

Right 8: Exemption from registration fees for farmers [Section 44]

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.



Right 9: Farmer protection from innocent infringement [Section 42]

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.



Crops open for registration (114 Crops):

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.

Activities:

The Authority has undertaken several initiatives for the welfare of the farmers as under:



- ❖ Constitution of one Farmers' cell
- ❖ Conducting of Awareness cum Training Workshops
- ❖ Participation and Organising of Kishan Divas/Farmers Fair
- ❖ Printing of Brochures/Publications on Farmers Rights (Multi lingual)

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Farmers' Rights
Under
Protection of Plant Varieties
& **Farmers' Rights Act, 2001**



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Farmers' Rights in the PPV&FR Act, 2001

Recognition of farmers as users, custodians and breeders



The Protection of Plant Varieties and Farmers' Rights Act (PPV&FR Act) seeks to address the rights of plant breeders and farmers on an equal footing. It affirms the necessity of recognizing and protecting the rights of farmers with respect to the contribution they make in conserving, improving and making Plant Genetic Resources (PGR) available for the development of new plant varieties.

The PPV&FR Act recognizes the multiple roles played by farmers in cultivating, conserving, developing and selecting varieties. With regard to developing or selecting varieties, the Act refers to the value added by farmers to wild species or traditional varieties/ landraces through selection and identification for their economic traits. Accordingly, farmers' rights encompass the roles of farmers as users, conservers and breeders. Farmers are granted nine specific rights, which are as under:

Right 1: Access to seed [Section 39(1)(iv)]



Farmers are entitled to **save, use, sow, re-sow, exchange, share or sell** their farm produce, including seed of protected varieties, in the same manner as they were entitled to before the coming into force to the PPV&FR Act. However, farmers are not entitled to sell branded seed of a variety protected under this Act. Farmers can use farm saved seed from a crop cultivated in their own.

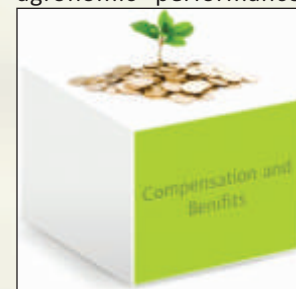
Right 2: Benefit sharing [Section 26]

[File contains invalid data | In-line.JPG *]* Plant breeders and legal entities including farmers who provide Plant Genetic Resources (PGR) to breeders for developing new varieties shall receive a fair share of benefit from the commercial gains of the registered varieties. Out of all the national plant variety protection laws enacted since 2001, the PPV&FR Act is the first that integrates a provision for access and benefit-sharing (ABS) along with Plant Breeder's Rights (PBRs). Accession of the genetic resource used in breeding is permitted under the Biological Diversity Act, 2002. However, the PPV&FR Act requires a breeder to make a sworn declaration on the geographical origin of the genetic resources used in the pedigree of the new variety, and its accession.



Right 3: Compensation [Section 39(2)]

Registered seed must be sold with the full disclosure of their agronomic performance under recommended management conditions. When such seed is sold to farmers but fails to provide the expected performance under recommended management conditions, the farmer is eligible to claim compensation from the breeder through the intervention of the PPV&FR Authority.



Right 4: Reasonable seed price [Section 47]

Farmers have the right to access seed of registered varieties at a reasonable and remunerative price. When this condition is not met, the breeder's exclusive right over the variety is suspended under the provision concerning compulsory licensing, and the breeder is obligated to license the seed production, distribution and sales of the variety to a competent legal entity. Most of the laws for plant variety protection have provisions on compulsory licensing of protected varieties to ensure adequate seed supply to farmers, and several of them also use unfair pricing as grounds for compulsory licensing.



Right 5: Farmers' recognition and reward for contributing to conservation [Section 39(i)(iii) & Section 45(2)(C)]



Farmers who have been engaged in PGR conservation and crop improvement, and who have made substantial contributions in providing genetic resources for crop improvement, receive recognition and rewards from the national gene fund. The gene fund receives resources from the implementation of the Act, which in turn are complemented by contribution from national and international organizations. The expenditures of the fund are earmarked to support the conservation and sustainable use of PGR, and in this way it can be considered to be a national equivalent to the global benefit-sharing fund operating within the International Treaty on Plant Genetic Resources for Food and Agriculture. Since 2007, the Plant Genome Saviour/Community awards, associated with the national gene fund, has been rewarding farming communities and individual farmers for their contribution to *in-situ* and on farm conservation to the selection of PGR. The Authority in consultation with Government of India, has established five Plant Genome Saviour Community Awards of Rs 10 Lakh each along with citation and memento to be conferred every year to the farming communities for their contribution in the conservation of Plant Genetic Resources. In accordance with the Protection of Plant

Varieties and Farmers' Rights (Recognition and Rewards from the Gene Fund) Rules, 2010 the Authority also setup ten Plant Genome Saviour Farmer Reward of Rs 1 Lakh each with citation & memento and also twenty Plant Genome Saviour Farmer Recognition annually from 2012-13 to the farmers engaged in the conservation of the Genetic Resources of the landraces and wild relatives of economic plants and their improvement through selection and preservation.

Right 6: Registration of farmers' varieties [Section 39(1)(iii)]

The PPV&FR Act allows for the registration of existing farmers' varieties that fulfill requirements for distinctness, uniformity, stability and denomination, but does not include that of novelty. This right provides farmers with a one-off opportunity for a limited period of time, from the moment when a crop species is included in the crop portfolio under the PPV&FR Act for registration. Once registered, these varieties are entitled to all PBRs.



Right 7: Prior authorization for the commercialization of essentially derived varieties [Section 28(6)]

When farmers' varieties, whether extant or new, are used by a third party as source material for the development of an essentially derived variety, the farmers need to provide prior authorization for its commercialization. Such a process can allow farmers to negotiate the terms of authorization with the breeder, which may include royalties, benefit-sharing, etc.

