

FARMER PRODUCER ORGANIZATIONS

AN INNOVATIVE INSTITUTIONAL APPROACH
FOR COLLECTIVE ACTION

Ashok S. Alur
Shankar B. Dandin
D. L. Maheswar



CENTRE OF EXCELLENCE FOR
FARMER PRODUCER ORGANIZATIONS (COE-FPO)
UNIVERSITY OF HORTICULTURAL SCIENCES,
BAGALKOT (UHS-B)
&
NATIONAL BANK FOR AGRICULTURE AND
RURAL DEVELOPMENT (NABARD)



CHAPTER - 2

REGISTERING FARMER PRODUCER ORGANIZATIONS UNDER COOPERATIVE SOCIETY'S ACT

CHAPTER - 2 : REGISTERING FARMER PRODUCER ORGANIZATION UNDER COOPERATIVE SOCIETY'S ACT

The farmer producer organizations can be registered under different acts or laws prevailing in different states of India. The farmer producer organizations can be registered as cooperative societies under the provisions of cooperative societies act prevailing in different states of India, they can also be registered as societies under societies act, as trusts under the provisions of Trusts Act and as companies under the provisions of companies act. The possibilities of establishing farmers' organizations under different acts are discussed in this chapter.

2.1 Registering Farmer Producer Organizations as Cooperative Societies:

The FPOs can be legally registered as a Cooperative Society under the provisions of the following Cooperative Societies Acts.

- (a) Cooperative Societies' Act of individual state in India
- (b) Autonomous Cooperative Societies' Act existing in many States
- (c) Multi State Cooperative Societies' Act (a Central Act)

The producer's organizations that are registered as cooperative society can be established for the purposes of availing credit, enhancing crop production or distribution of different inputs. Based on the provisions and experiences the unlimited society is not the best form of cooperative society for agricultural commodities. However, such societies do exist and are working in several states in India. The farmer's organization which has been registered as unlimited society can distribute profits with the permission of state government.

The societies can be registered as,

(a) A society which has as the objective of promotion of economic interests of its members in accordance with cooperative principles.

(b) Similarly, a society established with the objective of facilitating various operations for the benefit of its members can also be registered under the act

(c) A registered society can be member of another society, but liability of such other society must be limited, unless state government directs otherwise

2.1.1 Formation of producers' organizations as society:

A group of farmers can come together into a society. Such a society can be constituted with at least 10 members who are of 18 years and above age. If objective of the society is creation of funds to be lent to its members, all the members must be residing in the same village or group of villages or all members should be of same tribe, class, caste or occupation, unless Registrar otherwise directs. The provision of minimum 10 members or residing in same village, etc. is not applicable, if a registered society is a member of another society. The last word in the name of society should be 'Limited', if the society is registered with limited liability. Registrar is empowered to decide whether a person is an agriculturist or non-agriculturist or whether she / he is the resident of the same village, etc. and the decision of the Registrar would be final.

2.1.2 Rights and liabilities of members:

The members of the producer organizations will have different rights and liabilities. If liability of members is not limited by shares, each member shall have one vote irrespective of amount of her / his interest in the capital. If liability of members of a registered society is limited by shares, each member will have as many votes as may be prescribed by the bye laws of the society. If a registered society has invested in shares of other registered society, it

can vote by appointing a proxy .A member of a registered society shall not exercise his/her rights as member, unless he/she has made payment to the society in respect of membership or has acquired interest in society, as may be prescribed by rules or bye-laws.

2.1.3 Management of the society:

The management of the society is carried out by a committee or the governing body. The officers of a society include a Chairman, Secretary, Treasurer, Members of Committee or other persons empowered under rules or bye-laws to give directions in regard to the overall day to day business of the society. The registered society can act as a body corporate with perpetual succession and common seal similar to that of a company. The society can hold property, enter in to contracts, institute and defend suit and other legal proceedings, and do all things necessary for the purpose of its constitution.

