

Bill No. 313 of 2019

THE BIOLOGICAL DIVERSITY (AMENDMENT) BILL, 2019

By

SHRI VINCENT H. PALA, M.P.

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further to amend the Biological Diversity Act, 2002.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Biological Diversity (Amendment) Act, 2019.

Short title and commencement.

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

5 2. In section 2 of the Biological Diversity Act, 2002 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(a) after clause (b), the following clause shall be inserted, namely:—

"(ba) "consent agreement" means a written and signed agreement denoting prior informed consent of the community concerned or the Biodiversity Management Committee, as constituted under section 41; and

(b) in clause (h), for the words, "Panchayats", wherever they occur, the words "Gram Sabhas or Panchayats" shall be substituted.

- Amendment of section 7. **3.** In section 7 of the principal Act, for the words "after giving prior intimation", the words "after making an application in the prescribed form, with the consent agreement attached to the application" shall be substituted. 5
- Amendment of section 18. **4.** In section 18 of the principal Act, after clause (4), the following clause shall be inserted, namely:—
- "(4a) Notwithstanding anything contained in sub-section (4), the National Biodiversity Authority shall take all efforts required to litigate and represent the local communities' case in a court of law to oppose the grant of any form of intellectual property right in India or outside India, on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India." 10
- Amendment of section 19. **5.** In section 19 of the principal Act, in sub-section (1), for the words, "in such form", the words "in such form accompanied with consent agreement" shall be substituted.
- Amendment of section 24. **6.** In section 24 of the principal Act,— 15
- (a) in sub-section (1), for the words, "give prior intimation", the words "attach a consent agreement" shall be substituted; and
- (b) in sub-section (2), for the words "an intimation", the words "a consent agreement" shall be substituted.
- Amendment of section 40. **7.** In section 40 of the principal Act, after the words, "National Biodiversity Authority", the words "and local bodies" shall be inserted. 20
- Amendment of section 61. **8.** In section 61 of the principal Act, for clause (b), the following clause shall be substituted, namely:—
- "(b) any benefit claimer, member of the concerned or affected community, the Biodiversity Management Committee or the local bodies." 25

STATEMENT OF OBJECTS AND REASONS

The Biological Diversity Act, 2002, was introduced and passed to take appropriate action for the purpose of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilization of these resources. Considering that the indigenous local communities stand to lose in the process usually, the legislation must ensure protection of their rights. The principal Act fails to provide for their voices and opinions to be heard in matters related to protection of biological resources and traditional knowledge. It is important that while deciding matters that affect and have an impact on the communities at large, their say must be a major deciding factor. Their informed consent is a matter of necessity, than a mere consultation, for granting access to resources for whichever purpose. It is the only way in which we can ensure local level participation in the real sense the term, and thus, effectively realize the objectives of the 73rd and 74th Amendment of the Constitution.

Hence, this Bill.

NEW DELHI;
November 6, 2019.

VINCENT H. PALA

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further to amend the Biological Diversity Act, 2002.

(Shri Vincent H. Pala, M.P.)