

**IN THE NATIONAL GREEN TRIBUNAL, EASTERN BENCH,
AT KOLKATA
ORIGINAL APPLICATION NO. 76 OF 2026
UNDER SECTION 14 AND SECTION 18 OF THE NATIONAL GREEN
TRIBUNAL ACT – 2010**

IN THE MATTER OF

GAURAV KUMAR BANSAL

.... APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

.... RESPONDENTS

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A handwritten signature in blue ink, appearing to read 'Gaurav Bansal', with a long horizontal line extending to the right.

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ASSAM STATE BIODIVERSITY BOARD
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UNION OF INDIA AND OTHERS RESPONDENTS

SYNOPSIS CUM LIST OF DATES

By way of the present Original Application filed under Section 14 of the National Green Tribunal Act, 2010, the Applicant most respectfully seeks adjudication by this Hon'ble Tribunal on the following substantial questions relating to the environment:

- a) Whether, by issuance of the impugned order dated 19.03.2026, the Respondents have compromised the monitoring of areas rich in biological resources as mandated under Section 36 of the Biological Diversity Act, 2002.
- b) Whether the impugned order is in violation of the order dated 15.05.2024 issued by the Hon'ble Supreme Court in *The state of Uttarakhand & Anr. v. Protection of Forest, Environment, Ecology, Wildlife Etc.*

It is respectfully submitted that, inter alia, The Biological Diversity Act, 2002 has been enacted with the primary objective of conservation of

biological diversity, sustainable utilisation of its components, and fair and equitable sharing of benefits arising out of the use of biological resources.

That Section 2(c) of the Act defines “biological resources” to include plants, animals, microorganisms or parts thereof, their genetic material and derivatives (excluding value-added products), having actual or potential use or value for humanity, but excluding human genetic material.

Whereas, Section 36 of the Act mandates the Central Government to develop national strategies, plans, and programmes for conservation, promotion, and sustainable use of biological diversity, including measures for identification and monitoring of areas rich in biological resources.

Similarly, Section 36B places a corresponding obligation on State Governments to develop and implement strategies, plans, and programmes for conservation and sustainable use of biological diversity.

This includes identification and monitoring of biodiversity-rich areas, promotion of in-situ and ex-situ conservation etc.

It is the case of the Applicant that forests, including Tiger Reserves and Protected Areas, constitute critical ecological zones and repositories of invaluable biological resources. These areas are not only environmentally sensitive but also serve as vital biodiversity reserves requiring continuous monitoring and protection.

However, by issuing the impugned order dated 19.03.2026 and thereby diverting critical forest protection personnel for non-conservation

purposes, the Respondents have not only failed in discharging their statutory obligations under Section 36 of the Biological Diversity Act, 2002, but have also acted in complete derogation of the letter and spirit of the Biological Diversity Act, 2002 and hence, the present Original Application.

Drafted and Filed By



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GAURAV KUMAR BANSAL APPLICANT

VERSUS

UNION OF INDIA AND OTHERS RESPONDENTS

**ORIGINAL APPLICATION UNDER SECTION 14 OF THE NATIONAL
GREEN TRIBUNAL ACT – 2010**

That the abovementioned Applicant most respectfully showeth:

1. The address of the Applicant is given above for the service of notices of this Application.
2. The addresses of the Respondents are given above for service of notices of the present Application.
3. The present Application is being filed under Section 14 of the National Green Tribunal Act, 2010 (hereinafter referred to as the “NGT Act”) by the aggrieved Applicant, being a person interested in the protection of the environment.

4. SUBSTANTIAL QUESTIONS RELATING TO ENVIRONMENT

By way of the present Original Application filed under Section 14 of the National Green Tribunal Act, 2010, the Applicant most

respectfully seeks adjudication by this Hon'ble Tribunal on the following substantial questions relating to the environment:

- a) Whether, by issuance of the impugned order dated 19.03.2026, the Respondents have compromised the monitoring of areas rich in biological resources as mandated under Section 36 of the Biological Diversity Act, 2002.
- b) Whether the impugned order is in violation of the order dated 15.05.2024 issued by the Hon'ble Supreme Court in *The state of Uttarakhand & Anr. v. Protection of Forest, Environment, Ecology, Wildlife Etc.*

5. Jurisdiction of the National Green Tribunal

That this Hon'ble Court has the jurisdiction to settle the present Original Application as the dispute involved in the present application is a civil one and relates to the Environment. It is respectfully submitted that the issue raised by the applicant in the present Original Application. It is respectfully submitted that as per Section 14 of the National Green Tribunal Act, 2010, this Hon'ble Court shall have the Jurisdiction over all civil cases where a substantial question relating to environment is involved and such questions arises out of the implementation of the enactments specified in Schedule I of the National Green Tribunal Act, 2010. It

is respectfully submitted that Biological Diversity Act 2002 is mentioned in Schedule I of the National Green Tribunal – 2010.

Applicant has learnt that, inter alia, The Biological Diversity Act, 2002 has been enacted with the primary objective of conservation of biological diversity, sustainable utilisation of its components, and fair and equitable sharing of benefits arising out of the use of biological resources. That Section 2(c) of the Act defines “biological resources” to include plants, animals, microorganisms or parts thereof, their genetic material and derivatives (excluding value-added products), having actual or potential use or value for humanity, but excluding human genetic material.

Whereas, Section 36 of the Act mandates the Central Government to develop national strategies, plans, and programmes for conservation, promotion, and sustainable use of biological diversity, including measures for identification and monitoring of areas rich in biological resources.

Similarly, Section 36B places a corresponding obligation on State Governments to develop and implement strategies, plans, and programmes for conservation and sustainable use of biological diversity. This includes identification and monitoring of biodiversity-rich areas, promotion of in-situ and ex-situ conservation etc.

It is the case of the Applicant that forests, including Tiger Reserves and Protected Areas, constitute critical ecological zones and repositories of invaluable biological resources. These areas are not only environmentally sensitive but also serve as vital biodiversity reserves requiring continuous monitoring and protection.

However, by issuing the impugned order dated 19.03.2026 and thereby diverting critical forest protection personnel for non-conservation purposes, the Respondents have not only failed in discharging their statutory obligations under Section 36 of the Biological Diversity Act, 2002, but have also acted in complete derogation of the letter and spirit of the Biological Diversity Act, 2002.

It is clear from the above-mentioned facts and circumstances that this Hon'ble Tribunal has the Jurisdiction to entertain the disputes arising out of the present Original Application.

6. That followings are the facts and circumstances which lead the applicant to file the present Application:

- (i) It is respectfully submitted that in order to conserve the biological diversity, sustainable use of its components and for fair and equitable sharing of the benefits arising out of utilization of genetic resources, the parliament of World's

Largest Democracy enacted 'THE BIOLOGICAL DIVERSITY ACT, 2002

- (ii) It is submitted that the said Act was introduced with the main objective of conservation of biological diversity, sustainable utilisation of its components, and fair and equitable sharing of benefits arising out of the use of biological resources.
- (iii) That Chapter IX of the Biological Diversity Act, 2002 deals with 'Duties of the Central and the State Governments'.
- (iv) It is respectfully submitted that Section 36 of the Biological Diversity Act 2002 mandates Respondent No. 01 to develop National Strategies, Plans, Programmes for the conservation and promotion and sustainable use of BIOLOGICAL DIVERSITY including measures for IDENTIFICATION and **MONITORING OF AREAS RICH IN BIOLOGICAL RESOURCES**. That the said section also talks about the implementation of IN SITU AND EX SITU measures which are needed for conservation and protection of BIOLOGICAL DIVERSITY.
- (v) That Correspondingly, Section 36B places an obligation on State Governments to develop and implement strategies, plans, and programmes for conservation and sustainable use of biological diversity.

(vi) It is submitted that That Section 38 of the Biological Diversity Act 2002, deals with POWER OF CENTRAL GOVERNMENT TO NOTIFY THREATENED SPECIES and per the same Respondent No. 1 has the power to notify any species which is on the verge of extinction of likely to become extinct.

True copy of Biodiversity Act, 2002 is annexed and marked hereto as Annexure P-1.

(vii) It is respectfully submitted that Assam is endowed with exceptionally rich and globally significant biological resources, making it one of the most important biodiversity regions in the country. The State is particularly renowned for hosting the largest population of the endangered Indian Rhinoceros, primarily concentrated in protected areas such as Kaziranga National Park, which serve as critical habitats requiring constant monitoring and protection. In addition to this flagship species, Assam is home to several other rare and endangered species, including the hoolock gibbon (the only ape species found in India), the golden langur, and the pygmy hog, many of which are endemic or predominantly found within the State.

(viii) That the presence of such unique and vulnerable biodiversity underscores the ecological significance of Assam's forests and protected areas, and highlights the urgent need for robust

conservation, monitoring, and protection mechanisms to safeguard these invaluable biological resources.

- (ix) It is respectfully submitted that vide its notification dated 02.08.2018, Respondent No. 1 in consultation with Respondent No. 3 in exercise of powers conferred by Section 38 of the Biological Diversity Act, 2002 notified the species of plants and animals which are on the verge of extinction in the State of Assam.
- (x) That as per Notification dated 02.08.2018, The Assam State Biodiversity Board was particularly tasked to undertake propagation of the notified species for the purpose of in situ and ex situ conservation and rehabilitation.

True copy of Notification dated 02.08.2018 issued by Respondent No. 1 is annexed and marked hereto as Annexure P-2.

- (xi) The applicant herein also wishes appraise this Hon'ble court that the Election Commission of India, by various orders, has exempted requisitioning of the forest staff as well as the forest vehicles for the election and allied purposes.
- (xii) It is most respectfully submitted that the Hon'ble Supreme Court of India, vide its order dated 15.05.2024, has categorically directed the State authorities to refrain from

requisitioning forest staff as well as forest vehicles for election-related duties or any other allied purposes. The said direction was issued with a view to ensure that the primary functions of forest personnel, particularly in relation to protection, conservation, and monitoring of forest areas and biodiversity, are not compromised. The Hon'ble Court has specifically directed –

'11. Be that as it may, we direct that in all the States the forest staff as well as the forest vehicles shall not be requisitioned for the election purposes or any other purposes like Char Dham Yatra.'

True copy of the Supreme Court order dated 15.05.2024 is annexed and marked hereto as Annexure P-3.