2.1.4 Availing of loans by the Society:

As a registered society it is eligible to give loans only to its members and also it can give loan to another registered society with permission of the Registrar. A society with unlimited liability cannot lend money on security of movable property without sanction of the Registrar. State Government by issuing a general order, can prohibit or restrict lending of money on mortgage of immovable property by any registered society or class of registered society.

2.1.5 Overseeing of the affairs of society:

The management of the society is taken care by the committee or board of directors of the society. The overall activities of the society are monitored by the Registrar. The Registrar can hold an enquiry or direct some person authorized by him/her to hold enquiry in following circumstances,

- i) Of his/her own motion
- ii) Request of the District Collector/Deputy Commissioner
- iii) Application by majority of Committee Members of society or
- iv) At least one-third of members of society

The officers and members of the society shall furnish necessary information to the Registrar or to a person authorized by the Registrar.

2.1.6 Dissolution of the society:

The dissolution of the society can be done as per the provisions made in the byelaws of the society. Registrar, after inspection or inquiry, or on application received from 75 per cent of members of society, may cancel the registration of society, if in his/her opinion, the society should be dissolved. Any member can appeal against the order of the Registrar within two months to the State Government or other revenue authority authorized by the State Government .If no appeal is filed within two months, the order of dissolution shall become effective. If the appeal is filed, the order will become effective only after it is confirmed by appellate authority.

2.1.7 Application of company's act to societies:

The provisions of Companies Act are not applicable to a registered cooperative society. The primary agriculture cooperative societies being a registered cooperative society, has been providing credit and other services to its members. It has been observed that primary agriculture cooperative societies are generally meeting the credit requirements of its members. However, there is a need to provide other services to the farmers and hence, primary agriculture cooperative societies should be developed as organizations to meet all needs of the farmers. Primary agriculture cooperative societies are generally providing the following facilities to their member farmers:

- i. Provide agricultural credit
- ii. Inputs in the form of seeds and fertilizers
- iii. Agriculture implements on hiring basis
- iv. Storage facility for the farmers produce

Primary agriculture cooperative societies can play an important role in providing these facilities to the member farmers. In order to enable primary agriculture cooperative societies to provide more services to its members and generate income, an initiative was taken to develop primary agriculture cooperative societies as multi service centers. Some of the primary agriculture cooperative societies are also assisting farmers in marketing of their produce. Thus, primary agriculture cooperative societies can provide both backward and forward linkages to its members, thereby acting as producer organizations, in order to promote efficient crop production practices for its members on one hand and opportunities for better price realization of their produce, on the other.

Following facilities can be taken up by primary agriculture cooperative societies acting as producers organizations to the farmers.

a) Warehousing facilities for farm produce:

The cooperatives can take up the activity of up gradation of the existing storage facilities or construction of new warehouse along with sorting/ grading unit as per Negotiable Warehouse Receipt System. This will enable them to issue warehouse receipts to the farmers who store their produce in the warehouses. Based on these receipts, the farmers can get loan against the crop stored in the warehouses to meet their immediate cash needs and avoid distress sale of their produce. Thus, the farmers are facilitated to get better price by holding the crops without affecting the fund flow position.

b) Input supply service:

The cooperatives can undertake the business of purchase of hi-tech agri-implements and equipment required for the farming by their members which farmers individually are not able to buy due to prohibiting costs. The implements shall include power tiller, land leveler, rotary slasher, movers, seed driller, multi crop planter, paddy trans-planter, sprayers, combine harvester, thresher, sprayer etc. The earnings from such custom hiring practice will bring revenue to the cooperative society.

