

Bill No. 117 of 2021

THE PROTECTION OF PLANTS VARIETIES AND FARMERS'
RIGHTS (AMENDMENT) BILL, 2021

By

SHRI THOMAS CHAZHIKADAN, M.P.

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BILL

*to amend the Protection of Plant Varieties and Farmers'
Rights Act, 2001.*

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of Plants Varieties and Farmers' rights (Amendment) Act, 2021.

Short title
and
commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After section 39 of the Protection of Plant Varieties and Farmers' Rights Act, 2001, the following section shall be inserted, namely:—
53 of 2001.

Insertion of
new section
39A.
Crop Card.

10 “39A. (1) It shall be the responsibility of every breeder of a variety registered under this Act to issue a crop card to the farmer or the group of farmers at the time of selling propagating material of registered variety which

shall be deemed to be a guarantee card for the farmers to avail compensation in case of failure of the registered variety to provide expected performance under given conditions.

(2) The crop card issued under sub-section (1) shall contain,—

(a) the expected performance and given conditions at which the performance may be attained with signature and seal of the breeder which shall be printed on the packaging of the propagating material of the registered variety; and 5

(b) details of the district authority establish under sub-section (3) to be approached for availing compensation in case the propagating material of the registered variety fails to give expected performance under given conditions. 10

(3) The Authority established under section 3 shall establish district authority to entertain and dispose of claim of compensation by farmers arising out of unexpected performance of variety sold by breeder to a farmer or a group of farmers. 15

(4) The Authority established under section 3 shall frame guidelines for deciding amount of compensation payable to the farmer or group of farmers by the district authority in case of failure of the registered variety to provide expected performance under given conditions. 20

(5) The district authority established under sub-section (3) shall take into consideration all relevant factors to determine amount of compensation and pass a reasoned order.

(6) The district authority established under sub-section (3) shall dispose of the claim of compensation filed by a farmer or group of farmers within a period of three months from the date of receipt of application for compensation as per the procedure prescribed under this Act.”. 25

STATEMENT OF OBJECTS AND REASONS

The Protection of Plant Variety and Farmers Rights Act, 2001 (popularly known as PPVFR Act) aims to establish an effective system for protection and development of new plant varieties, protect farmers' rights by facilitating the growth of the seed industry and the availability of the high quality seed and planting material to the farmers.

The Act requires the breeders to provide information about the registered variety's "expected performance" while selling the propagating material to a farmer, a group of farmers or any organisation of farmers. In case the material does not perform accordingly, farmers can claim compensation. The purpose of this provision is to prevent companies from making false or exaggerated claims to farmers about the variety's performance. Here, the breeders also have to reveal the "given circumstances" under which the expected performance can be achieved.

The issues with this provision for compensation to farmers are manifold. First, the breeders have to disclose the "expected performance" of the material. There is nothing about the way in which the information has to be disclosed to the farmers. Second, the breeders have also to disclose the "given circumstances" under which the "expected performance" can be achieved by the farmers. Moreover, no time-frame has been prescribed for the authority to take a decision on the claim. Otherwise, it may take several years for the decision to come.

Though the Act provides for compensation to farmers under section 39(2), these requirements of "expected performance", "given circumstances", unguided discretion with the authority and lack of awareness present a legislative vacuum, specifically with reference to realization of farmers' rights.

The Bill, therefore, seeks to amend the parent Act with a view to provide that every breeder shall issue a crop card while selling propagating material of registered variety to a farmer or a group of farmers or an organisation of farmers so that farmers can claim compensation if the registered variety of propagating material fails to provide expected performance under given conditions.

NEW DELHI;
July 5, 2021.

THOMAS CHAZHIKADAN

FINANCIAL MEMORANDUM

Clause 2 of the Bill *vide* proposed section 39A provides for establishing district authority to entertain and dispose of claim for compensation by farmers against breeder registered variety of propagating material fails to give expected performance in given conditions.

The Bill, therefore, if enacted, would involved expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore will be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

ANNEXURE

THE EXTRACT FROM THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001 (53 of 2001)

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39. (1) Notwithstanding anything contained in this Act,—

Farmers'
rights.

(i) a farmer who has bred or developed a new variety shall be entitled for registration and other protection in like manner as a breeder of a variety under this Act;

(ii) the farmers' variety shall be entitled for registration if the application contains declarations as specified in clause (h) of sub-section (1) of section 18;

(iii) 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 in the prescribed manner for recognition and reward from the Gene Fund:

Provided that material so selected and preserved has been used as donors of genes in varieties registrable under this Act;

(iv) a farmer shall be deemed to be entitled to save, use, sow resow, exchange, share or sell his farm produce including seed of a variety protected under this Act in the same manner as he was entitled before the coming into force of this Act:

Provided that the farmer shall not be entitled to sell branded seed of a variety protected under this Act.

Explanation.—For the purpose of clause (iv), “branded seed” 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 this Act.

(2) Where any propagating material of a variety registered under this Act has been sold to a farmer or a group of farmers or any organisation of farmers, the breeder of such variety shall disclose to the farmer or the group of farmers or the organisation of farmers, as the case may be, the expected performance under given conditions, and if such propagating material fails to provide such performance under such given conditions, the farmer or the group of farmers or the organisation of farmers, the case may be, may claim compensation in the prescribed manner before the Authority and the Authority after giving notice to the breeder of the variety and after providing him an opportunity to file opposition in the prescribed manner and after hearing the parties, may direct the breeder of the variety to pay such compensation as it deems fit, to the farmer or the group of farmers or the organisation of farmers, as the case may be.

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LOK SABHA

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BILL

to amend the Protection of Plant Varieties and Farmers'
Rights Act, 2001.

(Shri Thomas Chazhikadan, M.P.)