

**SOME USEFUL INFORMATION FOR
PROTECTION OF PLANT VARIETIES
AND FARMERS RIGHT ACT, 2001**



भारत
अनुप
ICAR

**Abhishek Kumar
Sk. Md. A. Rahman
S.B. Singh, A. K. Tripathi
S. V. Ngachan**



भारत
अनुप- पु प सं
ICAR-RC NEH

**ICAR (RC) FOR NEH REGION
KRISHI VIGYAN KENDRA HAILAKANDI
CHANDPUR WEST, HAILAKANDI 788 152**

PREFACE

The Protection of Plant Varieties and Farmers' Rights Act (PPV & FRA) was passed by the Indian Government in 2001. This act was developed integrating the rights of breeders, farmers and village communities, and taking care of the concerns for equitable sharing of benefits.

The Farmers' Rights (FR) is thus the need of the present scenario, and also the reaction of the Law as part of equity, fairness and justice. This is because, when the plant breeders are given IPR for having developed a new, distinct, uniform and stable variety, the farmers who developed, conserved and preserved various varieties which are in tune with nature, along with traditional knowledge (TK) associated with them, are not given any such rights.

The farmers' varieties are not only used by the world community for consumption, but also by the plant breeders for developing new varieties. This shows the dual role played by farmers towards food security on the one hand, and their role as contributors to agrodiversity, and thus a sustainable environment on the other.

Keeping in view of the fact that most of the farmers and farming community of the district are not aware about protection of plant varieties and farmers right act. Therefore, to aware the farmers of the district regarding PPV&FRA, Krishi Vigyan Kendra, Hailakandi, ICAR Research Complex for NEH Region has decided to bringing up this booklet so that the farmers and the extension worker may be greatly benefited and help in uplifting their socio economic status.

We extend our deep appreciation and sincere thanks to Protection of Plant Varieties and Farmers Right Authority, Ministry of Agriculture for providing fund to organize Training programme to create awareness programme among the farmers and stakeholders of the district and also ICAR RC for NEH Region and ATARI, Zone III for their support.

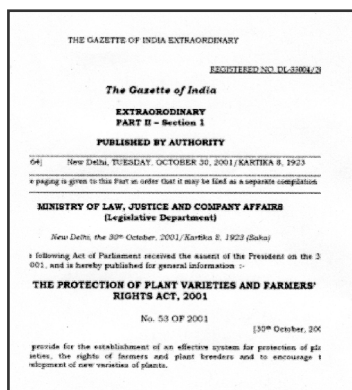
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INTRODUCTION

India is one of the twelve megadiversity countries of the world and is considered as a major centre of domestication of crop plants. Out of this rich biodiversity, the ancient farming communities from time immemorial had grown and developed a rich cornucopia of crop plants through selection and adaptations. India has over 45000 species of plants and fungi, representing 11 percent of the world's flora. The plant genetic resources provide essential food, fodder, fibre and other utilities for the civilization to sustain.



In order to provide for the establishment of an effective system for the protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants it has been considered necessary to recognize and to protect the rights of the farmers in respect of their contributions made at any time in conserving, improving and making available plant genetic resources for the development of new plant varieties. The Govt. of India enacted "The Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001" adopting sui generis system. Indian legislation is not only in conformity with



International Union for the Protection of New Varieties of Plants (UPOV), 1978, but also have sufficient provisions to protect the interests of public/private sector breeding institutions and the farmers. The legislation recognizes the contributions of both commercial plant breeders and farmers in plant breeding activity and also provides to implement TRIPs in a way that supports the specific socio-economic interests of all the stakeholders including private, public sectors and research institutions, as well as resource-constrained farmers.

To implement the provisions of the Act the Department of Agriculture and Cooperation, Ministry of Agriculture established the Protection of Plant Varieties and Farmers' Rights Authority on 11th November, 2005. The Chairperson is the Chief Executive of the Authority. Besides the Chairperson, the Authority has 15 members, as notified by the Government of India (GOI). Eight of them are ex-officio members representing various Departments/ Ministries, three from SAUs and the State Governments, one representative each for farmers, tribal organization, seed industry and women organization associated with agricultural activities are nominated by the Central Government. The Registrar General is the ex-officio Member Secretary of the Authority.

