

The Maharashtra Fruit Nurseries (Regulation) Act, 1969

Act 45 of 1969

Keyword(s):

Fruit Nursery, Fruit Plant, Owner, Rootstock, Scion

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**THE MAHARASHTRA FRUIT NURSERIES (REGULATION) ACT, 1969.**

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MAHARASHTRA ACT No. XLV OF 1969¹

[THE MAHARASHTRA FRUIT NURSERIES (REGULATION) ACT, 1969.]

[12th September 1969]

An Act to provide for the licensing and regulation of fruit nurseries in the State of Maharashtra

WHEREAS, it is expedient to provide for the licensing and regulation of fruit nurseries in the State of Maharashtra and for matters connected therewith ; It is hereby enacted in the Twentieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Fruit Nurseries (Regulation) Act, 1969.

Short title, extent and commencement.

(2) It extends to the whole of the State of Maharashtra.

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

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

Definitions.

(a) "Competent Authority" means a Competent Authority appointed under section 3;

(b) "fruit nursery" means any place, where fruit plants are in the regular course of business propagated and sold for transplantation, but does not include a fruit nursery belonging to, or managed by, the Government ;

(c) "fruit plant" means any plant, which can produce edible fruits or nuts, and includes budwood, seedlings, grafts, layers, seeds, bulbs, suckers, rhizomes and cuttings of any such plant ;

(d) "owner", in relation to a fruit nursery, means the person who, or the authority which, has the ultimate control over the affairs of such fruit 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 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 a portion of a fruit plant which is grafted or budded on to a rootstock.

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

Appointment of Competent Authorities.

(a) appoint such persons, being gazetted officers of 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 a Competent Authority, by or under this Act.

4. No owner of a fruit 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 nursery, except under and in accordance with a licence obtained by him under the provisions of this Act and the rules made thereunder.

Owner of every fruit nursery to obtain licence.

¹For Statement of Objects and Reasons see *Maharashtra Government Gazette*, 1969, Part V, Extra., Page 212.

Explanation.—Where an owner has more than one fruit 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 nursery.

Application for grant and renewal of licence.

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, not exceeding rupees fifty, as may be prescribed.

(2) On the receipt of such application, the Competent Authority shall make such inquiry as it considers necessary. If the Competent Authority is satisfied—

(a) that the fruit 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 conduct such a fruit nursery;

(c) that the applicant has paid the prescribed licence fee;

(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. 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 and refund to him the licence fee, which may have been paid by him.

(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. 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.

Duties of the holder of a licence.

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

(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 used, in raising the fruit plants;

(c) keep a lay-out plan showing the position of every rootstock and scion tree employed in raising the fruit plants;

(d) keep the nursery plots as well as the parent trees used for the propagation of fruit plants free from insect pests and plant diseases;

(e) undertake to prepare the fruit plants in such manner as may be directed by the Competent Authority;

(f) 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;

(g) undertake to release for sale or distribution only such fruit plants as are completely free from any kind of insect pest or plant disease ;

(h) 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 rootstock and scion and the name and address of the person purchasing it.

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 insect pests or plant diseases, by notification in the *Official Gazette*, regulate or prohibit, subject to such restrictions 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 diseases.

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

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 :—

Power to cancel or suspend licences.

(a) that he has parted, in whole or in part, with his control over the fruit nursery, or has otherwise ceased to conduct or hold such fruit nursery ;

(b) that, where the maximum rate or price for any variety of any fruit plant 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.

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 :

Return of licence.

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 nursery.

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.

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 after expiry of the prescribed period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

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(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant 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 provisions of the next succeeding section, be final.

Revision.

12. (1) The State Government may, *suo motu* or on an application made to it by an aggrieved person, 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 :

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 preferred under the last preceding section is pending, or, upon application in case an appeal has not been preferred before the expiry of the time-limit therefor :

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.

Power of
entry and
inspection

13. (1) For the purpose of ascertaining the position, or examining the working of any fruit nursery or for any other purpose mentioned in this Act or the rules made thereunder, the Competent Authority or any person authorised by it or by the State Government in this behalf, shall have the right at all reasonable hours and with or without assistants,—

(a) to enter into any fruit nursery 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 and take or cause to be taken extracts from, or copies of, such document ;

(c) 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 the nursery shall afford the Competent Authority or the authorised 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 nursery as may be required by such authority or person.

Penalties.

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

(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 fine which may extend to one thousand rupees.

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: Offences by companies.

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 purposes 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.

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 Cognizance of offence.
Competent Authority or any officer authorised by the State Government in this behalf.

17. No court inferior to that of a Presidency Magistrate, or a Magistrate of the first class, shall try any offence punishable under this Act. Jurisdiction of court.

18. All officers appointed under this Act and every person authorised 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. Officers and persons exercising powers under this Act to be public servants.

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. Protection of action taken, in good faith.

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 delegate.

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 each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or, the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the *Official Gazette*, of such decision 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 or omitted to be done under that rule.