The cooperatives can also buy the agricultural inputs such as seeds, planting materials, fertilizers, bio-agents and other farm inputs for the benefit of its members and distribute to them as per their requirement.

c) Processing services for the farm produce:

The cooperative societies shall undertake primary processing involving sorting, grading unit, waxing/ polishing unit, pre-cooling chambers, etc. It can also undertake secondary processing with a focus on value addition to produce.

d) Technology Transfer:

The cooperative societies can undertake the services of providing technical advise to the member farmers. They can also run testing laboratory services for soil-plant-water diagnostics, creating panel of experts for providing services on payment basis, establishing knowledge dissemination centre, arrange training to farmers.

e) Facilitating produce transportation and marketing facilities:

Bulking and bulk marketing has several advantages over individual marketing by the farmers(especially the small farmers as their volume of produce will be very small). The cooperative society can undertake procurement of produce;

ensure direct market linkage after aggregation and/ or processing, setting up of rural mart etc. The cooperatives which are either in the area of marketing or intend to undertake this activity may create this channel to facilitate the farmers in marketing.

2.1.8 Role of state government:

The primary agriculture cooperative societies can either use their own sources or avail credit facilities from state cooperative banks. Credit cooperative bank or regional rural bank can avail of refinance facilities as per the usual terms and conditions. Regional Office will keep a track of the facilities being developed at cooperative society level and monitor the same at regular interval. In cases where loan is from the state cooperative bank or district central cooperative bank or own resources are being used and financial support from NABARD is not being taken, NABARD could guide in project formulation, if necessary, so as to enable best utilization of funds. Financial support to cooperatives acting as a producer organization is also available through Producer Organization Development Fund (PODF) of NABARD.

Some Important Frequently Asked Questions and Answers:

1) What are the legal provisions for registering a producer organization be as a Cooperative Society?

Producer Organizations can also be formed and registered as a Cooperative Society under

(a) Cooperative Societies' Act of Individual State (b) Autonomous Cooperative Societies' Act existing in many States (minimal State intervention) (c) Multi State Cooperative Societies' Act, which is a Central Act

2) What are objects for Cooperative Societies?

The important objectives shall include, the purpose/s of credit, production or distribution

Unlimited society is not the best form of cooperation for agricultural commodities. However, such societies do exist and are working in several states. Unlimited society can distribute profits with the permission of State Government

3) How to register a society?

A society which has as its object of promotion of economic interests of its members in accordance with cooperative principles can be registered as a Society. Similarly, a society established with the object of facilitating operation of such a society can also be registered under the Act. A registered society can be member of another society, but liability of such other society must be limited, unless State Government directs otherwise

4) Who can form a society?

(a) A society can be formed with at least 10 members of age above 18 years (b) If object of the society is creation of funds to be lent to its members, all the members must be residing in the same town, village or group of villages or all members should be of same tribe, class, caste or occupation, unless Registrar otherwise directs (c) The provision of minimum 10 members or residing in same town / village, etc. is not applicable, if a registered society is a member of another society (d) The last word in the name of society should be 'Limited', if the society is registered with limited liability (e) Registrar is empowered to decide whether a person is agriculturist or non-agriculturist or whether she / he is resident of the same town / village, etc. and his decision would be final .

5) What are the rights and liabilities of members?

- a) If liability of members is not limited by shares, each member shall have one vote irrespective of amount of her / his interest in the capital
- b) If liability of members of a registered society is limited by shares, each member will have as many votes as may be prescribed by the bye laws
- c) If a registered society has invested in shares of other registered society, it can vote by appointing a proxy
- d) A member of a registered society shall not exercise his rights as member, unless he has made payment to the society in respect of membership or has acquired interest in society, as may be prescribed by rules or bye-laws

6) How will the society be managed?

- a) Each society will be managed by a Committee or the Governing Body
- b) Officers of a society include a Chairman, Secretary, Treasurer, Members of Committee or other persons empowered under rules or bye-laws to give directions in regard to business of society

7) Is the registered society a body corporate?

- a) A registered cooperative society is a body corporate with perpetual succession and common seal (just like a company)
- b) It can hold property, enter in to contracts, institute and defend suit and other legal proceedings, and
- c) Do all things necessary for the purpose of its constitution

8) Are there any restriction on loans by the Society?

