark has been prescribed under the law for big companies taking up large tracts of land on lease. Some stipulation regarding net-worth or the investment proposed to be made may be considered as a part of the

statutory scheme. They must have the registered office in the State of Punjab.

Response: -

1. There is no need for prescribing any benchmark for big companies to take large tracts of land on lease . In fact, it is not as if big companies are waiting for taking land on lease. Rather they may have to be persuaded to take land on lease so that agriculture cultivation is made more viable and profitable by use of technology, heavy machinery and modern farm practices, which can be afforded only by big companies.

2. The apprehension that companies may usurp the land of small farmers with marginal land holdings is un-founded. This has been adequately safeguarded by providing the following: -

- (i) Section 5 (2) of the Bill provides for possession of the leased land to be received by the lessor on the termination of the lease.

It reads as follows:

“(2) The lessor shall be entitled to receive possession of the leased land and occupy it, without encumbrances from the lessee, on the termination or expiry of the lease.

Provided that the lessor shall not be responsible for the discharge of any liability or interest created by the lessee during the period of lease.

Explanation: On the termination or expiry of the lease, the revenue records shall reflect possession of the lessor.”

The explanation, therefore, provides for the possession of the lessor to be recorded in the revenue records on the termination of the lease.

- (ii) Section 5 (4) of the Bill provides that the leasing of land by the lessor to the lessee shall not in any manner affect or impact the

ownership right or the mortgagee rights, if any, of the lessor. As such, the ownership rights of the lessor have been protected.

- (iii) In terms of Section 6 (9) of the Bill the lessee on the expiry of the period of lease or in the event of the lease being otherwise determined is liable to forthwith deliver back to the lessor the possession of leased land along with any permanent improvements thereon, and free from any damage or encumbrance
- (iv) Section 6 (10) of the Bill requires that the lessor on the expiry of the lease shall be deemed to be in possession of the leased land and in the event of the failure of the lessee to hand over possession to the lessor, it shall be an act of holding over and the lessee shall be liable to pay penalty, which may extend to the amount of rent payable but shall not be less than one-half of this amount. The explanation further provides that the mere payment of rent or any money by the lessee to the lessor after the expiry of the lease shall by itself not be taken as renewal or continuation of the lease.
- (v) The Commission has also prepared a draft of the Punjab Land Leasing and Tenancy (Safeguarding Rights and Liabilities of Lessor and Lessee) Rules, and Rule 4 thereof provides for a model agreement in Form 'A'. The said agreement is, therefore, statutorily provided to safeguard the rights and interests of the lessor and the lessee in consonance with the scheme of the Bill.

3. There is no requirement of any benchmark being prescribed for big companies taking up large tracts of land on lease. In fact, as already mentioned, it is not as if any company is waiting for taking land on lease. In any case statutory or providing any stipulation regarding the net-worth or the investment proposed may be considered as a part of the statutory scheme is impractical. The necessity of a Company having a registered office

in the State of Punjab is unwarranted. Even otherwise, it is not as if the companies alone are to take land on lease. 'Lessee' has been defined in Section 2 (19) of the Bill – a reference to which has been made above.

4. The requirement of the companies having its registered office in the State is out of context as a company registered under the Companies Act. It is a juristic person and can sue or be sued. The mere fact that a company is not registered within the State of Punjab for taking agricultural land on lease, therefore, is of no consequence.

E. In case of bankruptcy proceedings of the lease companies the interest of the landowner may be sufficiently protected.

Response: -

1. In case of bankruptcy proceedings, there is no need to make a provision under the Bill as there are other laws applicable for dealing with bankruptcy proceedings.

2. Therefore, to provide a separate procedure under the Bill may result in overlapping of jurisdiction. Besides, the legislative competence of the State Legislature to frame such laws when there are already Central Acts on the subject would entail other consequences.

3. As already mentioned, it is not as if a company alone is to take land on lease, and there are other entities and persons also who would be taking land on lease.

F. The larger socio-economic question needs to be considered the new Act may render the small landowners, who lease out their land for long tenures, virtually unemployed. We need to have a strategy to keep them gainfully employed.