- (xiii) That on 19.03.2026, the Office of the Special Chief Secretary to the Government of Assam issued an official order stating that the Assam Forest Protection Force (AFPF) is required to be deployed to assist the Assam Police in connection with the forthcoming Assam Assembly Elections scheduled to be held on 9th April 2026. The said order effectively mandates the utilization of forest protection personnel for election-related duties, which are extraneous to their core responsibilities.

- (xiv) That by way of the aforesaid order, directions were issued for the mobilization of approximately 1600 AFPF personnel, requiring them to report to the office of the Additional Director General of Police (ADGP) on or before 03.04.2026.

True copy of the impugned order issued by the Chief Secretary, Environment, Forest & Climate Change Department, Government of Assam dated 09.03.2026 is annexed and marked hereto as Annexure P-4.

- (xv) The case of the Applicant is that, by way of diverting the Assam Forest Protection Force (AFPF) personnel from their primary duties of protection and conservation of biological resources for election and allied purposes, the Respondents have not only failed to discharge their statutory obligations under the Biological Diversity Act, 2002, but have also severely compromised the protection and conservation of forests, wildlife, and ecological systems in the State of Assam.

- (xvi) It is most urgently submitted that such large-scale diversion of Assam Forest Protection Force (AFPF) personnel from their core duties of forest protection and surveillance significantly heightens the risk of illegal activities, particularly poaching. The forests of Assam, which are known to harbour a rich and diverse range of biological resources, including several

endangered and near-extinction species, require constant vigilance and monitoring. The absence of adequate frontline staff creates a vulnerable environment, thereby increasing the likelihood of poaching, illegal wildlife trade, and other exploitative activities. This not only poses a grave threat to species already on the verge of extinction but also undermines the ecological balance and conservation efforts mandated under the Biological Diversity Act, 2002.

- (xvii) That the Applicant, by way of the present petition, most respectfully prays that this Hon'ble Tribunal may be pleased to issue appropriate directions to the Respondents to ensure strict compliance with the provisions of the Biological Diversity Act, 2002, and to refrain from diverting the Assam Forest Protection Force (AFPF) personnel from their core duties of forest protection and biodiversity conservation.
- (xviii) The Applicant further seeks directions for restoration of adequate monitoring and protection mechanisms in forest areas, particularly those rich in biological resources, so as to prevent any threat to wildlife, including endangered species, and to uphold the mandate of environmental conservation.
- (xix) It is also most respectfully submitted that for the effective implementation of the provisions of the Biological Diversity

Act, 2002, and in furtherance of the mandate relating to conservation and monitoring of biological resources, it is imperative to ensure an effective and robust mechanism for the protection of forest areas. This necessarily includes the availability and continuous deployment of FRONTLINE WORKERS, such as the Assam Forest Protection Force (AFPF), who are directly engaged in the protection and conservation of biodiversity-rich areas, including forests, tiger reserves, and other protected areas within the State of Assam.

(xx) It is submitted that any diversion of such personnel for non-conservation purposes severely undermines the statutory framework and compromises ecological security. Therefore, it is essential that an effective and uninterrupted mechanism be maintained to ensure that such frontline personnel remain dedicated to their core functions of monitoring, protection, and conservation of biological resources.

(xxi) That, by way of the present case, the Applicant most respectfully requests this Hon'ble Tribunal may be pleased to direct Respondent No. 1 to take appropriate action against the authorities responsible for issuing the impugned order, and to ensure strict compliance with the directions of the Hon'ble Supreme Court, as well as the notification dated 02.08.2018.

The Applicant further seeks directions to ensure due and effective compliance with the statutory duties prescribed under Sections 36(1) and 36B of the Biological Diversity Act, 2002.

7. That the balance of convenience is in favour of the applicant and the ends of justice shall suffer if the relief as prayed is not granted.
8. That applicant has not filed any other application seeking similar relief as prayed in the present Original Application.

GROUNDS

- A. Because ensuring the continuous availability and deployment of frontline forest personnel, including the Assam Forest Protection Force (AFPF), is a condition precedent for the effective implementation of the provisions of the Biological Diversity Act, 2002, and more specifically Section 36 thereof.
- B. Because as per Section 36 of the Biological Diversity Act-2002 Respondent No. 1 and 3 are duty bound to develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources.
- C. Because, as per the Notification dated 02.08.2018, it is the statutory duty of the Assam State Biodiversity Board to ensure propagation of notified species for the purposes of *in situ* and *ex*

situ conservation and rehabilitation; however, any diversion of forest protection personnel and weakening of monitoring mechanisms directly hampers the effective discharge of such obligations, thereby undermining conservation efforts and defeating the very objective of preservation and restoration of biological resources in the State.

D. Because the Hon'ble Supreme Court in *State of Uttarakhand & Anr. v. In Re: Protection of Forest, Environment, Ecology, Wildlife etc. from Forest Fire etc.* has categorically held as under:

10. "Insofar as the issue with regard to the exemption of the Field Officers of the Forest Department from the Election/Char Dham Yatra and other related activities is concerned, the Election Commission of India, by various orders, has exempted requisitioning of the forest staff as well as the forest vehicles for the election and allied purposes.

11. Be that as it may, we direct that in all the States the forest staff as well as the forest vehicles shall not be requisitioned for the election purposes or any other purposes like Char Dham Yatra."

E. Because the Respondents, by diverting the Assam Forest Protection Force (AFPF) personnel from their core duties of

safeguarding forests and protected areas for non-conservation purposes, have not only undermined the critical role played by such forest protection officers but have also disregarded their indispensable contribution towards the protection and conservation of the pristine ecology and rich biological diversity of the State of Assam.

F. Because Forests are all side open resources and open treasure-house of rare and invaluable bio-geological resources and there is always a possibility of huge plundering of the forest produce in the form of valuable timber, mines and mineral resources and other forest resources from the forest land by the mafias which needs to be checked by carrying out constant, consistent and continuous enforcement activities like patrolling and raids by frontline Assam Forest Protection Force (AFPF) of Forest department.

G. Because diversion of frontline forest personnel, including the Assam Forest Protection Force (AFPF), from their core duties creates a serious vacuum in surveillance and protection, thereby rendering the forests and protected areas of Assam vulnerable to unchecked exploitation, poaching, and other illegal activities, ultimately endangering the very foundation of environmental and ecological security

H. Because the balance of convenience lies in favour of the Applicant, and irreparable harm would be caused to the environment and biodiversity if the reliefs as prayed for are not granted, thereby defeating the ends of justice.

LIMITATION

It is respectfully submitted that the present Original Application is within the time limit specified under Section 14 of the National Green Tribunal Act-2010.

It is respectfully submitted that first cause of action arose on 19.03.2026, when the Applicant became aware of the impugned order directing the deployment of approximately 1600 personnel of the Assam Forest Protection Force (AFPF) to assist the Assam Police in connection with the forthcoming Assam Assembly Elections scheduled to be held on 9th April 2026.

The said order further directed the mobilization of the aforesaid AFPF personnel, requiring them to report to the office of the ADGP on or before 03.04.2026, with an indication that the force would remain deployed till 10.04.2026. The cause of action is continuing in nature, as the implementation of the impugned order directly affects the protection and monitoring of forest areas and biological resources. It is clear from the above that the present Original Application is within the time limit period as envisages under Section 14 of the National Green Tribunal Act-2010.

PRAYERS

In view of the above-mentioned facts and circumstances, this Court may graciously be pleased:

- a) Quash and set aside the impugned order dated 19.03.2026 issued by the Respondents, being illegal, arbitrary, and contrary to the provisions of the Biological Diversity Act, 2002 and the directions of the Hon'ble Supreme Court;
- b) Stay the operation and implementation of the impugned order dated 19.03.2026 during the pendency of the present Original Application;
- c) Direct the Respondents to ensure that the Assam Forest Protection Force (AFPF) personnel are not diverted from their core duties of forest protection, monitoring, and conservation of biological resources;
- d) Pass such other order(s) as this Hon'ble Tribunal may deem fit and proper.

AND FOR THIS ACT OF KINDNESS APPLICANT HEREIN SHALL EVER PRAY.

Drafted and Filed By



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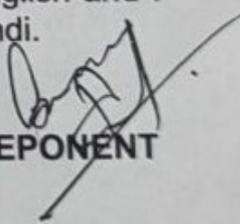
AFFIDAVIT

I, Gaurav Kumar Bansal, aged about 42 years, son of Vishnu Bansal, A-26, Basement, Jangpura Extension, Delhi – 110014 do hereby solemnly affirm and declare on oath as under: -

1. That the deponent is the Applicant in the present Original Application before this Hon'ble Court.
2. That I have done whatsoever inquiry/investigation, which was in my power to do, to collect all data/material which was available, and which was relevant for this court to entertain the present petition.
3. That deponent has not concealed in the present petition any data/material/information which may have enabled this court to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not.

That the contents of the present application have been drafted on my instructions and nothing material has been concealed therefrom and the information provided is true and correct to the best of my knowledge and belief.

5. That the contents of the accompanying application are in English and I have understood the same in the vernacular language i.e. Hindi.


DEPONENT

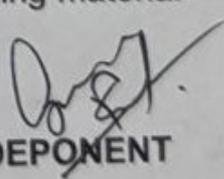
VERIFICATION:

- 1 APR 2026

Verified on this

day of March 2026 that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material concealed therein.

CERTIFICATE THAT DEPONENT
has solemnly affirmed before me
that the contents of the above which
have been read & explained to him/her
are true and correct to his/her knowledge


DEPONENT


NOTARY DELHI

I Identify the Executant Deponent
who has Signed in My Presence



The Biological Diversity Act, 2002¹ (Biological Diversity Act, 2002)

*[Act 18 of 2003 as amended up to Act 10 of 2023 and updated as of 20th
January 2024]*

[5th February, 2003]

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Biological Diversity Act, 2002

[Act 18 of 2003 as amended up to Act 10 of 2023] [5th February, 2003]

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto

Whereas India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

And whereas India is a ²[Party] to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June, 1992;

And whereas the said Convention reaffirms the sovereign rights of the States over their biological resources;

And whereas the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilisation of genetic resources;

³[And Whereas India is a Party to the Nagoya Protocol on access to

genetic resources and the fair and equitable sharing of benefits arising from their utilisation to the convention on Biological Diversity which was adopted on the 29th October, 2010 in Nagoya, Japan;

And Whereas it is considered necessary to provide for conservation, sustainable utilisation, fair and equitable sharing of the benefits arising out of utilisation of biological resources and also to give effect to the said Convention.]

