



**FARMERS' RIGHT AND LEGAL CONTROL MECHANISM OF PLANT VARIETIES
PROTECTION IN INDIA AND ITS IMPACT**

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Abstract

This research article discusses the farmer area shows that there are some general and some specific problems in the received legal regime for plant varieties administration and its protection mechanism. Some of these problems are of a specialized sort and relate, for example, to the absence of coordination between the diverse demonstrations. One more substantive issue is the topic of farmers' rights or the rights of farmers over their traditional knowledge and its impact. The need to locate a more thorough response to this issue has been made all the more squeezing with the confirmation by India of the new Plant Genetic Resources for Food and Agriculture (PGRFA) Treaty. This significance of this treaty is connected to the way that it straightforwardly interfaces biodiversity conservation, biodiversity utilize and farmers' rights and to the way that it constitutes an immediate reaction to the presentation of intellectual property rights in agribusiness through patents and plant breeders' rights and its effect.

1.1 OVERVIEW

In 1989, the FAO Conference pronounced that they are 'rights emerging from the past, present and future commitments of farmers in saving, enhancing, and making accessible plant genetic resources, especially those in the focuses of origin/diversity' (Resolution 5/89). The 2001 International Treaty on Plant Genetic Resources for Food and Agriculture accommodates the acknowledgment of Farmers' Rights, yet does not unequivocally characterize them.

Inquiries stay about whether Farmers' Rights ought to be viewed as a form of intellectual property rights, as development rights, as measures to advance conservation of traditional varieties and farming practices, or as some mix of these. Without pressing consideration towards settling this absence of lucidity, Farmers' Rights may end up weakened into a theoretical and implausible concept.



This investigation is gone for tending to this issue and endeavors to develop choices to guarantee the down to earth implementation of Farmers' Rights. India is among the first countries on the planet to have passed a legislation allowing Farmers' Rights as the Protection of Plant Varieties and Farmers Rights Act, 2001 (PPVFR). India's law is extraordinary in that it at the same time expects to ensure the two breeders and farmers. It endeavors to build up rights for farmers to enroll their innovations and ensure extant(existing) varieties.

India is a nation rich in biodiversity and genetic resources. India is a pioneer in the creating scene, consulting at the forefront internationally to guarantee protection of Farmers' Rights. These measurements must be seen nearby substances on the ground, for example, the way that farmers are conferring suicide in disturbing numbers in India. The Indian case holds imperative lessons for the acknowledgment of Farmers' Rights. It expect tremendous significance for a few reasons including: India's lead in establishing a legal framework on Farmers' Rights, India's international commitment to arrangements on Farmers' Rights and the complexities of agribusiness in India inside

which the nation is endeavoring to actualize Farmers' Rights.

1.1 Farmers Rights Act, 2001 (PPVFR)[1]:

1.1.1 Rights to Seed

The farmer's right to spare and exchange seed has been one of the real demands of the farmers' right development. India's Act means to give farmers the right to spare, utilize, exchange or offer seed in a similar way he/she was qualified for before the Act. In any case, the right to offer seed is confined in that the farmer can't offer seed in a bundled form marked with the enrolled name. (Ramifications of this arrangement are talked about in segment 3.5).

1.1.2 Right to Register Varieties

Farmers like business breeders can apply for IPR over their varieties. The standard for registration of varieties is additionally like breeders (uniqueness, uniformity, and steadiness) however curiosity isn't a requirement. The capacity to pick up IPR compose rights over farmers' varieties is a one of a kind part of India's law. Farmers' assortment is characterized as a assortment which has been traditionally cultivated and advanced by farmers in their fields; or is a wild relative or landrace of an assortment about which the farmers have common



knowledge'. The plant breeder's right allowed on farmers' varieties gives the exclusive right to deliver and advertise the seed of enlisted varieties[1].

1.1.3 Right to Reward and Recognition

The Act accommodates establishing a National Gene Fund. Through the National Gene Fund, farmers that have assumed a part in conservation of varietal development of plants can be perceived and rewarded. The charge gathered from breeders who are enquired to pay for benefit sharing is to be kept in the National Gene Fund. The cash gathered under the National Gene Fund can be utilized for help and reward farmers occupied with conservation. The Act gives this general arrangement to advance conservation yet does not give advance specifications in regards to the technique. The Authority set up under the Act is left with the task of operational punch this right.