Response: -

1. The small land holders at times find it difficult to cultivate the land as a viable proposition. They are in fact willing to give their land on lease and get employment elsewhere or be self-employed by carrying out their own vocation.
2. The Bill would, therefore, give an impetus to the small land holders to give their land on lease by being sure that their rights are well protected under the Scheme of the enactment and at the same time get gainfully employed elsewhere.
3. Even otherwise, as already mentioned, there is no compulsion for any landowner big or small to give his land on lease and he has full right to cultivate the same.
4. The Bill in fact enables landowners to go to other places and even abroad and at the same time keep their land secured. The provisions of the Bill in terms of Section 5 (2) provides for the lessor to be entitled to receive possession of the leased land and occupy it, without encumbrances from the lessee, on the termination or expiry of the lease. In terms of the explanation thereto it is provided that on the termination or expiry of the lease, the revenue record shall reflect the possession of the lessor.
5. In terms of Section 5 (4) it is provided that the leasing of land by the lessor to the lessee shall not in any manner affect or impact the ownership rights or the mortgagee rights, if any, of the lessor.

- G.** Justification for continuing with the Tribunal for adjudication of disputes between the lessor and lessee under the Bill.

Response: -

Another facet that has been considered by the Cabinet Sub - Committee is not to have Tribunals for adjudicating disputes between the lessor and the lessee under the Bill. In this regard it is submitted that: -

1. The Commission has recommended the adjudication of disputes between the lessor and the lessee initially by the Assistant Collector at the first stage followed by hearing of appeal by the Collector.
2. Chapter III of the Bill relates to; 'Establishment of Revenue Courts, Tribunals and Their Powers and Jurisdiction.' Section 7 of the Bill relates to appointment, classes and jurisdiction of Revenue Courts. The Government is to appoint Assistant Collector and Collector under the Act.
3. 'Assistant Collector' has been defined in Section 2 (5) of the Bill to mean a revenue officer appointed by the Government not below the rank of Tehsildar.
4. 'Collector' has been defined in Section 2 (6) of the Bill to mean a Revenue Officer appointed by the Government not below the rank of Sub Divisional Magistrate and performing functions of Collector/Assistant Collector 1st Grade under the Punjab Land Revenue Act, 1887 (Act XVII of 1887).
5. These functions of adjudicating disputes have been provided for in terms of Section 7 (3) of the Bill, which is to the effect that the Assistant Collector shall have the jurisdiction to decide disputes between the lessor and the lessee in relation to the lease agreement and the lease or otherwise, and shall have the jurisdiction to pass orders in respect thereof including an order evicting the lessee, determining the rent payable by the lessee to the lessor, assessing the extent of damage done to the land or the value of improvements made thereon and also determining the compensation and penalty, if any, payable by the lessee to the lessor or the lessor to the lessee, as the case may be, and the amount payable by either of them to the other for the same.
6. Section 7 (5) of the Bill provides that the Collector shall have the jurisdiction to adjudicate and decide appeals against the order of the Assistant Collector.

7. The dispute resolution mechanism under the Bill rests primarily with the Revenue Officers of the State Government. Section 8 of the Bill relates to, 'Establishment of Revenue Tribunals.' The Tribunal in terms of Section 8 (2) of the Bill, as recommended by the Commission, is to consist of a retired member of the Superior Judicial Service appointed by the Government.

8. The Tribunal in terms of Section 8 (4) of the Bill is to exercise power and jurisdiction under the Act, which extends to the area within the revenue division.

9. The provision for having a Tribunal to hear disputes between the lessor and lessee has been recommended by the Commission to have a judicial intervention at one stage of the dispute. This has in fact been the demand of the various Kisan Unions during their interaction and meeting with the Commission. Representatives of as many as 16 Kisan Unions had in one voice and unanimously emphasised for having a judicial setup in the dispute resolution mechanism. The Kisan Unions had rather emphasised that the entire mechanism for resolving disputes between the lessor and the lessee should be with the judicial Courts and not the revenue officers of the State Government. The Commission has, however, proposed to have judicial application at this stage of decision by the Tribunal.