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

Chapter I PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Biological Diversity Act, 2002.

(2) It extends to the whole of India.

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

“Section 1 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

2. **Definitions.**—In this Act, unless the context otherwise requires,—

⁵[(a) “access” means collecting, procuring or possessing any biological resource occurring in or obtained from India or traditional knowledge associated thereto, for the purposes of research or bio-survey or commercial utilisation;

(aa) “benefit claimers” means the conservers of biological resources, their by-products, creators or holders of traditional knowledge associated thereto (excluding codified traditional knowledge only for Indians) and information relating to the use of such biological resources, innovations and practices associated with such use and application;]

(b) “biological diversity” ⁶[or “biodiversity”] means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of ecosystems;

⁷[(c) “biological resources” include plants, animals, micro-organisms or parts of their genetic material and derivatives (excluding value added products), with actual or potential use or value for humanity, but does not include human genetic material;]

- (d) "bio-survey and bio-utilisation" means survey or collection of species, sub-species, genes, components and extracts of biological resource for any purpose and includes characterisation, inventorisation and bioassay;
- (e) "Chairperson" means the Chairperson of the National Biodiversity Authority or, as the case may be, of the State Biodiversity Board;
- ⁸[(ea) "codified traditional knowledge" means the knowledge derived from authoritative books specified in the First Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940);]
- (f) "commercial utilisation" means end uses of biological resources for commercial utilisation such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;
- ⁹[(fa) "derivative" means a naturally occurring biochemical compound or metabolism of biological resources, even if it does not contain functional units of heredity;]
- (g) "fair and equitable benefit sharing" means sharing of benefits as determined by the National Biodiversity Authority under Section 21;
- ¹⁰[(ga) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;]
- ¹¹[(gb) "India" means the territory of India as referred to in Article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory;]
- ¹²[(gc) "landrace" means primitive cultivar that was grown by ancient farmers and their successors;]
- (h) "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of Article 243-B and clause (1) of Article 243-Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act;

- (j) "member" means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;
- ¹³[(ia) "Member-Secretary" means the full time Secretary of the National Biodiversity Authority, or of the State Biodiversity Board, as the case may be;]
- (j) "National Biodiversity Authority" means the National Biodiversity Authority established under Section 8;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "regulations" means regulations made under this Act;
- (m) "research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;
- (n) "State Biodiversity Board" means the State Biodiversity Board established under Section 22;
- (o) "sustainable use" means the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;
- (p) "value added products" means products which may contain portions or extracts of plants and animals in unrecognizable and physically inseparable form.

"Section 2 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003."

Chapter II

REGULATION OF ACCESS TO BIOLOGICAL ¹⁴[RESOURCES]

3. Certain persons not to undertake Biodiversity related activities without approval of National Biodiversity Authority.—(1) No person referred to in sub-section (2) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation.

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) are the following, namely:—

- (a) a person who is not a citizen of India;
- (b) a citizen of India, who is a non-resident as defined in clause (30) of Section 2 of the Income Tax Act, 1961 (43 of 1961);
- (c) a body corporate, association or organisation—
 - (i) not incorporated or registered in India; or

¹⁵[(*ii*) incorporated or registered in India under any law for the time being in force, which is controlled by a foreigner within the meaning of clause (27) of Section 2 of the Companies Act, 2013 (18 of 2013).]

“Section 3 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

¹⁶[4. Results of research not to be transferred to certain persons without approval of National Biodiversity Authority.—No person or entity shall share or transfer any result of the research on any biological resource occurring in, or obtained or accessed from, India or traditional knowledge associated thereto, for monetary consideration or otherwise, to a person or body corporate referred to in sub-section (2) of Section 3, without the prior written approval of the National Biodiversity Authority, except the codified traditional knowledge which is only for Indians:

Provided that the provisions of this section shall not apply if publication of research papers or dissemination of knowledge in any seminar or workshop involving financial benefit is as per the guidelines issued by the Central Government:

Provided further that where the results of research are used for further research, then, the registration with the National Biodiversity Authority shall be necessary:

Provided also that if the results of research are used for commercial utilisation or for obtaining any intellectual property rights, within or outside India, prior approval of the National Biodiversity Authority shall be required to be taken in accordance with the provisions of this Act.]

5. ¹⁷[Certain provisions] not to apply to certain collaborative research projects.—¹⁸[(1) The provisions of Section 3 shall not apply to collaborative research projects involving transfer or exchange of biological resource or traditional knowledge associated thereto between institutions, including Government sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).]

(2) All collaborative research projects, other than those referred to in sub-section (1) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub-section (3), be void.

(3) For the purposes of sub-section (1), collaborative research projects shall—

(a) conform to the policy guidelines issued by the Central Government in this behalf;

(b) be approved by the Central Government.

"Section 5 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004."

6. Application for intellectual property rights not to be made without approval of National Biodiversity Authority.—¹⁹[(1) Any person or entity covered under sub-section (2) of Section 3 applying for an intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall obtain prior approval of the National Biodiversity Authority before grant of such intellectual property rights.

(1A) Any person covered under Section 7 applying for any intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall register with the National Biodiversity Authority before grant of such intellectual property rights.

(1B) Any person covered under Section 7 who has obtained intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall obtain prior approval of the National Biodiversity Authority at the time of commercialisation.]

(2) The National Biodiversity Authority may, while granting the approval under this section, impose benefit sharing fee or royalty or both or impose conditions including the sharing of financial benefits arising out of the commercial utilisation of such rights.

(3) The provisions of this section shall not apply to any person making an application for any right under any law relating to protection of plant varieties ²⁰[* * *].

(4) Where any right is granted under law referred to in sub-section (3), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

"Section 6 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004."

²¹[7. Prior intimation to State Biodiversity Board for accessing biological resource for certain purposes.—(1) No person, other than the person covered under sub-section (2) of Section 3, shall access any biological resource and its associated knowledge for commercial utilisation, without giving prior intimation to the concerned State

Biodiversity Board, but such access shall be subject to the provisions of clause (b) of Section 23 and sub-section (2) of Section 24:

Provided that the provisions of this section shall not apply to the codified traditional knowledge, cultivated medicinal plants and its products, local people and communities of the area, including growers and cultivators of biodiversity and to vaidis, hakims and registered AYUSH practitioners only who have been practicing indigenous medicines, including Indian systems of medicine as profession for sustenance and livelihood.

(2) In the case of cultivated medicinal plants, the exemption under sub-section (1) shall be available only if a certificate of origin is obtained from the Biodiversity Management Committee in such manner as may be prescribed.

(3) The Biodiversity Management Committee shall, on the basis of entries made in such books, maintained in such manner, issue the certificate of origin under sub-section (2) in such manner as may be prescribed.]

Chapter III

NATIONAL BIODIVERSITY AUTHORITY

8. **Establishment of National Biodiversity Authority.**—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established by the Central Government for the purposes of this Act, a body to be called the National Biodiversity Authority.

(2) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

²²[(3) The Head office of the National Biodiversity Authority shall be at Chennai and the Central Government may, by notification in the Official Gazette, establish regional offices in other places in India.]

(4) The National Biodiversity Authority shall consist of the following members, namely:—

²³[(a) a Chairperson, who shall be an eminent person having adequate knowledge, expertise and experience in the conservation and sustainable use of biological diversity and in matters relating to fair and equitable sharing of benefits, to be appointed by the Central Government;]

²⁴[(b) sixteen ex officio members to be appointed by the Central Government, representing the Ministries dealing with—

(i) Agricultural Research and Education;

- (ii) Agriculture and Farmers Welfare;
- (iii) Ayurveda, Unani, Siddha, Sowa Rigpa, Yoga and Naturopathy and Homoeopathy;
- (iv) Biotechnology;
- (v) Environment and Climate Change;
- (vi) Forests and Wildlife;
- (vii) Indian Council of Forestry Research and Education;
- (viii) Earth Sciences;
- (ix) Panchayati Raj;
- (x) Science and Technology;
- (xi) Scientific and Industrial Research;
- (xii) Tribal Affairs;]

²⁵[(c) four representatives from State Biodiversity Boards on rotational basis;]

(d) five non-official members to be appointed from amongst ²⁶ [experts including legal experts] and scientists having special knowledge of, or experience in, matters relating to conservation of biological diversity, sustainable use of biological resources and ²⁷[fair and equitable] sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge-holders of biological resources;

²⁸[(e) a Member-Secretary, who shall have experience in matters relating to biodiversity conservation, to be appointed by the Central Government.]

“Section 8 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

9. Conditions of service of ²⁹[Chairperson, members and Member-Secretary].—The term of office and conditions of service of the Chairperson and the other members other than ex officio members of the National Biodiversity Authority ³⁰[and of Member-Secretary] shall be such as may be prescribed by the Central Government.

“Section 9 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

10. Chairperson to be Chief Executive of National Biodiversity Authority.—The Chairperson shall be the Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties, as may be prescribed.

“Section 10 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

³¹[10-A. Member-Secretary.—(1) The Member-Secretary shall be the chief coordinating officer and the convener of the National Biodiversity Authority and shall assist that Authority in the discharge of its functions under this Act.

(2) The Member-Secretary shall perform such other functions as may be prescribed.]

11. Removal of members.—The Central Government may remove from the National Biodiversity Authority any member who, in its opinion, has—

- (a) been adjudged as an insolvent; or
- (b) been convicted of an offence which involves moral turpitude; or
- (c) become physically or mentally incapable of acting as a member; or
- (d) so abused his position as to render his continuance in office detrimental to the public interest; or
- (e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

“Section 11 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

12. Meetings of National Biodiversity Authority.—(1) The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.

(2) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority.

(3) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority, any member of the National Biodiversity Authority chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the National Biodiversity Authority shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(6) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the National Biodiversity Authority; or
- (b) any defect in the appointment of a person acting as a member; or
- (c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

“Section 12 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

13. Committees of National Biodiversity Authority.—(1) The National Biodiversity Authority may constitute a committee to deal with agrobiodiversity.

Explanation.—For the purposes of this sub-section, “agrobiodiversity” means biological diversity of agriculture related species and their wild relatives.

³²[(2) The National Biodiversity Authority may also constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.]

(3) A committee constituted under this section shall co-opt such number of persons, who are not the members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(4) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

“Section 13 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

14. Officers and employees of National Biodiversity Authority.—(1) The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.