1.1.4 Right to Benefit Sharing

The Act proposes the setting up of a brought together National Gene Fund through which benefit sharing would be encouraged. The Authority is required to distribute the enrolled varieties and welcome cases for benefit sharing. The Act expresses that any person or gathering of persons or firm or

legislative or nongovernmental organization can present its claim of benefit sharing. The rewards from the gene store must be given to a farmer/community who can demonstrate that they have added to the determination and conservation of materials utilized as a part of the enlisted assortment. Right to Information and Compensation for Crop Failure: Section 39 (2) of the Act gives that the breeder must give information about expected performance of the enrolled assortment. On the off chance that the material neglects to perform, the farmers may assert for compensation under the Act. This arrangement endeavors to guarantee that seed companies don't influence misrepresented claims about the performance (to yield, bug protection) to the farmer. It empowers farmers to apply to the Authority for compensation on the off chance that they endure misfortunes because of the disappointment of the assortment to meet the objectives guaranteed by the companies.

1.1.5 Right to Compensation for Undisclosed utilization of Traditional Varieties

In situations where it is set up that the breeder has not revealed the wellspring of



varieties having a place with a specific community, compensation can be conceded through the Gene Fund. Any NGO, individual or government institution may record a claim for compensation in the interest of the local community in situations where the breeder has not unveiled traditional knowledge or resources of the community.

1.1.6 Right to Adequate Availability of Registered Material

The breeder is required to give sufficient supply of seeds or material of the assortment to the general population at a sensible cost. On the off chance that following three years of registration of the assortment, the breeder neglects to do as such, any person can apply to the Authority for a mandatory permit. Necessary licenses renounce the exclusive right given to the breeder and empower outsiders to deliver, disseminate or offer the enlisted assortment.

1.1.7 Right to Free Services

The Act exempts farmers from paying charges for registration of an assortment, for directing tests on varieties, for recharging of registration, for resistance and for expenses on every legal continuing under the Act. [1].

1.1.8 Protection from legal infringement if there should arise an occurrence of absence of awareness

Considering low education levels in the nation, the Act gives shields against guiltless infringement by farmers. Farmers who accidentally damage the rights of a breeder shall not be rebuffed in the event that he/she can demonstrate that they didn't know about the presence of breeder's rights.

1.2 The Objectives of the PPVFR Act, 2001, are as following[2]:

To establish an effective system for protection of plant varieties, the rights of farmers and plant breeders and to empower the development of new varieties of plants

To perceive and secure the rights of the farmers in respect of their commitment set aside a few minutes in conserving, enhancing and making accessible plant genetic resources for the development of new plant varieties

To secure plant breeders' rights to stimulate investment for research and development both in people in general and private sector for development of new plant varieties



To encourage the development of seed industry in the country that will ensure the accessibility of excellent seeds and planting material to the farmers

1.3 The Impact of IPR Laws

TRIPs and other seed laws were stressed. Notwithstanding patents and different laws, the Seed Bill proposed (however not passed) by the Indian government was especially specified as a hindrance to implementation of FRs. As indicated by Dr. SumanSahai (President, Gene Campaign), the Seed Bill could counter everything in the Farmers' Rights law in light of the fact that the Seed Bill stipulates a system of registration in spite of farmer's interests. What's more, while the Authority chooses compensation to be conceded to farmers, the Seed Bill recommends that the procedure must experience the region courts. Seed industry agents, nonetheless, can't help contradicting this and feel the Seed Bill is a dynamic advance that indicates that farmers and breeders must meet certain quality norms. The endeavors to set up UPOV as an 'effective' sui generis system in TRIPs was additionally said as a boundary. Absence of international standards was called attention to as a hindrance in light of the fact that

unless the created countries likewise start such legal systems, national legislations have constrained use because of their international ramifications. (Dr. Mashelkar, Director,CSIR).