Protection of Plant Varieties in India

To provide the establishment of an effective system for the protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants it had been considered necessary to recognise and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available the plant genetic resources for the development of the new plant varieties. Moreover, to accelerate agricultural development it is necessary to protect the plant breeders' rights to stimulate investment for research and development for the development of the new plant varieties. Such a protection is likely to facilitate the growth of seed industry which will ensure the availability of right quality seeds and planting materials to the Farmers. India being a signatory of Trade Related aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organization (WTO), adopted a *sui generis* system for plant variety protection. To give effect to the aforesaid objectives, the Protection of Plant Verities and Farmers' Rights bill was introduced in the parliament of India.

The Protection of Plant Varieties and Farmers' Rights Bill having being passed by both the houses of the Parliament received the assent of the President of India on 30th October, 2001.

Protection of Plant Varieties and Farmers' Rights Authority was established by the Government of India in

exercise of power conferred by Sub Section (1) of the Section 3 of the PPV&FR Act,2001 by Gazette Notification (S.O. 1589-E) on 11th November,2005. The PPV&FR Authority operates under the Ministry of Agriculture, Govt. of India.

Meanwhile, two branch offices : one at Guwahati and the other at Ranchi were established during 2011. The Establishment of the branch offices were notified in the Gazette of India vide S.O. No. 929 (E) dated April 27.04.2012. .The states of Assam, Sikkim, Meghalaya, Manipur, Mizoram, Nagaland, Tripura and Arunachal Pradesh come under its territorial limit of Guwahati branch office, while the states of Jharkhand, Bihar, West Bengal, Chattishgarh, Orissa and Andamand and Nicobar Islands come under the territorial limit of the Ranchi branch. Another four branch offices of the Authority will be opened shortly in the country.

The objectives of the Branch Offices are to facilitate the registration of Varieties (New, Extant and Essentially Derived Varieties) in the PPV&FR Authority and to encourage the farmers for conserving the plant genetic resources and also cataloguing of all varieties (Released & Notified/Traditional varieties/Varieties in public domain/varieties which are not notified or under sale as Truthfully labelled seed) in the territorial limits of the branch offices. All applications received from these states are required to be routed through the respective branch offices.

Objectives of PPV&FR Act, 2001

1. To establish an effective system for the protection of plant varieties, the rights of farmers and plant breeder and to encourage the development of new varieties of plants.
2. To recognise and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available the plant genetic resources for the development of the new plant varieties.
3. To accelerate agricultural development in the country, protect the plant breeders' rights, stimulate investment for research and development for the development of the new plant varieties.
4. To facilitate the growth of seed industry which will ensure the availability of right quality seeds and planting materials to the Farmers.

General functions of the Authority

The general function of the Authority includes:

1. Registration of new plant varieties, essentially derived varieties (EDV) and extant varieties.
2. Developing DUS (Distinctiveness, Uniformity and Stability) test guidelines for new plant species
3. Promote & encourage the development of New Plant varieties.

4. Protect the rights of the farmers and the breeders.
5. Indexing of varieties registered under this Act.
6. Documentation, indexing and cataloguing of Farmers' varieties.
7. Ensuring seed availability with the provisions of Compulsory Licencing.
8. Recognizing and rewarding farmers, community of farmers, particularly tribal and rural community engaged in conservation, improvement, preservation of plant genetic resources of economic plants and their wild relatives.
9. Maintenance of the National Register of Plant Varieties.
10. Update of database of all plants varieties.
11. Maintenance of National Gene Bank.
12. Formulation of general, specific and special test guidelines

Rights under the Act

1. **Breeders' Right:** Breeders will have the exclusive rights to produce, sell, market, distribute, import or export the protected variety. Breeders can appoint agents/licensee and may exercise for civil remedy in case of infringement of rights.
2. **Researchers' Right:** Researchers can use any of the registered variety under the Act for conducting experiment or research. However, authorization of

the breeder is required where repeated use of such variety as a parental line is necessary for commercial production of such other newly developed variety.

3. Farmers' Rights:

- i. A farmer who has evolved or developed a new variety is entitled for registration and protection in like manner as a breeder of a variety.
- ii. Farmer's variety can also be registered as an extant variety.
- iii. A farmer can save, use, sow, re-sow, exchange, share or sell his farm produce including seed of a variety protected under the PPV&FR Act, 2001 in the same manner as he was entitled before the coming into force of this Act provided farmer shall not be entitled to sell branded seed of a variety protected under the PPV&FR Act, 2001.
- iv. Farmers are eligible for recognition and rewards for the conservation of Plant Genetic Resources of land races and wild relatives of economic plants.
- v. There is also a provision for compensation to the farmers for non-performance of variety under Section 39 (2) of the Act, 2001.
- vi. Farmer shall not be liable to pay any fee in any proceeding before the Authority or Registrar or the Tribunal or the High Court under the Act.