“Section 14 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

15. Authentication of orders and decisions of National Biodiversity Authority.—All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson ³³ [or Member-Secretary] or any other member authorised by the National Biodiversity Authority in this behalf and all other instruments executed

by the National Biodiversity Authority shall be authenticated by the ³⁴ [signature of Member-Secretary or an officer] of the National Biodiversity Authority authorised by it in this behalf.

“Section 15 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

16. Delegation of powers.—The National Biodiversity Authority may, by general or special order in writing, delegate to any member ³⁵[or Member-Secretary], officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an appeal under Section 50 and the power to make regulations under Section 64) as it may deem necessary.

“Section 16 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

17. Expenses of National Biodiversity Authority to be defrayed out of the Consolidated Fund of India.—The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

“Section 17 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

Chapter IV

FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

18. Functions and powers of National Biodiversity Authority.—³⁶[(1) The National Biodiversity Authority shall, with the approval of the Central Government, make regulations to provide for access to biological resources and traditional knowledge associated thereto, and for determination of fair and equitable sharing of benefits.]

³⁷[(2) It shall be the duty of the National Biodiversity Authority to regulate any activity referred to in Sections 3, 4 and 6 by granting or rejecting approvals.]

(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 ³⁸[fair and equitable] sharing of benefits arising out of the utilisation of biological resources;
- (b) advise the State Governments in the selection of areas of biodiversity importance to be notified under sub-section (1) of

Section 37 as ³⁹[biodiversity heritage sites] and measures for the management of such heritage sites;

⁴⁰[(ba) advise the State Biodiversity Boards on any matter relating to the implementation of the Act;]

(c) perform such other functions as may be necessary to carry out the provisions of this Act.

⁴¹[(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 which is found in or brought from India, including those deposited in repositories outside India, or traditional knowledge associated thereto accessed.]

“Section 18 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

Chapter V

APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY

19. **Approval by National Biodiversity Authority for undertaking certain activities.**—(1) Any person referred to in sub-section (2) of Section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation or transfer the results of any research relating to biological resources occurring in, or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

⁴²[(2) Any person referred to in sub-section (2) of Section 3 who intends to apply for a patent or any other form of intellectual property rights, whether in India or outside India, referred to in sub-section (1) of Section 6, may make an application to the National Biodiversity Authority in such form, on payment of such fee, and in such manner, as may be prescribed.

(2A) Any person referred to in sub-section (1A) of Section 6 shall register with the National Biodiversity Authority at the time of making application under sub-section (2), and persons referred to in sub-section (1B) of Section 6 shall obtain prior approval from the National Biodiversity Authority at the time of commercialisation.]

(3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject

the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

⁴³[(3A) The National Biodiversity Authority shall, while granting approval under this section, determine the benefit sharing in such manner as may be specified by regulations made in this behalf:

Provided that if the National Biodiversity Authority is of the opinion that such an activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or fair and equitable sharing of benefits arising out of such activity, it may, by order, for reasons to be recorded in writing, prohibit or restrict any such activity:

Provided further that no such order for rejection shall be made without giving an opportunity of being heard to the person concerned.]

⁴⁴[(4) The National Biodiversity Authority shall place in public domain details of every approval granted or rejected under this section.]

"Section 19 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004."

20. **Transfer of** ⁴⁵[results of research].—⁴⁶[(1) Any person or entity who intends to transfer the results of any research on biological resources, which are found in or brought from India, including those deposited in repositories outside India or traditional knowledge associated thereto, to persons referred to under sub-section (2) of Section 3 for monetary consideration or otherwise, he shall make an application to the National Biodiversity Authority in such form, and on payment of such fee, as may be prescribed.]

(2) Any person who intends to transfer ⁴⁷[the results of research] referred to in sub-section (1) shall make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

⁴⁸[(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries, as it deems fit, by order, grant approval, subject to such terms and conditions, as it may deem fit, including benefit sharing or otherwise, as per the guidelines or for reasons to be recorded in writing, or reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person concerned.]

⁴⁹[(4) The National Biodiversity Authority shall place in public domain the details of every approval granted or rejected under this section.]

“Section 20 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

21. Determination of ⁵⁰[fair and equitable] benefit sharing by National Biodiversity Authority.—⁵¹[(1) The National Biodiversity Authority shall, while determining benefit sharing for the approval granted under this Act, ensure that the terms and conditions subject to which the approval is granted secures fair and equitable sharing of benefits arising out of the use of accessed biological resources, their derivatives, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, and the Biodiversity Management Committee represented by the National Biodiversity Authority.]

(2) 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 manner, 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-utilisation;
- (e) setting up of venture capital fund for aiding the cause of benefit claimers;
- (f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

(3) 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:

⁵²[Provided that where biological resource or associated knowledge was a result of access from an individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such benefit claimer or organisation in accordance with the terms of any agreement and in such manner as it deems fit.]

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, by

regulations, frame guidelines.

“Section 21 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

Chapter VI STATE BIODIVERSITY BOARD

22. Establishment of State Biodiversity Board.—(1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established by that Government for the purposes of this Act, a Board for the State to be known as the (name of the State) Biodiversity Board.

(2) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:

Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons ⁵³[or body] as the Central Government may specify.

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(4) The Board shall consist of the following members, namely:—

⁵⁴[(a) a Chairperson, who shall be an eminent person having adequate knowledge, expertise and experience in the conservation and sustainable use of biological diversity and in matters relating to fair and equitable sharing of benefits, to be appointed by the State Government;]

⁵⁵[(b) not more than seven ex officio members to be appointed by the State Government to represent the concerned departments of the State Government, including departments dealing Panchayati Raj and tribal affairs;]

⁵⁶[(c) not more than five non-official members to be appointed from amongst experts, including legal experts, scientists having special knowledge, expertise and work experience in matters relating to conservation of biological diversity, sustainable use of biological resources and fair and equitable sharing of benefits arising out of the use of biological resources.]

(5) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official

Gazette, specify.

“Section 22 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

23. Functions of State Biodiversity Board.—The functions of the State Biodiversity Board shall be to—

- ⁵⁷[(a) advise the State Government on matters relating to the conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the utilisation of biological resources or traditional knowledge associated thereto, in conformity with the regulations or guidelines if any, issued by the Central Government or the National Biodiversity Authority;
- (b) regulate any activity referred to in Section 7 by granting or rejecting approvals;
- (ba) determine the fair and equitable sharing of benefits as provided under the regulations made in this behalf by the National Biodiversity Authority while granting approvals;]
- (c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

“Section 23 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

24. Power of State Biodiversity Board to restrict certain activities violating the objectives of conservation, etc.—⁵⁸[(1) Any person other than the person referred to in sub-section (2) of Section 3, intending to undertake any activity covered under Section 7, shall give prior intimation to the State Biodiversity Board, in such form as may be prescribed by the State Government.]

⁵⁹[(2) If the State Biodiversity Board is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity of fair and equitable sharing of benefits arising out of such activity, it may by order, restrict or reject such activity:

Provided that no such order or rejection shall be made without giving an opportunity of being heard to the person concerned.

(3) The State Biodiversity Board shall place in public domain the details of every approval granted or rejected under this section.]

“Section 24 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

25. Provisions of Sections 9 to 17 to apply with modifications to State Biodiversity Board.—The provisions of Sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the

following modifications, namely:—

- (a) references to the Central Government shall be construed as references to the State Government;
- (b) references to the National Biodiversity Authority shall be construed as references to the State Biodiversity Board;
- (c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

“Section 25 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

Chapter VII

FINANCE, ACCOUNTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

26. Grants or loans by the Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

“Section 26 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

27. Constitution of National Biodiversity Fund.—(1) There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto—

- (a) any grants and loans made to the National Biodiversity Authority under Section 26;
- ⁶⁰[(b) all sums including charges and benefit sharing amount received by the National Biodiversity Authority;]
- (c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be ⁶¹[utilised] for—

- (a) channelling benefits to the benefit claimers;
- ⁶²[(b) conservation, promotion and sustainable use of biological resources;
- (c) socio-economic development of areas from where such biological resources or traditional knowledge associated thereto have been accessed in consultation with the Biodiversity Management Committee:

Provided that when it is not possible to identify the area from where the biological resources or traditional knowledge associated thereto have been accessed, the fund shall be utilised for socio-economic development of the area where such biological resources occur;

(d) activities to meet the purposes of the Act.]

"Section 27 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004."

28. Annual report of National Biodiversity Authority.—The National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

"Section 28 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004."

29. Budget, accounts and audit.—(1) The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority.

(4) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

"Section 29 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004."

30. Annual report to be laid before Parliament.—The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

"Section 30 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004."

Chapter VIII

FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

31. Grants of money by State Government to State Biodiversity Board.—The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Biodiversity Board by way of grants or loans such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

“Section 31 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

32. Constitution of State Biodiversity Fund.—(1) There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto—

(a) any grants and loans made to the State Biodiversity Board under Section 31;

(b) any grants or loans made by the National Biodiversity Authority;

⁶³[(c) all sums including charges and benefit sharing amount received by the State Biodiversity Board and from such other sources as may be decided by the State Government;]

(2) The State Biodiversity Fund shall be ⁶⁴[utilised] for—

(a) the management and conservation of heritage sites;

⁶⁵[(aa) channelling benefits to the benefit claimers;]

(b) compensating or rehabilitating any section of the people economically affected by notification under sub-section (1) of Section 37;

⁶⁶[(c) conservation, promotion and sustainable use of biological resources;]

⁶⁷[(d) socio-economic development of areas from where such biological resources or traditional knowledge associated thereto have been accessed in consultation with the Biodiversity Management Committee or local body concerned:

Provided that when it is not possible to identify the area from where the biological resources or associated knowledge have been accessed, the fund shall be utilised for socio-economic development of the area where such biological resources occur;]

⁶⁸[(e) making grants or loans to the Biodiversity Management Committees;

(f) the activities to meet the purposes of the Act.]

“Section 32 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

33. Annual report of State Biodiversity Board.—The State

Biodiversity Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

“Section 33 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

34. Audit of accounts of State Biodiversity Board.—The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the State Biodiversity Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

“Section 34 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

35. Annual report of State Biodiversity Board to be laid before State Legislature.—The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature.

“Section 35 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

Chapter IX

DUTIES OF THE CENTRAL AND THE STATE GOVERNMENTS

36. ⁶⁹[Central Government to develop national strategies and plans for conservation, promotion and sustainable use of biological diversity].

