

ಇಲಾಖೆ / ವಿಷಯ : DEPARTMENT / SUBJECT: *Court matter*ಪತ್ರಿಕೆಯ ಹೆಸರು : NAME OF THE NEWS PAPER: *The Hindu*ದಿನಾಂಕ : DATE : *13/1/2022*

Imposing a compromise

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.