Registration:

Central Government by notification in Official Gazettes specifies the genera and species for the purpose of registration of varieties. A variety is eligible for registration under the Act if it essentially fulfils the criteria of Distinctness, Uniformity and Stability (DUS). As per section 29.2 of the PPV & FR Act, the Central Government issues notification in Official Gazettes specifying the genera and species for the purpose of registration of varieties.

So far the Central Government has notified 57 crop species for the purpose of registration. The PPV & FR Authority has developed “Guidelines for the conduct of species specific Distinctiveness, Uniformity and Stability” tests or “Specific Guidelines” for individual crop species. The purpose of these specific guidelines is to provide detailed practical guidance for the harmonized examination of DUS and, in particular, to identify appropriate characteristics for the examination of DUS and production of harmonized variety descriptions.

The notified 57 species are:

- 1) Bred Wheat,
- 2) Durum Wheat
- 3) Dicoccum Wheat
- 4) Other Triticum species
- 5) Damask Rose

- 6) Rice
- 7) Pearl Millet
- 8) Sorghum
- 9) Maize
- 10) Pigeon pea
- 11) Chickpea
- 12) Green gram
- 13) Black gram
- 14) Kidney bean/ French bean
- 15) Lentil
- 16) Field pea/ Garden pea
- 17) Cotton (*Gossypium hirsutum* L.)
- 18) Cotton (*Gossypium barbadense* L.)
- 19) Cotton (*Gossypium boreum* L.)
- 20) Cotton (*Gossypium baceaum* L.)
- 21) Jute (*Corchorus olitorius* L.)
- 22) Jute (*Corchorus capsularis* L.)
- 23) Sugarcane
- 24) Ginger
- 25) Turmeric
- 26) Potato
- 27) Tomato
- 28) Brinjal

- 29) Garlic
- 30) Onion
- 31) Okra
- 32) Cabbage
- 33) Cauliflower, Braun)
- 34) Black pepper
- 35) Small Cardamom
- 36) Rose
- 37) Chrysanthemum
- 38) Castor
- 39) Indian Mustard (*Brassica juncea* L. Czern & Coss)
- 40) Karan Rai (*Brassica carinata* A
- 41) Rapeseed
- 42) Gobhi Sarson
- 43) Soybean
- 44) Linseed
- 45) Groundnut
- 46) Sunflower
- 47) Safflower
- 48) Sesame
- 49) Mango
- 50) Coconut
- 51) Periwinkle (Sadabahar)

52) Indian Pennywort (Brahmi)

53) Isabogal

54) Pudina

55) Cymbidium Sw. (Orchid)

56) Vanda Jones ex. R. Br. (Orchid)

57) Dendrobium Sw. (Orchid).

List of Prioritized crops for notification

Cashew	Coriander
Rubber	Tea
Casuarina (2 Species)	Neem
Bamboo (2 Species)	Walnut
Pear	Cherry
Orchids (2 genera)	Cassava
Citrus (3 species)	Cucurbits (8 species)
Litchi	Guava
Coffee	Eucalyptus
Jatropha	Karanj
Almond	Apple
Apricot	Sweet potato
Papaya	Banana
Ber	Datepalm

Cost of registering a plant variety

1. Form Charges

2. Application Form Processing Charges: Rs. 200/-

3. Registration Charges:

Sl.No.	Type of Variety	Registration fee
1	Essentially Derived Varieties/ New Varieties	Individual : Rs. 5000/- Educational : Rs. 7000/- Commercial : Rs. 10000/-
2	Extant Varieties notified under Section 5 of Seed Act, 1966	Rs. 1000/-
3	Extant Varieties about which there is common knowledge	Individual : Rs. 2000/- Educational : Rs. 3000/- Commercial : Rs. 5000/-
4	Farmers' Variety	No fee