—(1) The Central Government shall ⁷⁰[in consultation with the State Government and Union territories] develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of in situ, and ex situ, ⁷¹[conservation of biological resources, including cultivars, folk varieties and landraces, incentives] for research, training and public education to increase awareness with report to biodiversity.

(2) Where the Central Government has reason to believe that any area rich in biological diversity, biological resources and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures, offering such State Government any technical and other assistance that is possible to be provided or needed.

(3) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant ⁷²[sectoral policies or cross-sectoral plans and programmes].

- (4) The Central Government shall undertake measures,—
- (i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimise such effects and where appropriate provide for public participation in such assessment;
 - (ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological diversity and human health.

(5) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including sui generis system.

⁷³[(6) The Central Government shall involve the National Biodiversity Authority or State Biodiversity Boards to undertake measures for conservation and sustainable use of biological diversity or traditional knowledge associated thereto.]

Explanation.—For the purposes of this section,—

- (a) “ex situ conservation” means the conservation of components of biological diversity outside their natural habitats;
- (b) “in situ conservation” means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

“Section 36 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

⁷⁴[36-A. Measures to be taken by National Biodiversity Authority.—The Central Government may authorise National Biodiversity Authority or any other organisation to take any measure necessary to monitor and regulate within the territory of India, the access and utilisation of biological resources obtained from a foreign country in order to meet the international obligations to which India is a signatory.]

⁷⁵[36-B. State Government to develop strategies and plans for conservation and sustainable use of biological diversity.—(1) The State Government shall develop strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity,

including measures for identification and monitoring of areas rich in biological resources, promotion of in situ, and ex situ, conservation of biological resources, including cultivars, folk varieties and landraces, incentives for research, training and public education to increase awareness with respect to biodiversity, in conformity with the national strategies, plans and programmes.

(2) The State Government shall, as far as practicable, wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral policies or cross-sectoral plans and programmes.]

37. Biodiversity heritage sites.—⁷⁶[(1) Without prejudice to any other law for the time being in force, based on the recommendations of the State Biodiversity Board, the State Government may, from time to time, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act:

Provided that the State Biodiversity Board shall consult the local body and the Biodiversity Management Committee concerned before making such recommendations.]

(2) The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the ⁷⁷[biodiversity heritage sites].

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

“Section 37 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

38. Power of Central Government to notify threatened species.— Without prejudice to the provisions of any other law for the time being in force, the Central Government, in consultation with the concerned State Government, may from time to time notify any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species:

⁷⁸[Provided that the Central Government may delegate such power to the State Government:

Provided further that where such power is delegated to the State Government, it shall consult the National Biodiversity Authority before issuing any such notification.]

“Section 38 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

39. Power of Central Government to designate repositories.—(1) The

Central Government may, in consultation with the National Biodiversity Authority, designate institutions as repositories under this Act for different categories of biological resources.

(2) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.

(3) Any new taxon discovered by any person shall be notified to the repositories or any institution designated for this purpose and he shall deposit the voucher specimens with such repository or institution.

“Section 39 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

⁷⁹[40. Provisions of this Act not to apply in certain cases.— Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall not apply to biological resources when normally traded as commodities or to the items derived from them, including agricultural wastes, as notified and cultivated medicinal plants and their products for entities covered under Section 7, registered as per the regulations made or as may be prescribed:

Provided that no exemption shall be made for the activities referred to in sub-sections (1) and (2) of Section 6.]

Chapter X

BIODIVERSITY MANAGEMENT COMMITTEES

41. Constitution of Biodiversity Management Committees.—⁸⁰[(1) Every local body at the Gram Panchayat level in the rural areas and at the Nagar Panchayat or Municipal Committee at Municipal Corporation level in the urban areas shall constitute a Biodiversity Management Committee (by whatever name called) within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of landraces, folk varieties, farmers' varieties, and cultivars, domesticated stocks and breeds of animals, living things in water bodies and microorganisms and chronicling of knowledge relating to biological diversity:

Provided that the State Government may constitute Biodiversity Management Committees at the intermediate or district Panchayat level for achieving the objectives of the Act.

(1-A) The functions of Biodiversity Management Committee so constituted shall include conservation, sustainable use and documentation of biological diversity, including conservation of habitats, landraces, folk varieties, cultivars, domesticated breeds of animals, and microorganisms, and chronicling of traditional knowledge associated thereto relating to biological diversity.

(1-B) The composition of the Biodiversity Management Committee shall be such as may be prescribed by the State Government:

Provided that the number of members of the said Committee shall not be less than seven and not exceeding eleven.]

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources ⁸¹[or traditional knowledge associated thereto] occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(3) The Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction.

⁸²[*Explanation.*—For the purposes of this section—

- (a) “cultivar” means a variety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;
- (b) “folk variety” means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;
- (c) “landrace” means primitive cultivar that was grown by ancient farmers and their successors;
- (d) “farmers’ variety” means a variety which—
 - (i) has been traditionally cultivated and evolved by the farmers in their field; or
 - (ii) is a wild relative or landrace of a variety about which the farmers possess the common knowledge.]

“Section 41 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

Chapter XI

LOCAL BIODIVERSITY FUND

42. Grants to Local Biodiversity Fund.—The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

“Section 42 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

43. Constitution of Local Biodiversity Fund.—(1) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto—

- (a) any grants and loans made under Section 42;

- (b) any grants or loans made by the National Biodiversity Authority;
- (c) any grants or loans made by the State Biodiversity Boards;
- (d) fees referred to in sub-section (3) of Section 41 received by the Biodiversity Management Committees;

⁸³[(e) benefit sharing amount and all other sums received by the Local Biodiversity Fund from such other sources as may be decided by the State Government.]

“Section 43 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

⁸⁴[44. Application of Local Biodiversity Fund.—(1) The Local Biodiversity Fund shall be utilised in accordance with the regulations and the guidelines made in this behalf, for—

- (a) the conservation and promotion of biodiversity including restoration of areas falling within the jurisdiction of concerned local body;
- (b) the socio-economic development of the community without compromising the conservation concerns; and
- (c) the administrative expenses of the Biodiversity Management Committee.

(2) The Fund shall be utilised in such manner as may be prescribed by the State Government.]

⁸⁵[45. Annual statement of Biodiversity Management Committees.—The custodian of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed by the State Government, its annual statement giving a full account of its activities during the previous financial year, and submit the same to the local body concerned with a copy to the State Biodiversity Board.]

⁸⁶[46. Audit of accounts of Biodiversity Management Committees.—(1) The Biodiversity Management Committee shall maintain the accounts which shall be audited in such manner as may be prescribed by the State Government.

(2) The Biodiversity Management Committee shall furnish to the local body concerned and to the State Biodiversity Board, before such date as may be prescribed by the State Government, its audited copy of accounts together with auditor's report thereon.]

47. Annual report, etc., of the Biodiversity Management Committee to be submitted to District Magistrate.—Every local body constituting a Biodiversity Management Committee under sub-section (1) of Section 41, shall cause, the annual report and audited copy of accounts together with auditor's report thereon referred to in Sections 45 and 46,

respectively and relating to such Committee to be submitted to the District Magistrate having jurisdiction over the area of the local body.

“Section 47 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

Chapter XII MISCELLANEOUS

48. National Biodiversity Authority to be bound by the directions given by Central Government.—(1) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

“Section 48 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

49. Power of State Government to give directions.—(1) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:

Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the State Government whether a question is one of policy or not shall be final.

“Section 49 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

50. Settlement of disputes ⁸⁷[* * *].—(1) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government within such time as may be prescribed.

(2) Every appeal made under sub-section (1) shall be in such form as may be prescribed by the Central Government.

(3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government:

Provided that before disposing of an appeal, the parties shall be given a reasonable opportunity of being heard.

(4) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.

(5) While adjudicating any dispute under sub-section (4), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(6) The National Biodiversity Authority shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;
- (h) any other matter which may be prescribed.

(7) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purpose of Section 196, of the Indian Penal Code (45 of 1860) and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

“Section 50 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

51. Members, officers, etc., of National Biodiversity Authority and State Biodiversity Board deemed to be public servants.—All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

“Section 51 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

52. Appeal.—Any person, aggrieved by any determination of [88](#)[fair and equitable sharing of benefits or order or direction] of the National Biodiversity Authority or a State Biodiversity Board under this Act, may

file an appeal to the High Court within thirty days from the date of communication to him, of the determination or order of the National Biodiversity Authority or the State Biodiversity Board, as the case may be:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days:

⁸⁹[Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010 (19 of 2010):

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010 (19 of 2010), shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under Section 3 of the National Green Tribunal Act, 2010.]

“Section 52 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

⁹⁰[52-A. Appeal to National Green Tribunal.—Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2010 (19 of 2010), may file an appeal to the National Green Tribunal established under Section 3 of the National Green Tribunal Act, 2010 (19 of 2010), in accordance with the provisions of that Act.]

“Section 52-A enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

53. Execution of determination or order.—Every determination of ⁹¹[fair and equitable sharing of benefits] or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court ⁹²[or the National Green Tribunal] in any appeal against any determination or order of the National Biodiversity Authority or a State Biodiversity Board shall, on a certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court ⁹³[or the Registrar of the National Green Tribunal], as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court.

Explanation.—For the purposes of this section and Section 52, the expression “State Biodiversity Board” includes the person or group of persons ⁹⁴[or body] to whom the powers or functions under sub-section (2) of Section 22 have been delegated under the proviso to that sub-

section and the certificate relating to such person or group of persons ⁹⁵ [or body] under this section shall be issued by such person or group of persons ⁹⁶ [or body], as the case may be.

“Section 53 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

54. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

“Section 54 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

⁹⁷[55. Penalties.—If any person or entity covered under sub-section (2) of Section 3 or Section 7 contravenes or attempts to contravene or abets the contravention of the provisions of Section 3 or Section 4 or Section 6 or Section 7, such person shall be liable to pay penalty which shall not be less than one lakh rupees, but which may extend to fifty lakh rupees, but where the damage caused exceeds the amount of penalty, such penalty shall be commensurate with the damage caused, and in case, the failure or contravention continues, an additional penalty may be imposed, which shall not exceed one crore rupees and such penalty shall be decided by the adjudicating officer appointed under Section 55-A.

