

EFFECT OF COVID 19 ON FARMERS- VARIOUS AVAILABLE RIGHTS FOR THEM



A PROUD INDIAN

- ✓ Population of 1.27 billion India is the world's second most populous country, equivalent to 17.7% of the total world **population**.
- ✓ seventh largest country in the world with an area of 3.288 million sq kms
- ✓ India is the world's largest producer of milk, pulses and jute, and ranks as the second largest producer of rice, wheat, sugarcane, groundnut, vegetables, fruit and cotton.
- ✓ one of the leading producers of spices, fish, poultry, livestock and plantation crops.
- ✓ Having only 2.4 percent of the world's land area, India harbors around eight percent of all recorded species, including over 45,000 plant and 91,000 animal species.
- ✓ Agriculture, with its allied sectors, is the largest source of livelihoods in India. 70 percent of its rural households still depend primarily on agriculture for their livelihood, with 82 percent of farmers being small and marginal.
- ✓ While agriculture in India has achieved grain self-sufficiency but the production is, resource intensive, cereal centric and regionally biased.
- ✓ There is no accurate record of these farmers or their total count.
- ✓ The Agriculture Census in India is conducted at five-year intervals. The latest one was done in 2015-16. So, this number cannot be used now. Migration of farmer families must be accounted for, to know the actual number of farm landholdings.



The PPV&FR Act, 2001 was enacted to grant intellectual property rights to plant breeders, researchers and farmers who have developed any new or extant plant varieties. The Intellectual Property Right granted under PPV & FR Act, 2001 is a dual right



PROTECTION
OF PLANT
VARIETIES &
FARMERS
RIGHTS ACT
2001

The PPVFRA was enacted in 2001 after engaging debates were held in the country on how intellectual property rights should be introduced in Indian agriculture after the country joined the World Trade Organisation in 1995 and agreed to implement the Agreement on **Trade-Related Aspects of Intellectual Property Rights (TRIPS)**.

Therefore, in the PPVFRA, India introduced a chapter on Farmers' Rights, which has three legs:

One- **farmers are recognised as plant breeders and they can register their varieties;**

Two- **farmers engaged in the conservation of genetic resources** of landraces and wild relatives of economic plants and their improvement through selection and preservation **are recognised and rewarded;** and,

Three- **protecting the traditional practices of the farmers of saving seeds** from one harvest and **using the saved seeds either for sowing for their next harvest or sharing** them with their farm neighbours.



PPV&FR Act, 2001
confers rights to breeders,
researchers and farmers
over their plant varieties



**Register your varieties with
PPV&FR Authority
to claim ownership**

Narendra Modi,
Prime Minister of India

PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS (PPV&FR) AUTHORITY

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- *Farmers' Rights consist of the customary rights of farmers to save, use, exchange and sell farm-saved seed and propagating material, their rights to be recognized, rewarded and supported for their contribution to the global pool of genetic resources as well as to the development of commercial varieties of plants, and to participate in decision making on issues related to crop genetic resources.*

PepsiCo issue

- The company applied for the registration of two hybrid potato varieties FL 1867 and FL 2027 in February 2011.
- These varieties were registered under the PPVFRA in February 2016 for a period of 15 years. PepsiCo marketed the latter variety under the trademark FC-5 and was claiming that the Gujarat farmers were illegally using this variety.
- But, planting a registered variety by the farmers is per se not an offence since the PPVFRA allows the farmers to re-use such varieties and to also share them with their neighbors, provided some conditions are met.
 - One is that the **farmers cannot sell “branded” seeds**, which, according to PPVFRA, means **“any seed put in a package or any other container and labelled in a manner indicating that such seed is of a variety protected”** under the Act.
 - The company claimed before the court that FC-5 was licensed to farmers to bring potatoes of the said variety on the buyback system. The FC-5 variety could have been made available and distributed anywhere, and without the law being violated.
- Also, the **FC-5 was registered as an “Extant Variety”**, which is also a **“Variety of Common Knowledge”**. It implies that the said variety of potato was already available in the country before it was registered and that there was **“common knowledge”** about this variety in the country.

What's the issue? Pepsico issue

- PepsiCo India Holdings Pvt Ltd uses the registered variety of potatoes called FL 2027, which is a hybrid of FL 1867 and Wischip varieties, for manufacturing chips for its brand.
- The company is the registered breeder of FL 2027 under the ***Protection of Plant Varieties and Farmers' Rights Act, 2001***. This entitles it to an exclusive right over the registered variety. ***farmers are not authorized to grow this variety***. By growing these potatoes without license, the farmers in Gujarat are violating its statutory rights.

RIGHTS UNDER PPV&FR

Right 8: Exemption from registration fees for farmers

Right 9: Farmer protection from innocent infringement Crops open for registration (114 Crops):

Under PPV&FR Act, farmers have the privilege of being completely exempted from payment of any kind of fees or other payments that are normally payable for variety registration; tests for distinctness, uniformity and stability (DUS), and other services rendered by the PPV&FR Authority; as well as for legal proceedings related to infringement or other causes in courts, tribunal, etc.

