

# Protection of Plant Varieties and Farmers' Rights Act, 2001



**The Protection of Plant Varieties and Farmers' Rights Authority**

\Department of Agriculture, Co-operation and Farmers Welfare

**Ministry of Agriculture and Farmers Welfare**

Govt. of India

NASC Complex, Opposite Todapur Village,

Pusa Campus, New Delhi-110012

[www.plantauthority.gov.in](http://www.plantauthority.gov.in)

## Introduction

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 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, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare established the Protection of Plant Varieties and Farmers' Rights Authority on 11<sup>th</sup> 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.

## Objectives of the PPV & FR Act, 2001

1. To establish 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.
2. To recognize and protect the rights of 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.
3. To accelerate agricultural development in the country, protect plant breeders' rights; stimulate investment for research and development both in public & private sector for the development new of plant varieties.

4. Facilitate the growth of seed industry in the country which will ensure the availability of high quality seeds and planting material to the farmers.

## General Functions of the Authority

- Registration of new plant varieties, essentially derived varieties (EDV), extant varieties;
- Developing DUS (Distinctiveness, Uniformity and Stability) test guidelines for new plant species;
- Developing characterization and documentation of varieties registered;
- Compulsory cataloging facilities for all variety of plants;
- Documentation, indexing and cataloguing of farmers' varieties;
- Recognizing and rewarding farmers, community of farmers, particularly;
- tribal and rural community engaged in conservation and improvement;
- Preservation of plant genetic resources of economic plants and their wild relatives;
- Maintenance of the National Register of Plant Varieties and
- Maintenance of National Gene Bank.

## Rights under the Act

### Breeders' Rights

Breeders will have exclusive rights to produce, sell, market, distribute, import or export the protected variety. Breeder can appoint agent/ licensee and may exercise for civil remedy in case of infringement of rights.

### Researchers' Rights

Researcher can use any of the registered variety under the Act for conducting experiment or research. This includes the use of a variety as an initial source of variety for the purpose of developing another variety but repeated use needs prior permission of the registered breeder.

### Farmers' Rights

- 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;
- Farmers variety can also be registered as an extant variety;
- 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;

- Farmers are eligible for recognition and rewards for the conservation of Plant Genetic Resources of land races and wild relatives of economic plants;
- There is also a provision for compensation to the farmers for non-performance of variety under Section 39 (2) of the Act, 2001 and
- 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

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 157 crop species for the purpose of registration (List available on the website of the Authority ie. [www.plantauthority.gov.in](http://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. the time limit for registration of extant varieties is available on the official website of the authority ([www.plantauthority.gov.in](http://www.plantauthority.gov.in)).

### Publications of Authority

- Plant Variety Journal of India
- General and crop specific DUS test guidelines
- Technical Bulletin
- FAQs
- Gene Bank Manual
- Agro-biodiversity Hotspots Book (Two Volumes)
- A video CD entitled 'Seed of Sustenance' highlighting various provisions of the PPV & FR Act, 2001
- Annual Reports
- Annual Accounts
- A video on Krishak Adhikar
- A compendium of varieties registered under PPV&FR Act, 2001 (From 2009 to 2012)
- A compendium of Farmers' varieties registered under PPV&FR Act, 2001 (upto 2014)
- A book entitled "Breeders Rights"

## Fees for registration

Application for registration of plant varieties should be accompanied with the fee of registration prescribed by the Authority. Fee for registration for different types of variety is as under:

S.No.	Type of variety	Fees for Registration
1.	Extant Variety notified under section 5 of the Seeds Act, 1966	Rs. 2000/-
2.	New Variety/Essentially Derived Variety (EDV)/ Extant Variety about which there is common knowledge (VCK)	Individual Rs. 7000/- Educational Rs.10000/- Commercial Rs.50000/-
3.	Farmer varieties	NO FEE

The Registration of a variety is renewable subject to payment of annual and renewal fee as notified in the Plant Variety Journal of India of the Authority and Gazette of India dated 15.06.2015.

## 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. The list of DUS test Centers is available on the official website of the Authority ie. [www.plantauthority.gov.in](http://www.plantauthority.gov.in).

## Plant Variety Journal of India

Authority publishes its official journal "Plant Varieties Journal of India" (PVJI) as a monthly bilingual (Hindi & English) publication and made available to public on the first working day of each month on its official website. This journal has the equivalent status of a gazette under the Regulations, 2006. The contents of Journal includes official and public notices, passport data of plant varieties, DUS test guidelines of crop species, details of certificate of registration and other related matters.

## Certificate of Registration

Applications which have fulfilled all requirements and have been finally accepted by the Registrar for Registration. Total 3441 Certificates have been issued, out of which 477 have been issued for new varieties, 1431 for extant varieties notified under the Seeds Act, 1966, 1532 for farmers' varieties and 01 for Essentially Derived Variety(EDV). 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. Authority has received 16382 applications as on July 2018, for registration for different categories of varieties including farmer's varieties.

## **National Register of Plant Varieties**

National Register of Plant Varieties has been kept at the head office of the Registry, containing the names of all the registered plant varieties with the names and addresses of their respective breeders, the rights of such breeders in respect of the registered varieties, the particulars of the denomination of each registered variety, its seed or other propagating material along with specification of salient features thereof and such other matters as may be prescribed.

## **National Gene Bank**

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 5° C 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:

- 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;
- the annual fee payable to the Authority by way of royalty;
- the compensation deposited by breeders and
- the contribution from any National and International organizations and other sources.

## The Gene Fund shall be utilized for:-

- any amount to be paid by way of benefit sharing,
- the compensation payable to the farmer/community of farmers',
- 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,
- 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.

## Rights of Community

- It is compensation to village or local communities for their significant contribution in the evolution of variety which has been registered under the Act.
- Any person/group of persons/governmental or non-governmental organization, on behalf of any village/local community in India, can file in any notified centre, claim for contribution in the evolution of any variety.

## Convention countries

- Convention country means a country which has acceded to an international convention for the protection of plant varieties to which India has also acceded or a country which has law of protection of plant varieties on the basis of which India has entered into an agreements for granting plant breeders' rights to the citizen of both the countries. Any person if applies for the registration of a variety in India within twelve months after the date on which the application was made in the convention country, such variety shall, if registered under this Act, be

registered as of the date on which the application was made in convention country and that date shall be deemed for the purpose of this Act to be the date of registration.

## **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.

## **Address for communication**

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### **Chairperson**

#### **Protection of Plant Varieties and Farmers' Rights Authority**

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### **Registrar-General**

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