55-A. Adjudication of penalties.—(1) For the purposes of determining the penalties under Section 55, the Central Government may appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold inquiry in the prescribed manner and to impose the penalty so determined:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of Section 3 or Section 4 or Section 6 or Section 7, he may impose such penalty as he thinks fit in accordance with the provisions of Section 55:

Provided that no such penalty shall be imposed without giving the

person concerned an opportunity of being heard in the matter.

(3) Any person aggrieved by the order made by the adjudicating officer under sub-section (2) may prefer an appeal to the National Green Tribunal established under Section 3 of the National Green Tribunal Act, 2010 (19 of 2010).

(4) Every appeal under sub-section (3) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(5) The National Green Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

55-B. Power to enter, inspect, survey, etc.—Any authority or officer empowered by the Central Government may, for the purposes of carrying out inspection, survey or any such activity, have all or any of the following powers, namely:—

- (a) the power to enter upon any land, vehicle, or premises and to inspect, investigate, survey and collect information and make a map of the same and seize the materials and records;
- (b) the powers of a civil court to compel the attendance of anyone, including witnesses and production of documents and material objects;
- (c) the power to issue a search-warrant;
- (d) the power to hold an inquiry and in the course of such inquiry, receive and record evidence;
- (e) such other power as may be prescribed.]

56. Penalty for contravention of directions or orders of Central Government, State Government, National Biodiversity Authority and State Biodiversity Boards.—If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues.

“Section 56 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

57. Offences by companies.—(1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of

the offence or contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

“Section 57 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

58. Offences to be cognizable and non-bailable.—⁹⁸[* * *]

59. Act to have effect in addition to other Acts.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to forests or wildlife.

“Section 59 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

⁹⁹[59-A. Act not to apply to certain persons.—The provision of this Act shall not apply to any person who has been given any approval or granted any right under any law relating to protection of plant varieties enacted by Parliament to the extent that such approvals or rights given under that Act does not require similar approval under this Act.]

60. Power of Central Government to give directions to State Government.—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or regulation or order made thereunder.

“Section 60 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

61. Cognizance of offences.—No court shall take cognizance of any offence under this Act except on a ¹⁰⁰[written complaint] made by—

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) ¹⁰¹[any person or a benefit claimer] who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

“Section 61 enforced w.e.f. 1-7-2004, *vide* Noti. No. S.O. 753(E), dt. 1-7-2004.”

62. Power of Central Government to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

¹⁰²[(a) the manner of obtaining the certificate of origin under sub-section (2) of Section 7;

(aa) the books on the basis of which the certificate of origin to be issued, the manner of maintaining such books and the manner of issuing such certificate under sub-section (3) of Section 7;

(ab) the terms and conditions of service of the Chairperson, Member-Secretary and other members under Section 9;]

(b) powers and duties of the Chairperson under Section 10;

¹⁰³[(ba) the other functions to be performed by the Member-Secretary;]

(c) procedure under sub-section (1) of Section 12 in regard to transaction of business at meetings;

(d) form of application and payment of fees for undertaking certain activities under sub-section (1) of Section 19;

(e) the form and manner of making an application ¹⁰⁴[and payment of fees] under sub-section (2) of Section 19;

¹⁰⁵[(ea) form of application and payment of fees under sub-section (1) of Section 20;]

(f) form of application and the manner for transfer of biological resource or knowledge under sub-section (2) of Section 20;

(g) form in which, and the time of each financial year at which, the annual report of the National Biodiversity Authority shall be prepared and the date before which its audited copy of accounts together with auditor's report thereon shall be furnished under Section 28;

(h) form in which the annual statement of account shall be prepared under sub-section (1) of Section 29;

- (i) the time within which and the form in which, an appeal may be preferred, the procedure for disposing of an appeal and the procedure for adjudication, under Section 50;
- (j) the additional matter in which the National Biodiversity Authority may exercise powers of the civil court under clause (h) of sub-section (6) of Section 50;
- ¹⁰⁶[(ja) the manner of holding inquiry by the adjudicating officer under Section 55-A;
- (jb) the other power under clause (e) of Section 55-B;]
- (k) the manner of giving notice under clause (b) of Section 61;
- (l) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

“Section 62 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003.”

63. Power of State Government to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the other functions to be performed by the State Biodiversity Board under clause(c) of Section 23;
- (b) the form in which the prior intimation shall be given under sub-section (1) of Section 24;
- (c) the form in which, and the time of each financial year at which, the annual report shall be prepared under Section 33;
- (d) the manner of maintaining and auditing the accounts of the State Biodiversity Board and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under Section 34;

(e) management and conservation of national heritage sites under Section 37;

¹⁰⁷[(ea) the composition of the Biodiversity Management Committee under sub-section (1-B) of Section 41;]

(f) the manner of management and custody of the Local Biodiversity Fund and the purposes for which such Fund shall be ¹⁰⁸[utilised] under sub-section (1) of Section 44;

(g) the form of ¹⁰⁹[annual statement] and the time at which such report shall be prepared during each financial year under Section 45;

(h) the manner of maintaining and auditing the accounts of the Local Biodiversity Fund and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under Section 46;

(i) any other matter which is to be, or may be, specified.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

"Section 63 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003."

64. Power to make regulations.—The National Biodiversity Authority shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

"Section 64 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003."

65. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

"Section 65 enforced w.e.f. 1-10-2003, *vide* Noti. No. S.O. 1146(E), dt. 1-10-2003."

¹ Received the assent of the President on February 5, 2003 and published in the Gazette of India, Extra, Part II, Section 1, dated 5th February, 2003, pp. 1-18, No. 20

² *Subs.* for "party" by Act 10 of 2023, S. 2(a) (w.e.f. 1-4-2024).

³ *Subs.* by Act 10 of 2023, S. 2(b) (w.e.f. 1-4-2024). Prior to substitution it read as:

“And whereas it is considered necessary to provide for conservation, sustainable utilisation and equitable sharing of the benefits arising out of utilisation of genetic resources and also to give effect to the said Convention.”

⁵ *Subs.* for clause (a) by Act 10 of 2023, S. 3(i) (w.e.f. 1-4-2024). Prior to substitution it read as:

‘(a) “benefit claimers” means the conservers of biological resources, their by-products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;’

⁶ *Ins.* by Act 10 of 2023, S. 3(ii) (w.e.f. 1-4-2024).

⁷ *Subs.* by Act 10 of 2023, S. 3(iii) (w.e.f. 1-4-2024). Prior to substitution it read as:

‘(c) “biological resources” means plants, animals and microorganisms or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material;’

⁸ *Ins.* by Act 10 of 2023, S. 3(iv) (w.e.f. 1-4-2024).

⁹ *Ins.* by Act 10 of 2023, S. 3(v) (w.e.f. 1-4-2024).

¹⁰ *Ins.* by Act 10 of 2023, S. 3(vi) (w.e.f. 1-4-2024).

¹¹ *Ins.* by Act 10 of 2023, S. 3(vi) (w.e.f. 1-4-2024).

¹² *Ins.* by Act 10 of 2023, S. 3(vi) (w.e.f. 1-4-2024).

¹³ *Ins.* by Act 10 of 2023, S. 3(vii) (w.e.f. 1-4-2024).

¹⁴ *Subs.* for “DIVERSITY” by Act 10 of 2023, S. 4 (w.e.f. 1-4-2024).

¹⁵ *Subs.* by Act 10 of 2023, S. 5 (w.e.f. 1-4-2024). Prior to substitution it read as:

“(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.”

¹⁶ *Subs.* by Act 10 of 2023, S. 6 (w.e.f. 1-4-2024). Prior to substitution it read as:

“4. *Results of research not to be transferred to certain persons without approval of National Biodiversity Authority.*—No person shall, without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring in, or obtained from, India for monetary consideration or otherwise to any person who is not a citizen of India or citizen of India who is non-resident as defined in clause(30) of Section 2 of the Income Tax Act, 1961 (43 of 1961)

or a body corporate or organisation which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management.

Explanation.—For the purposes of this section, “transfer” does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.”

17. *Subs.* for “Sections 3 and 4” by Act 10 of 2023, S. 7(*i*) (w.e.f. 1-4-2024).

18. *Subs.* by Act 10 of 2023, S. 7(*ii*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) The provisions of Sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).”

19. *Subs.* for sub-section (1) by Act 10 of 2023, S. 8(*a*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) No person shall apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application:

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned:

Provided further that the National Biodiversity Authority shall dispose of the application for permission made to it within a period of ninety days from the date of receipt thereof.”

20. The words “enacted by Parliament” *omitted* by Act 10 of 2023, S. 7(*b*) (w.e.f. 1-4-2024).

21. *Subs.* by Act 10 of 2023, S. 9 (w.e.f. 1-4-2024). Prior to substitution it read as:

“7. *Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes.*—No person, who is a citizen of India or a body corporate, association or organisation which is registered in India, shall obtain any biological resource for commercial utilisation, or bio-survey and bio-utilisation for commercial utilisation except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and vaidas and hakims, who have been practising indigenous medicine.”

22. *Subs.* by Act 10 of 2023, S. 10(*a*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(3) The head office of the National Biodiversity Authority shall be at Chennai and the

National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.”

23. *Subs.* by Act 10 of 2023, S. 10(b)(i) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government;”

24. *Subs.* by Act 10 of 2023, S. 10(b)(i) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(b) three ex officio members to be appointed by the Central Government, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests of whom one shall be the Additional Director General of Forests or the Director General of Forests;”

25. *Subs.* by Act 10 of 2023, S. 10(b)(i) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(c) seven ex officio members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with—

- (i) Agricultural Research and Education;
- (ii) Biotechnology;
- (iii) Ocean Development
- (iv) Agriculture and Cooperation;
- (v) Indian Systems of Medicine and Homoeopathy;
- (vi) Science and Technology;
- (vii) Scientific and Industrial Research;”

26. *Subs.* for “specialists” by Act 10 of 2023, S. 10(b)(ii)(A) (w.e.f. 1-4-2024).

27. *Subs.* for “equitable” by Act 10 of 2023, S. 10(b)(ii)(B) (w.e.f. 1-4-2024).

28. *Ins.* by Act 10 of 2023, S. 10(b)(iii) (w.e.f. 1-4-2024).

29. *Subs.* for “Chairperson and members” by Act 10 of 2023, S. 11(a) (w.e.f. 1-4-2024).

30. *Ins.* by Act 10 of 2023, S. 11(b) (w.e.f. 1-4-2024).

31. *Ins.* by Act 10 of 2023, S. 12 (w.e.f. 1-4-2024).