DUS test fee

Crop species	DUS Test fees
Wheat, rice, maize, sorghum, pearl millet, pigeon pea, chick pea, lentil, mung bean, urd bean, field pea, kidney bean	Rs 20,000/-
Oilseed crop species	Rs 20,000/-
Black pepper, small cardamom, ginger, turmeric	Rs 45,000/-
Rose, Chrysanthemum	Rs 45,000/-
Mango	Rs 30,000/-
Potato	Rs 48,000/-
Tomato, brinjal, okra, cabbage, cauliflower, onion, garlic	Rs 40,000/-

Annual Fee

Sl. No	Type of variety	Fee for Registration
1	New variety	Rs. 2000/- plus 0.2 percent of the sales value of the seeds of the registered variety during the previous year plus 1 percent of royalty, if any, received during the previous year from the sale proceed of seeds of a registered variety.
2	Extant variety notified under section 5 of the seeds Act 1966 (54 of 1966)	Rs. 2000/- only
3	Extant variety other than the category specified above	Rs. 2000/- plus 0.1 percent of the sales value of seeds of the registered variety during the previous year plus 0.5 percent of royalty, if any, received during the previous year from the sale proceed of seeds of a registered variety.

Annual fee shall be determined on the basis of declaration given by the registered breeder or agent or licensee regarding the sales value of the seeds of the variety registered under the Act during the previous year and royalty, if any, received during the previous year from the sale proceeds of seeds of the registered variety and verified by the Authority.

Who can help in the process of registration?

1. State Agricultural Universities
2. State Bio-Diversity Board
3. Bio-Diversity Management Committee
4. State Agricultural Departments
5. NGO associated with agricultural development
6. Farmers' Cell of the PPV & FR Authority.
7. Krishi Vigyan Kendra

DUS Test Centres:

Authority is maintaining and funding 57 DUS test centres for different crops with a mandate of example varieties and generation of database for DUS description as per DUS guidelines of respective crops. The list of DUS centres is available on the official website of the Authority.

Certificate of Registration:

Applications which have fulfilled all requirements and have been finally accepted by the Registrar for registration were issued Certificates of Registration. 305 Certificates have been issued, out of which 10 have been issued for new varieties, 292 for extant varieties notified under the Seeds Act, 1966 and 3 for farmer's varieties.

The duration of protection of registered varieties is different for different crops. Which are as follows:

1. For trees and vines - 18 years.
2. For other crops - 15 years.
3. For extant varieties - 15 years.

Pre requisite for filling and application from for registration

1. Denomination assigned to such variety
2. Accompanied by an affidavit that variety does not contain any gene or gene sequences involving terminator technology.
3. Complete passport data of parental lines with its geographical location in India and all such information relating to the contribution, if any, of any farmers(s), village, community institution or organization etc in breeding, evolving or developing the variety.
4. Characteristics of variety with description for Novelty, Distinctiveness, Uniformity and stability.
5. A declaration that genetic materials used for breeding of such variety has been lawfully acquired.
6. A breeder or other person making application for registration shall disclose the use of genetic material conserved by any tribal or rural families for improvement of such variety.

Application Form:

The application for registration of a variety is to be made in form prescribed by the PPV & FR Authority.

1. Form I- for registration of new variety, extant variety and farmers' variety.
2. Form II- for essentially derived variety and transgenic variety.
3. Technical questionnaire attached with form 1 and form 2 for detailed information of the concerned variety.

These filled application forms must be accompanied by the fee prescribed by the authority.

Guidelines for submission of application:

1. Application in triplicate must be in writing and signed by the applicant in their representative Application should be submitted in hand till farther notice.
2. Application will be received only on Monday to Thursday from 10:00 hours to 15:00 hours. No application will be accepted on Saturday and Sunday and public Holidays.
3. Every application must have name of the applicant, their address and nationality as well as address of service of their agent (if applicable)
4. a person can file up to maximum of the application per day
5. Until otherwise notified in the plant variety journal of

India, each application should be accomplished with an application charges of Rs. 200/- each by demand draft drawn in favour of “The Registrar PPV & FRA New Delhi

6. The Application will be received on “First come First Serve” basis
7. No application will be received after business hours.
8. On successful submission of the application, The applicant will received and acknowledge slip.
9. after submission of application it will be processed according to the provisions of the rule 29(2) of the PPV & FR Rule, 2003
10. After depositing the Stipulated Fees for4 conducting DUS tests, the office of the registrar shall issue receipt and number which shall be used for all references including the checking of the status of application on line.

