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Functions and Powers of National Biodiversity Authority (Section 18)

- (1) It shall be duty of the National Biodiversity Authority to regulate activities referred to in Sections 3, 4 and 6 and by regulations, issue guidelines for access to biological resources and for fair and equitable benefit sharing.
- (2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in Sections 3, 4 and 6.
- (3) The national Biodiversity Authority may-
 - (a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources:
 - (b) advice the State Government in the selection of areas of biodiversity importance to be notified under sub-section (1) of Section 37 as heritage sites and measures for the management of such heritage sites;
 - (c) perform such other functions as may be necessary to carry out the provisions of this Act.
- (4) The National Biodiversity Authority may on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

The Act also empowers State Governments to establish State Biodiversity Board to advise the State Government of matters relating to the conservation of biodiversity and regulate commercial utilization of biological resources of the

State. Similarly the local bodies shall also constitute Biodiversity Management Committee within its area for the purpose of promoting, conservation, sustainable use and conservation of biological diversity.

Equitable Sharing of Benefit (Section 21)

Monetary gain arising out of use of biological resources or knowledge associated thereto need to be shared with those who have grown, cultivated and conserved the biological resources. The National Biodiversity Authority has been empowered to determine ways and means of benefit sharing.

The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which shall be given effect in all or any of the following manners, namely:-

- (a) Grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified to such benefit claimers.
- (b) Transfer of technology.
- (c) Location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers.
- (d) Association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilization.
- (e) Setting up venture capital fund for aiding the cause of benefit.
- (f) Payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund.

Bio-piracy made punishable offence

Contravention of the provisions of the Act specifically relating to unauthorised use of biological resources and bio-piracy has been made cognizable and non-bailable offence. The Act seeks to impose punishment upto five years and fine upto rupees ten lakhs or even more, if the damage caused exceeds rupees ten lakhs.

The Biological Diversity Act, 2002 is an innovative legislation with adequate measures to safeguard bio-diversity and protection of economic interests of local communities. Since it is a new legislation and yet to be implemented, its efficacy will be judged only in time to come. The success of this Act will also depend on the awareness and active participation of the different stakeholders. Local communities with the help of NGOs need to be educated and activated for this purpose.

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