10. The provision for having a Tribunal in the dispute resolution mechanism is necessary and essential for the effective decisions of the cases. This rather meets the demands of the Kisan Union and by not having Tribunals would be taken as non-acceptance of one of the fair demands raised by the Kisan Unions.

11. The expenditure to be incurred on the Tribunals would not be much as these have been recommended at the Divisional level.

12. For the present there would be not much work with the Tribunal as the work would start only after decisions are rendered by the Assistant

Collector and the Collector. As such a Presiding Judge of the Lok Adalat can for the time being perform the functions of a Tribunal under the Bill.

13. Even otherwise for the present there may be only three Tribunals at the Divisional level, which can be provided by having a common Tribunal for two divisions. The cases of Ropar division may be heard by the Tribunal at Patiala. Similarly, the cases of Faridkot division may be heard and considered by the Tribunal at Ferozpur.

14. This would not entail much expenditure on the State exchequer. Even otherwise providing for resolution of disputes in an effective, efficient and efficacious manner is one of the principles of good administration by the Government.

15. The provisions for having a Tribunal for resolving disputes between the lessor and the lessee would give real strength to the cause of justice. The records would depict the pendency of cases at the Commissioner level for substantial time. The Presiding Officer of the Tribunal under the Bill would be a whole-time employee of the State Government and he would be able to devote more time for disposal of cases in terms of the Bill.

16. Not to have a Tribunal for the adjudication of disputes would defeat the purpose of the Bill as it is the endeavour of the Bill to finally decide the case between the lessor and the lessee before the harvesting of the last crop of the lease period.

It may also be submitted that the XVth Finance Commission Report 2020-21 has been released in November, 2019. The said report provides for incentives for enactment of a Land Leasing Act by the State legislature. The following observations of the XVth Finance Commission Report are apposite: -

Performance Based Incentives

4.31 Based upon ToR³ 7, which enjoin us to propose performance-based incentives in nine areas (Annex 1.1),

³ Terms of Reference.

we have chosen six different areas for these incentives. As mentioned earlier, States should take preparatory action by establishing a credible implementation and monitoring system in 2020-21, after developing robust, monitorable outcome indicators for releasing the grants to eligible States in subsequent years. They are also required to define the State-wise baseline indices/ score/ data using the indices to monitor annual incremental changes and issue guidelines before May/June 2020. These broad contours are given below.

Implementation of Agriculture Reforms

4.32 Notwithstanding significant reforms and liberalisation in recent years, the income of agricultural workers and farmers remained low and did not keep pace with the growth in the income of non-farm workers. Keeping in view the goal of doubling farmers' income and reducing agrarian distress, we have identified a set of reforms which are central to liberalising agricultural markets, provide for seamless trading, promote competition and catalyse organised investment from the private sector for better growth in agriculture sector.

4.33 The States will be eligible for financial incentives if they enact and implement all features of: (a) Model Agricultural Produce and Livestock Marketing (Promotion & Facilitation) Act issued by the Ministry of Agriculture, Cooperation and Farmers Welfare in 2017, (b) Model Agricultural Produce and Livestock Contract Farming and Services (Promotion & Facilitation) Act, issued by Ministry of Agriculture and Farmers Welfare in 2018, and (c)

“Model Agricultural Land Leasing Act, 2016” prepared by the NITI Aayog. (Emphasis added).

4.34 We recommend that State Governments take preparatory action by securing the passage of these Bills in their respective legislatures in 2020-21 to become eligible to avail the grants awarded by us from 2021-22 onwards.

The draft of the Bill submitted by the Commission is in line with and after examining the Model Agricultural Land Leasing Act, 2016 prepared by NITI Aayog.

In the circumstances, it would be in the fairness of all and a feather in the cap of the Punjab State to be a pioneer in the field of enactment of a Land Leasing and Tenancy legislation. Besides, this would entail financial incentives to the State.

Member Secretary,
Punjab Revenue Commission