32. *Subs.* by Act 10 of 2023, S. 13 (w.e.f. 1-4-2024). Prior to substitution it read as:

“(2) Without prejudice to the provisions of sub-section (1), the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.”

³³. *Ins.* by Act 10 of 2023, S. 14(*l*) (w.e.f. 1-4-2024).

³⁴. *Subs.* for “signature of an officer” by Act 10 of 2023, S. 14(*ii*) (w.e.f. 1-4-2024).

³⁵. *Ins.* by Act 10 of 2023, S. 15 (w.e.f. 1-4-2024).

³⁶. *Subs.* by Act 10 of 2023, S. 16(*a*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) It shall be the 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.”

³⁷. *Subs.* by Act 10 of 2023, S. 16(*a*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in Sections 3, 4 and 6.”

³⁸. *Subs.* for “equitable” by Act 10 of 2023, S. 16(*b*)(*l*) (w.e.f. 1-4-2024).

³⁹. *Subs.* for “heritage sites” by Act 10 of 2023, S. 16(*b*)(*ii*) (w.e.f. 1-4-2024).

⁴⁰. *Ins.* by Act 10 of 2023, S. 16(*b*)(*iii*) (w.e.f. 1-4-2024).

⁴¹. *Subs.* by Act 10 of 2023, S. 16(*c*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(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.”

⁴². *Subs.* for sub-section (2) by Act 10 of 2023, S. 17(*a*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India referred to in sub-section (1) of Section 6, may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.”

⁴³. *Ins.* by Act 10 of 2023, S. 17(*b*) (w.e.f. 1-4-2024).

⁴⁴. *Subs.* by Act 10 of 2023, S. 17(*c*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.”

⁴⁵. *Subs.* for “biological resource or knowledge” by Act 10 of 2023, S. 18(*l*) (w.e.f. 1-4-2024).

⁴⁶. *Subs.* by Act 10 of 2023, S. 18(*ii*) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) No person who has been granted approval under Section 19 shall transfer any biological resource or knowledge associated thereto which is the subject-matter of the said approval except with the permission of the National Biodiversity Authority.”

⁴⁷. *Subs.* for “any biological resource or knowledge associated thereto” by Act 10 of 2023, S. 18(iii) (w.e.f. 1-4-2024).

⁴⁸. *Subs.* by Act 10 of 2023, S. 18(iv) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.”

⁴⁹. *Subs.* by Act 10 of 2023, S. 18(iv) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.”

⁵⁰. *Subs.* for “equitable” by Act 10 of 2023, S. 19(a) (w.e.f. 1-4-2024).

⁵¹. *Subs.* by Act 10 of 2023, S. 19(b) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) The National Biodiversity Authority shall while granting approvals under Section 19 or Section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.”

⁵². *Subs.* by Act 10 of 2023, S. 19(c) (w.e.f. 1-4-2024). Prior to substitution it read as:

“Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit.”

⁵³. *Ins.* by Act 10 of 2023, S. 20(i) (w.e.f. 1-4-2024).

⁵⁴. *Subs.* by Act 10 of 2023, S. 20(ii) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(a) a Chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters

relating to equitable sharing of benefits, to be appointed by the State Government;”

55. *Subs.* by Act 10 of 2023, S. 20(ii) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(b) not more than five ex officio members to be appointed by the State Government to represent the concerned Departments of the State Government;”

56. *Subs.* by Act 10 of 2023, S. 20(ii) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(c) not more than five members to be appointed from amongst experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.”

57. *Subs.* for clauses (a) and (b) by Act 10 of 2023, S. 21 (w.e.f. 1-4-2024). Prior to substitution it read as:

“(a) advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilisation of biological resources;

(b) regulate by granting of approvals or otherwise requests for commercial utilisation or bio-survey and bio-utilisation of any biological resource by Indians;”

58. *Subs.* by Act 10 of 2023, S. 22(a) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) Any citizen of India or a body corporate, organisation or association registered in India intending to undertake any activity referred to in Section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.”

59. *Subs.* for sub-sections (2) and (3) by Act 10 of 2023, S. 22(b) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(2) On receipt of an intimation under sub-section (1), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity:

Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

(3) Any information given in the form referred to in sub-section (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.”

60. *Subs.* by Act 10 of 2023, S. 23(i) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(b) all charges and royalties received by the National Biodiversity Authority under this Act; and”

⁶¹. *Subs.* for “applied” by Act 10 of 2023, S. 23(ii)(A) (w.e.f. 1-4-2024).

⁶². *Subs.* for clauses (b) and (c) by Act 10 of 2023, S. 23(ii)(B) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(b) conservation and promotion of biological resources and development of areas from where such biological resources or knowledge associated thereto has been accessed;

(c) socio-economic development of areas referred to in clause (b) in consultation with the local bodies concerned.”

⁶³. *Subs.* by Act 10 of 2023, S. 24(i) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(c) all sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government.”

⁶⁴. *Subs.* for “applied” by Act 10 of 2023, S. 24(ii)(A) (w.e.f. 1-4-2024).

⁶⁵. *Ins.* by Act 10 of 2023, S. 24(ii)(B) (w.e.f. 1-4-2024).

⁶⁶. *Subs.* by Act 10 of 2023, S. 24(ii)(C) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(c) conservation and promotion of biological resources;”

⁶⁷. *Subs.* by Act 10 of 2023, S. 24(ii)(D) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(d) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under Section 24, in consultation with the local bodies concerned;”

⁶⁸. *Subs.* for clause (e) by Act 10 of 2023, S. 24(ii)(E) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(e) meeting the expenses incurred for the purposes authorised by this Act.”

⁶⁹. *Subs.* for “Central Government to develop National strategies, plans, etc., for conservation, etc., of biological diversity” by Act 10 of 2023, S. 25(i) (w.e.f. 1-4-2024).

⁷⁰. *Ins.* by Act 10 of 2023, S. 25(ii)(a) (w.e.f. 1-4-2024).

⁷¹. *Subs.* for “conservation of biological resources, incentives” by Act 10 of 2023, S. 25(ii)(b) (w.e.f. 1-4-2024).

⁷². *Subs.* for “sectoral or cross-sectoral plans, programmes and policies” by Act 10 of 2023, S. 25(iii) (w.e.f. 1-4-2024).

⁷³. *Ins.* by Act 10 of 2023, S. 25(iv) (w.e.f. 1-4-2024).

⁷⁴. *Ins.* by Act 10 of 2023, S. 26 (w.e.f. 1-4-2024).

⁷⁵. *Ins.* by Act 10 of 2023, S. 26 (w.e.f. 1-4-2024).

⁷⁶. *Subs.* by Act 10 of 2023, S. 27(a) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) Without prejudice to any other law for the time being in force, the State Government may, from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.”

⁷⁷. *Subs.* for “heritage sites” by Act 10 of 2023, S. 27(b) (w.e.f. 1-4-2024).

⁷⁸. *Ins.* by Act 10 of 2023, S. 28 (w.e.f. 1-4-2024).

⁷⁹. *Subs.* by Act 10 of 2023, S. 29 (w.e.f. 1-4-2024). Prior to substitution it read as:

“40. *Power of Central Government to exempt certain biological resources.*— Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities.”

⁸⁰. *Subs.* for sub-section (1) by Act 10 of 2023, S. 30(a) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(1) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of landraces, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms and chronicling of knowledge relating to biological diversity.

Explanation.—For the purposes of this sub-section,—

(a) “cultivar” means a variety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;

(b) “folk variety” means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;

(c) “landrace” means primitive cultivar that was grown by ancient farmers and their successors.”

⁸¹. *Subs.* for “and knowledge associated with such resources” by Act 10 of 2023, S. 30(b) (w.e.f. 1-4-2024).

⁸². *Ins.* by Act 10 of 2023, S. 30(c) (w.e.f. 1-4-2024).

⁸³. *Subs.* by Act 10 of 2023, S. 31 (w.e.f. 1-4-2024). Prior to substitution it read as:

“(e) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government.”

⁸⁴. *Subs.* by Act 10 of 2023, S. 32 (w.e.f. 1-4-2024). Prior to substitution it read as:

“44. *Application of Local Biodiversity Fund.*—(1) Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied, be in the manner as may be prescribed by the State Government.

(2) The Fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community insofar such use is consistent with conservation of biodiversity.”

⁸⁵. *Subs.* by Act 10 of 2023, S. 33 (w.e.f. 1-4-2024). Prior to substitution it read as:

“45. *Annual report of Biodiversity Management Committees.*—The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the concerned local body.”

⁸⁶. *Subs.* by Act 10 of 2023, S. 34 (w.e.f. 1-4-2024). Prior to substitution it read as:

“46. *Audit of accounts of Biodiversity Management Committees.*—The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the concerned local body, before such date as may be prescribed, its audited copy of accounts together with auditor’s report thereon.”

⁸⁷. The words “between State Biodiversity Boards” *omitted* by Act 10 of 2023, S. 35 (w.e.f. 1-4-2024).

⁸⁸. *Subs.* for “benefit sharing or order” by Act 10 of 2023, S. 36 (w.e.f. 1-4-2024).

⁸⁹. *Ins.* by Act 19 of 2010, Section 36, Schedule III and Part VI (w.e.f. 18-10-2010).

⁹⁰. *Ins.* by Act 19 of 2010, Section 36, Schedule III and Part VI (w.e.f. 18-10-2010).

⁹¹. *Subs.* for “benefit sharing” by Act 10 of 2023, S. 37(i) (w.e.f. 1-4-2024).

⁹². *Ins.* by Act 10 of 2023, S. 37(ii) (w.e.f. 1-4-2024).

⁹³. *Ins.* by Act 10 of 2023, S. 37(iii) (w.e.f. 1-4-2024).

⁹⁴. *Ins.* by Act 10 of 2023, S. 37(iv) (w.e.f. 1-4-2024).

⁹⁵. *Ins.* by Act 10 of 2023, S. 37(iv) (w.e.f. 1-4-2024).

⁹⁶. *Ins.* by Act 10 of 2023, S. 37(iv) (w.e.f. 1-4-2024).

⁹⁷. *Subs.* for Section 55 by Act 10 of 2023, S. 38 (w.e.f. 1-4-2024). Prior to substitution it read as:

“55. *Penalties.*—(1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of Section 3 or Section 4 or Section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of Section 7 or any order made under sub-section (2) of Section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.”

