

DE JURE NEXUS LAW JOURNAL

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5th Year, BA; LL.B. (Hons.)**PLANT VARIETIES AND FARMERS ACT, 2001****Abstract**

Intellectual property is an outcome of human intellect. The role of IPR is sine qua non in the economic and technological development of a nation. Thus, the creation of new plant varieties and their use in agricultural production is a matter of great public interest. The Indian farmers as well as the tribal communities have made enormous contribution to development of plant varieties, germ plasma and to the biodiversity conservation and they deserve protection. It is only fair to say that their rights are protected not just by them alone but by scientists, NGO's and other informed sections of the society. Thus, under this Act there is a system of dual rights, the breeders are rewarded for their innovation by having control of the commercial market place but without being able to threaten the farmers capacity to freely participate in their business and supporting other farmers. The Act was enacted inter alia, to recognize the role of farmers as cultivators and conservers and the contribution of traditional, rural and tribal communities to the country's agro biodiversity by rewarding them for their commitment through benefit sharing and securing the conventional privileges of the farmers.

Keywords

Breeder, farmer, rights, plant varieties.

Introduction

According to Black's law dictionary in 1970, a plant variety protection act was a federal statute that extended patent like protection for developing new and distinct varieties of seed producing plants. A certificate of Plant Variety protection gives the holder exclusive rights to sell, reproduce, and develop further hybrids from the plant. A variety includes propagating material

of such variety, extant variety and essentially derived variety. According to Section 2(k) of the Protection of Plant Variety and Farmer's Right Act, 2001 a 'farmer' means a person;

- i. Cultivates crops by cultivating land himself,
- ii. Cultivates crops by directly supervising the cultivation of land through any other person,

Section 2 of the Act, 2001 discusses about the term breeder. A 'Breeder' means a person or group of persons or a farmer or group of farmers or any institution which has bred, evolved or developed any variety. To accommodate the foundation of a compelling framework for the assurance of plant varieties, the privileges of ranchers and plant reproducers, and to energize the advancement of new assortments of plants it has been viewed as important to perceive and to ensure the privileges of the ranchers in regard of their commitments made whenever in monitoring, improving and making accessible plant hereditary assets for the improvement of new plant assortments. The Govt. of India established "The Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001" embracing the generic framework. Indian enactment isn't just in congruity with the International Union for the Protection of New Varieties of Plants (UPOV), 1978, yet in addition has adequate arrangements to ensure the interests of public area reproducing establishments and the ranchers. The enactment perceives the commitments of both business plant reproducers and ranchers in plant rearing action and furthermore gives to carry out TRIPs such that upholds the particular financial interests of the relative multitude of partners including private, public areas, and examination foundations, just as asset obliged ranchers.

Purpose to protect Plant Varieties and Farmers Act, 2001 in India

In India, the subject of protection deals with 3 things. Firstly, the protection of Bio-diversity in plants against their disappearance and waste. Secondly, protection of Farmer's right as cultivators and conservers and breeders of biodiversity in plants. Lastly, protection of breeder's rights who breed through assiduous efforts and new varieties in plants by applying the techniques of gene transfer and gene implant in addition to several other traditional methods. Indian law is a progressive legislation, it speaks of registration of New Plant Varieties, not patenting. The Act is the first piece of legislation in the world which recognizes the contribution of the farming and tribal communities in conserving biodiversity and developing new plants varieties. It is true to point out that the Act enshrines the rights of farmer, breeders, conservator and cultivators.

Having recognized this position, the GATT Agreement itself provides that member nations can legislate on the subject of patenting of new plant varieties a law appropriate to their own pattern of economy and to their national interest. In pursuance of the obligation created under the GATT, several developing countries have enacted legislations of their own, India is one of them. The other countries which have made similar legislation are: Pakistan, Thailand, Bangladesh, China, Sri Lanka, South Korea and Malaysia.

To execute the courses of action of the Act the Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture, and Farmers Welfare developed the Protection of Plant Varieties and Farmers' Rights Authority, 2001. The director is the CEO of the position. Other than the director, the authority has 15 people, as instructed by the Government regarding India (GOI). Eight of them are ex-officio people addressing various divisions/services, three from SAUs and the State Governments, one agent each for ranchers, tribal affiliation, seed industry, and women affiliation related with plant practices are relegated by the Central Government. The Registrar General is the ex-officio part secretary of the power.