- A registered society can give loans only to its members; however, it can give loan to another registered society with permission of the Registrar

- A society with unlimited liability cannot lend money on security of movable property without sanction of the Registrar
- State Government by issuing a general order, can prohibit or restrict lending of money on mortgage of immovable property by any registered society or class of registered society

9) Who will inspect the affairs of society?

a. Registrar can hold an enquiry or direct some person authorised by him to hold enquiry in following circumstances:

- Of his own motion
- Request of the Collector
- Application by majority of Committee Members of society or
- At least one-third of members of society

b. All officers and members shall furnish necessary information to the Registrar or to a person authorized by him

10) Can a society be dissolved?

- Registrar, after inspection or inquiry, or on application received from 75% of members of society, may cancel the registration of society, if in his opinion, the society should be dissolved
- Any member can appeal against the order of the Registrar within two months to the State Government or other revenue authority authorised by the State Government
- If no appeal is filed within two months, the order of dissolution shall become effective
- If appeal is filed, the order will become effective only after it is confirmed by appellate authority

11) Are provisions of Companies Act, applicable to a registered cooperative society?

The provisions of Companies Act are not applicable to a registered cooperative society

12) Whether PACS can act as producer organization?

PACS, being a registered cooperative society, has been providing credit and other services to its members. It has been observed that PACS are generally meeting the credit requirements of its members. However, there is a need to provide other services to the farmers and hence, PACS should be developed as a unit to meet all their needs. PACS are generally providing the following facilities to the members:

- Input facilities in form of cash or kind component to members
- Agriculture implements on hiring basis
- Storage facility

PACS can play an important role in providing these facilities to the farmers. In order to enable PACS to provide more services to its members and generate income, an initiative was taken to develop PACS as multi service centres. Some of the PACS are also assisting farmers in marketing of their produce. Thus, PACS can provide both backward and forward linkages to its members, thereby acting as a producer organization, in order to promote efficient crop production practices for its members on one hand and opportunities for better price realization of their produce, on the other.

13) What are the facilities that can be taken up by PACS acting as a producer organization to the farmers ?

a) Agro-Storage centre:

Up gradation of the existing storage facility or construction of new godown along with sorting/ grading unit as per Negotiable Warehouse Receipt System. This will enable them to issue warehouse receipts. Based on these receipts,

the farmers can get loan against the crop stored and can cultivate the next crop. Thus, the farmers will be facilitated to get better price by holding the crops without affecting the fund flow position.

b) Agro-service Centre:

a. Purchase of hi-tech agri-implements like power tiller, land leveller, rotary slasher, movers, seed driller, multi crop planter, paddy transplanter, sprayers, combine harvester etc. depending upon the requirements of members. The earning will be from the rental of these equipment.

c) Agro-processing centre:

a. Primary Processing: Sorting, grading unit, waxing/ polishing unit, pre-cooling chambers, etc.

b. Secondary Processing: Value addition to produce e.g. Mini rice mill, atta chaki, horticulture produce processing etc.

d) Agri -information centre :

a. Testing lab for soil & water, creating panel of experts for providing services on payment basis, knowledge dissemination centre, arrange training to farmers. The testing lab & expert guidance will be available to farmers at a cost.

e) Agri Transportation & Marketing Facilities :

a. Procurement of produce, direct market linkage after aggregation and/ or processing, setting up of rural mart etc. The PACS, which are either in the area of marketing or intend to undertake this activity, may create this channel to facilitate the farmers in marketing.

14) What role State Government / State Cooperative Bank can play in developing PACS as producer organization to serve as a Multi Service Centre (MSC)?

PACS can either use their own sources or avail credit facilities from StCB or CCB. In such a case, the grant support from producer organizationDF is not available. CCB or RRB can

avail of refinance facilities as per the usual terms & conditions. Regional Office will keep a track of the facilities being developed at PACS level and monitor the same at regular interval. In cases where loan is from the StCB or DCCB, or own resources are being used and financial support from NABARD is not being taken, NABARD could guide in project formulation, if necessary, so as to enable best utilisation of funds. Financial support to PACS acting as a MSC / producer organization is also available through Producer Organisation Development Fund (producer organizationDF) of NABARD.