If a farmer can prove before court that he or she was not aware of the existence of any rights at the time of an infringement on any such rights, as detailed in the PPV&FR Act, he or she will not be charged.

This provision is made in consideration of the centuries old unrestrained rights that the farmers had over the seed of all varieties, the novel nature of the PPV&FR Act and the poor legal literacy of farmers

To be contd...

A variety is eligible for registration under the Act if it essentially fulfills the criteria of Distinctiveness, Uniformity and Stability (DUS). 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 107 crop species for New Plant varieties and 114 crop species for Extant Notified varieties for the purpose of registration(List available on the website of the Authority ie. www.plantauthority.gov.in).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.



RIGHTS GIVEN UNDER PP & BA 2001

v Constitution of one Farmers' cell

v Conducting of Awareness cum Training Workshops

v Participation and Organising of Kishan Divas/Farmers Fair

v Printing of Brochures/Publications on Farmers Rights (Multi lingual)

Right 1: Access to seed

Right2: Benefit sharing

Right 3: Compensation [Section 26] [Section 39(2)]

Right 4: Reasonable seed price

Right 5: Farmers' recognition and reward for contributing to conservation

Right 6: Registration of farmers' varieties

Right 7: Prior authorization for the commercialization of essentially derived varietie

9. Farmers' Right for Protection Against Innocent Infringement



- About 75% of Indian population involves in agriculture. The literacy percentage of rural population is very low. Considering the status of educational status of the farmers, the Section 42 of the Act provides safeguard against innocent infringement.
- The farmer who unknowingly violets the Breeders' Rights shall not be punished if he can prove that he in innocence about the Act.
- This type protection is applicable for the first offence. The farmer is punishable for the subsequent infringements.



TO BE CONTD...

DUS Test Centers

- Authority has notified DUS test Centers for different crops with a mandate for maintaining and multiplication of reference collection, example varieties and generation of database for DUS descriptors as per DUS guidelines of respective crops

Certificate of Registration

- The certificate of registration issued will be valid for nine years in case of trees and vines and six years in case of other crops. It may be reviewed and renewed for the remaining period on payment of renewal fees subject to the condition that total period of validity shall not exceed eighteen years in case of trees and vines from the date of registration of the variety, fifteen years from the date of notification of variety under the Seeds Act, 1966 and in other cases fifteen years from the date of registration of the variety.

Plant Varieties Protection Appellate Tribunal

- There is transitory provision by which it is provided that till the PVPAT is established the Intellectual Property Appellate Board (IPAB) will exercise the jurisdiction of PVPAT. Consequently the Plant Varieties Protection Appellate Tribunal (PVPAT) has been established by appointing Technical Member. All orders or decisions of the Registrar of Authority relating to registration of variety and orders or decisions of the Registrar relating to registration as agent or licensee can be appealed in the Tribunal. Further, all orders or decisions of Authority relating to benefit sharing, revocation of compulsory license and payment of compensation can also be appealed in the Tribunal. The decisions of the PVPAT can be challenged in High Court. The Tribunal shall dispose of the appeal within one year.

UNION PROTECTION OF NEW VARIETIES (UPOV)

- International guidance on plant breeders' rights is set by the International Union for the Protection of New Varieties of Plants (UPOV), whose mission is to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants for the benefit of society. Article 15 of the UPOV 1991 Convention outlines the various exceptions by specifying that breeders' right shall not extend to
 - a) acts done privately and for non-commercial purposes;
 - b) acts done for experimental purposes, and
 - c) acts done for the purpose of breeding other varieties.
 - d) In the context of this analysis, especially the private and non-commercial use exception and the so-called breeders' exception, are of importance.

International Union for the Protection of New Varieties of Plants (UPOV)

Intergovernmental organization based in Geneva, Switzerland

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www.uupv.int

FARMERS RIGHTS



Farmers Rights are laid out in the International Treaty for Plant Genetic Resources on Food and Agriculture (ITPGRFA).



According to the Food and Agriculture Organization (FAO), “farmers’ rights are critical to ensuring the conservation and sustainable use of plant genetic resources for food and agriculture and consequently for food security – today and in the future”.

This is highlighted in Article 9 of the ITPGRFA, which aims to recognize the contribution the local and indigenous communities and farmers of all regions of the world.



In particular, those in the center of origin and crop diversity, have made – and will continue to make – their case for the conservation and development of plant genetic resources that constitute the basis of food and agriculture production throughout the world. With this, the Treaty makes governments responsible for implementing Farmers’ Rights.

CONCLUSION

Food is the foremost important to sustain life and livelihood followed by shelter and cloth. There is a certain level of acknowledgement worldwide that farmers are an important part of the economic, social and political fabric of society and required support.

The PPVFR Act is the first in the world to grant formal rights to farmers. The Act recognises the farmer as a cultivator, conserver and breeders who has bred several varieties. The farmers who have bred or developed a new variety has the right to register it.



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