Registration of Farmer’s Varieties

1. Farmers’ varieties can be registered in the like manner as any other category of varieties.
2. A farmer, group of farmer or community may apply for the registration of a farmers’ variety.
3. There is no fee for the application and any other proceedings for the farmers.
4. A form has to be filled by the applicant and the complete form along with the seeds of the variety are to be submitted to the PPV & FR Authority.

National Gene Bank

Protection of Plant Varieties and Farmers Right Authority has established National Gene Bank to store the seed material including parental lines submitted by the breeders of the registered varieties. The seed lot is stored under low temperature conditions at 50C for the entire registration period, and if necessary after few years of storage in the National Gene Bank, the seed lot will be rejuvenated and replenished at the cost of the applicant. The seed stored in the National Gene Bank will be used for dispute settlement or when an exigency arises for invoking compulsory licensing provision. Such a seed deposition in the National Gene Bank would dissuade market malpractices or violations as the sample in custody can be drawn to verify the facts. When the period of registration granted lapses, the material automatically moves to public domain.

National Gene Fund

A National Gene Fund has been established by the Authority to receive the contributions from:

- i. The benefit sharing received in the prescribed manner from the breeder of a variety or an essentially derived variety registered under the Act, or the propagating material of such variety or essentially derived variety, as the case may be.
- ii. The annual fee payable to the Authority by way of royalty.
- iii. The compensation deposited by breeders and
- iv. The contribution from any National and International organizations and other sources.

The Gene Fund shall be utilized for:-


- i. Any amount to be paid by way of benefit sharing.
- ii. The compensation payable to the farmer/community of farmers.
- iii. The expenditure for supporting the conservation and sustainable use of genetic resources including *in-situ* and *ex-situ* collections and for strengthening the capability of the panchayat in carrying out such conservation and sustainable use.
- iv. The expenditure of the schemes relating to benefit sharing.

Benefit Sharing

The benefit sharing is one of the most important ingredients of the farmers' rights. Section 26 provides benefits sharing and the claims can be submitted by the citizens of India or firms or non-governmental organization (NGOs) formed or established in India. Depending upon the extent and nature of the use of genetic material of the claimant in the development of the variety along with commercial utility and demand in the market of the variety, breeder will deposit the amount in the Gene Fund. The amount deposited will be paid to the claimant from National Gene Fund. The Authority also publishes the contents of the certificate in the PVJI for the purpose of inviting claims for benefits sharing.

Awards, Rewards and Recognition of farmers:

The PPV & FR Authority confers the Plant Genome Savior Community Award, Plant Genome Saviour Farmer Rewards and & Plant Genome Saviour Farmer Recognitions every year. Plant Genome Savior Community Award is awarded to the community of farmers/farming community based organizations who have a long track record for conserving plant agro-biodiversity which is open to all Indian group of farmers, community of farmers, particularly the tribal and rural communities engaged in conservation, improvement and preservation of genetic resources of economic plants and their wild relatives particularly in the areas identified as agro bio-diversity hotspots. There shall be maximum of five awards in a year, consisting of a cash of Rs. Ten lakh each, a citation and a memento. The Authority also invites applications for the “Plant Genome Savior “Farmer Reward” & “Farmer Recognition” from the farmers engaged in the conservation of genetic resources of landraces and wild relatives of economic plants and their improvement through selection and preservation and the material so selected and preserved has been used as donors of gene in varieties registerable under the PPV&FR Act, 2001 (53 of 2001). There shall be maximum of 10 rewards (comprising of citation, memento and cash of Rs. One lakh each) and 20 recognitions (consisting of a citation and memento) in a year.



It is essential for the applicants to forward their application through Chairperson or Secretary of the Concerned Panchayat Biodiversity Management Committee or Concerned District Agricultural Officer or Director of Research of concerned State Agriculture University or concerned District Tribal Development Office. Farmers whose applications are shortlisted for Reward and Recognition shall be required to deposit specified quantity of seeds or propagating material, in due time.

References:

1. www.plantauthority.gov.in
2. www.aau.ac.in/dee/kvkcachar/
3. *Protection of Farmers' Rights in INDIA Challenges for LAW in the context of PLANT BREEDERS' RIGHTS*, Ph. D thesis, Student: Ms. P.S. SEEMA, Guide: Dr. N. S. SOMAN, School of Legal Studies, Cochin University of Science and Technology, 2012