Main Provisions of the Act along with Farmers right

The Act allows Intellectual Property Rights protection on seeds of all agricultural crops, it includes all categories of plants but will not include micro-organisms. The primary role of protection under this Act is by means of registration. The Act establishes an effective system of protection of plant varieties based on criteria of Novelty, Distinctiveness, Uniformity and Stability. The applicant is to register a variety in the 'National Register of Plant Varieties'.

It is said that an application for registration cannot be made in respect of the genera and species which are excluded from the protection by a notification by the Central Government on the ground that prevention of commercial exploitation of such variety is necessary to protect public order or public morality or to preserve human, animal and plant life and their health or to avoid serious prejudice to the environment. The Act provides that farmers have a right like other commercial breeders to have seed varieties registered. Both plant breeders and farmers are entitled to file for registration of a new variety. The Act provides for renewal of varieties from time to time until the end of period of protection. In order to implement the provisions of the Act, provision is made for the establishment of an Authority, a Plant Variety Registry manned by a registrar- general and a number of registrars with their respective powers and duties specified. This organization set up will be under the general control of the Central Government. This right may be extended to a maximum period of 18 years by periodical renewals from the

date of registration in respect of trees and vines and 15 years in respect of extant variety and others from the date of registration.

Farmer's variety shall be entitled for registration if application is in accordance with the provisions in the Act. A farmer who is engaged in the conservation of genetic resources of land races and wild relatives of economic plants and their improvement through selection and preservation shall be entitled for recognition and reward from the Government Gene Fund. The farmers are entitled to sell locally any variety of seed that they grow, even if the variety has been granted a breeder's right.

The Protection of Plant Varieties and Farmers' Rights Act is an effective sui generis structure making amicability between plant reproducers' advantages close by farmers' advantages and experts' advantages. The act of little, minimal ranchers to trade the gathered material with others is fundamental for their work and rehearsals to a vast extent both in India and the major part of Asia-Pacific's creative nations. All endeavours are being made by The Protection of Plant Varieties and Farmers' Rights Act, Authority to actualize various arrangements of The Protection of Plant Varieties and Farmers' Rights Act and furthermore to make the accessibility of value seeds of enlisted assortments yet, in addition, to help ranch families for preservation and reasonable utilization of hereditary assets remembering for situ and ex-situ assortments and for reinforcing the ability of the partners in completing such protection and feasible use.

The ranchers can exploit this Act to get IPR on their developments as enhancements in plant assortments and furthermore for their work in their land race and customary assortment protection and preservation. A portion of the significant difficulties which we predict are:

- Popularization of farmers' job in preservation and advancement of new assortment and readiness of database of the equivalent for granting ranchers and cultivating networks and enrolment of farmers' assortments.
- Mainstreaming and commercialization of enlisted ranchers' assortments.
- Notification of ranchers' assortments under Seeds Act, 1966.

Conclusion

To bring the hypothesis in its end edge, I would like to draw certain conclusion, the Government of India in their National Intellectual Property Rights Policy has demonstrated the

number of filings and enlistments by the Protection of Plant Varieties and Farmer's Rights Authority requesting to offer help to different partners for expanded enrolment of new, surviving and basically determined assortments of plants. It has additionally underscored to set up joins between the Authority and Agricultural Universities, Research Institutions, Technology Development, and Management Centres, and Krishi Vigyan Kendra's and encourage the advancement of seeds and their commercialization by ranchers. It makes the authority increasingly capable of concentrating on techniques for mainstreaming of enlisted ranchers' assortments and to take reproducers rights as visualized in the Protection of Plant Varieties and Farmers' Rights Act, 2001, to each concerned partner and make India as a harbinger in the execution of not exclusively ranchers' privileges yet additionally the raisers' privileges.

References

1. http://www.nbpgr.ernet.in/Training_Management_PGR/Compendium/06_Protection_of_Farmers_and_Community_Rights_RC_Agrawal.
2. <https://www.drishtias.com/daily-updates/daily-news-analysis/the-protection-of-plant-varieties-and-farmers-rights-act>
3. <https://www.insightsonindia.com/2019/04/25/protection-of-plant-varieties-and-farmers-rights-ppvfr-act-2001>
4. Black's Law Dictionary 10th Edition