Legal Conflicts; could come about because of the regime which could be a boundary. It is hard to determine the issue of counterclaims for varieties under the Act as there would be numerous applications for one assortment. Dr. Satheesh Kumar (Director, PrabhatAgri Biotech Ltd.) addressed how the issue of numerous candidates for every assortment could be settled. Dr. Siddiq (ex Director General, ICAR) states that national intrigue isn't equal to farmer's interests yet that we battled issues like Basmati at the national not farmer level. It is likewise troublesome, as pointed out by some respondents, to distinguish the communities who are in charge of advancement and conservation of varieties[3].

A few different boundaries were additionally featured. Some respondents attracted regard for the gap amongst vast and little farmers that exists in India.

Dr. Chaturvedi (Fellow, Research and Information Systems) expounded on the



threats of setting farmers in a single classification as there are such a large number of various kinds of farmers. For example, he takes note of, some farmers in India are connected specifically with the esteem tie right up to grocery stores in the West, for example, Sainsbury. Dr. Deshpande (Professor, Institute for Social and Economic Change) called attention to that the Act doesn't give adequate obstructions to disposing of the offer of deceptive seed. Dr. Shard Joshi (Founder, ShetkariSanghathan) felt that there was no reason for making new authoritative systems for leeway of new varieties and that even the current apparatus ought to be kept to consequences for condition and human/creature life. To the extent the farmers are worried, as indicated by him, they would choose the economic worth whileness of utilizing any assortment. Dr. Tiwari (Director, NAARM) called attention to that the condition in the PPVFR for pronouncing expected performance of an assortment welcome down vigorously on open breeders.

As indicated by Dr.Rengalakshmi (Scientist, Swaminathan Foundation), in the 70s Universities had a cozy association with

traditional communities as they were one of the main hotspots for germplasm. Today, this is moving as the institutions get the greater part of their material from both national and international sources. Open sector is likewise not supporting conservation and administration of traditional varieties enough as per Rengalakshmi. She portrayed an intriguing example where as of late, after the torrent hit South India, new varieties were harmed however traditional varieties(about 7-8 paddy varieties) survived, yet the legislature was supporting different varieties and not the traditional ones.

1.4 Lawfully Acquired Parental Material

Section 18(j) regarding information to be submitted along with an application, requires the applicant to certify that the genetic or parental material used for breeding the variety has been lawfully acquired. Such declaration would be difficult in cases where the passport information relating to the material has not been recorded. Further, it would not always be possible for a breeder to get information relating to the contribution of a farmer, village community, etc. since there may not be an authentic source of such information.



Such information, if not available, may be left to the Authority to decide, which can invite claims later through media/public notices, etc.

1.5 National Gene Fund

The National Gene Fund is proposed to be utilized for supporting conservation and sustainable use of genetic resources, including in situ and ex situ collections. Some allocation may be earmarked for ex situ conservation of varieties and maintenance of gene banks. The funds are also to be used for recognizing and rewarding the contributions of farmers engaged in the conservation and enhancement of agro-biodiversity. Transparent and credible methods of recognizing individual and community contributions will have to be developed. The manner in which the community award should be utilized may be left to the communities.

1.6 SUGGESTIONS

The above findings point to the way that the legal position in India must be enhanced to the advancement of Farmers' Rights. Farmers are the makers of food and conservers of plant genetic resources for food and agriculture. They in this way add

to conservation of agro bio-diversity and biological diversity. Their strategy for farming aides in supportable utilization of the genetic diversity. They are the key factors in accomplishing the objects of CBD moreover. They are additionally making accessible the plant genetic resources for food and agriculture for plant reproducing, and in this way the recently developed varieties. Henceforth, the farmers are qualified for every one of the rights related with these limits.

The political and key increases of characterizing Farmers' Rights as IPR write rights must be joined by measures to guarantee economic benefits by concentrating on Farmers' Rights as development rights. Farmers' Rights should likewise join a component to advance access and sharing of resources instead of just possession rights. Farmers themselves must be viewed as critical stakeholders in policy making. On the off chance that the worldwide community does not look up to the test of unambiguously articulating Farmers' Rights, what has been accomplished so far to set up Farmers' Rights might be lost. "On the off chance that no Farmer, no Food no Future".



REFERENCES

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