⁹⁸. *Omitted* by Act 10 of 2023, S. 39 (w.e.f. 1-4-2024). Prior to omission it read as:

“58. *Offences to be cognizable and non-bailable.*—The offences under this Act shall be cognizable and non-bailable.”

⁹⁹. *Ins.* by Act 10 of 2023, S. 40 (w.e.f. 1-4-2024).

¹⁰⁰. *Subs.* for “complaint” by Act 10 of 2023, S. 41(a) (w.e.f. 1-4-2024).

¹⁰¹. *Subs.* for “any benefit claimer” by Act 10 of 2023, S. 41(b) (w.e.f. 1-4-2024).

¹⁰². *Subs.* by Act 10 of 2023, S. 42(i) (w.e.f. 1-4-2024). Prior to substitution it read as:

“(a) terms and conditions of service of the Chairperson and members under Section 9;”

¹⁰³. *Ins.* by Act 10 of 2023, S. 42(ii) (w.e.f. 1-4-2024).

¹⁰⁴. *Ins.* by Act 10 of 2023, S. 42(iii) (w.e.f. 1-4-2024).

¹⁰⁵. *Ins.* by Act 10 of 2023, S. 42(iv) (w.e.f. 1-4-2024).

¹⁰⁶. *Ins.* by Act 10 of 2023, S. 42(v) (w.e.f. 1-4-2024).

¹⁰⁷. *Ins.* by Act 10 of 2023, S. 43(i) (w.e.f. 1-4-2024).

¹⁰⁸. *Subs.* for “applied” by Act 10 of 2023, S. 43(ii) (w.e.f. 1-4-2024).

¹⁰⁹. *Subs.* for “annual report” by Act 10 of 2023, S. 43(iii) (w.e.f. 1-4-2024).

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रजिस्ट्री सं० डी० एल०-33004/99

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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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NEW DELHI, FRIDAY, AUGUST 3, 2018/SHRAVANA 12, 1940

अधिसूचना

नई दिल्ली, 2 अगस्त, 2018

का.आ. 3846(अ).—केन्द्रीय सरकार जैव-विविधता अधिनियम, 2002 (2003 का 18) की धारा 38 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, असम सरकार के साथ परामर्श करके, एतद्वारा नीचे दी गई तालिका के स्तंभ (2) में यथासूचीबद्ध पादपों और पशुओं की प्रजातियों, जो विलुप्त होने के कगार पर हैं, को असम राज्य के लिए अधिसूचित करती है तथा इस अधिसूचना के अनुबंध में विनिर्दिष्ट शर्तों के अध्यक्षीन उनके संग्रहण को प्रतिबंधित या विनियमित करती है, अर्थात्:-

तालिका

क्र.सं.	प्रजातियों के नाम
(1)	(2)
पादप	
1.	मैग्नोलिया कैथकार्टिआई (हुक. एफ. एवं थॉमसन)
2.	मैग्नोलिया ग्रिफिथाई (हुक. एफ. एवं थॉमसन)
3.	मैग्नोलिया मन्नाई (किंग) फिग्लर
4.	मैजूआ असामिका (किंग एवं प्रेन) कोस्टरम
5.	पेफियोपेडिलियम स्पाईसेरिरेनम (रेक्ब. एफ.) फिट्जर
6.	वटिका लेंसिफोलिया (रॉक्सबर्घ) ब्लूम
7.	साइकस पेक्टिनाटा बुक्च.—हैम.

क्र.सं.	प्रजातियों के नाम
(1)	(2)
पशु	
1.	सरसोगीपस कैल्वास (स्कोपोली, 1786)
2.	सनमासपीस असामेंसिस (दास और सेनगुप्ता 2000)
3.	गेक्को गेको (लिनिअस, 1958)

4.	<i>निल्सोनिआ निग्रिकान्स</i> (एंडरसन, 1875)
5.	<i>चितरा इंडिका</i> (ग्रि, 1831)
6.	<i>इन्डोटेस्टोडो एलोनगता</i> (ब्लिथ, 1854)
7.	<i>मनोरिआ एमिस</i> (इलेगल और मुलर, 1844)

2. स्तंभ (2) में सूचीबद्ध पादपों और पशुओं की प्रजातियों के संग्रहण का, असम राज्य जैव-विविधता बोर्ड द्वारा केवल नीचे उल्लिखित प्रयोजनों के लिए प्रदत्त मंजूरी से किए गए संग्रहण को छोड़कर, निषेध किया जाएगा, अर्थात्:-

- (क) वैज्ञानिक अनुसंधान;
- (ख) वैज्ञानिक और शैक्षिक संस्थानों का वनस्पति संग्रहालय एवं संग्रहालय;
- (ग) प्रवर्धन; और
- (घ) अन्य कोई वैज्ञानिक अन्वेषण।

3. असम जैव-विविधता बोर्ड निम्नांकित कार्य संचालित करेगा:-

- (i) समग्र जानकारी के लिए अधिसूचित प्रजातियों के सभी पहलुओं का अध्ययन;
- (ii) उसी स्थान पर और उस स्थान के बाहर संरक्षण तथा पुनर्वर्धन हेतु अधिसूचित प्रजातियों का प्रवर्धन; और
- (iii) वन विभाग के कार्मिकों, जैव-विविधता प्रबंधन समितियों, पारि-पर्यटन कार्यक्रमों तथा वनवासियों एवं जन-जातीय लोगों के लिए अधिसूचित प्रजातियों के संबंध में जागरूकता कार्यक्रमों का संचालन करना और शैक्षिक सामग्री उपलब्ध कराना।

[फा.सं. 28-12/2008-सीएस-III]

डॉ. सुजाता अरोड़ा, सलाहकार/वैज्ञानिक 'जी'

NOTIFICATION

New Delhi, the 2nd August, 2018

S.O. 3846(E).—In exercise of the powers conferred by section 38 of the Biological Diversity Act, 2002 (18 of 2003), the Central Government, in consultation with the Government of Assam, hereby notifies the species of plants and animals which are on the verge of extinction, as listed in column (2) of the Table given below, and prohibit or regulate the collection thereof subject to the conditions specified in the Annexure to this notification, for the State of Assam, namely:—

TABLE

Sl.No.	Name of the species
(1)	(2)
Plants	
1.	<i>Magnolia cathcartii</i> (Hook.f. &Thompson)
2.	<i>Magnolia griffithii</i> (Hook.f. &Thompson)
3.	<i>Magnolia manni</i> (King) Figlar
4.	<i>Mesua assamica</i> (King and Prain) Kosterm
5.	<i>Paphiopedilium spicerianum</i> (Rchb.f.) Pfitzer
6.	<i>Vatica lanceaefolia</i> (Roxburgh) Blume
7.	<i>Cycas pectinata</i> Buch.-Ham.

Sl.No.	Name of the species
(1)	(2)
Animals	
1.	<i>Sarcogyps calvus</i> (Scopoli, 1786)
2.	<i>Cnemaspis assamensis</i> (Das and Sengupta 2000)

3.	<i>Gekko gecko</i> (Linneaus, 1958)
4.	<i>Nilssonina nigricans</i> (Anderson, 1875)
5.	<i>Chitra indica</i> (Grey, 1831)
6.	<i>Indotestudo elongata</i> (Blyth, 1854)
7.	<i>Manouria emys</i> (Schlegel and Muller, 1844)

2. The collection of the species of plants and animals listed in column (2) of the table shall be prohibited, except with the approval of the Assam State Biodiversity Board only for the purposes mentioned below, namely:-

- (a) Scientific research;
- (b) Herbarium and museum of scientific and academic institutions;
- (c) Propagation; and
- (d) Any other scientific investigation.

3. The Assam State Biodiversity Board shall undertake:-

- (i) studies on all aspects of the notified species for holistic understanding;
- (ii) propagation of the notified species for the purpose of *in situ* and *ex situ* conservation and rehabilitation; and
- (iii) awareness programmes and provide educational materials on notified species for forest department personnel, Biodiversity Management Committees, ecotourism programmes, and forest dwellers and tribals.

[F. No. 28-12/2008-CS-III]

Dr. SUJATA ARORA, Adviser/Scientist 'G'

ITEM NO.106

COURT NO.3

SECTION X

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS****CIVIL APPEAL NO(S). 1249/2019****THE STATE OF UTTARAKHAND & ANR.****APPELLANT(S)****VERSUS****IN THE MATTER OF THE PROTECTION OF FOREST, ENVIRONMENT,
ECOLOGY, WILDLIFE ETC. FROM THE FOREST FIRE ETC. RESPONDENT(S)****(IA No. 1/2017 - EXEMPTION FROM FILING O.T.
IA No. 2/2017 - PERMISSION TO FILE LENGTHY LIST OF DATES)****WITH****C.A. No. 1250/2019 (X)
(FOR [PERMISSION TO FILE ANNEXURES] ON IA 41353/2017
FOR EXEMPTION FROM FILING O.T. ON IA 41356/2017
FOR CLARIFICATION/DIRECTION ON IA 135275/2017
FOR impleading party ON IA 12333/2018
FOR INTERVENTION/IMPLEADMENT ON IA 12333/2018
FOR impleading party ON IA 12337/2018
FOR INTERVENTION/IMPLEADMENT ON IA 12337/2018
FOR EXEMPTION FROM FILING O.T. ON IA 12369/2018
FOR EXEMPTION FROM FILING O.T. ON IA 12373/2018
IA No. 135275/2017 - CLARIFICATION/DIRECTION
IA No. 12373/2018 - EXEMPTION FROM FILING O.T.
IA No. 12369/2018 - EXEMPTION FROM FILING O.T.
IA No. 41356/2017 - EXEMPTION FROM FILING O.T.
IA No. 12337/2018 - INTERVENTION/IMPLEADMENT
IA No. 12333/2018 - INTERVENTION/IMPLEADMENT
IA No. 41353/2017 - PERMISSION TO FILE ANNEXURES)****CONMT.PET.(C) No. 566/2018 in SLP(C) No. 15477/2017 (X)
(FOR EXEMPTION FROM FILING O.T. ON IA 79663/2018
IA No. 79663/2018 - EXEMPTION FROM FILING O.T.)****W.P.(C) No. 767/2019 (PIL-W)
(FOR EXEMPTION FROM FILING O.T. ON IA 89435/2019
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
148089/2019, FOR impleading party ON IA 32705/2021
FOR INTERVENTION/IMPLEADMENT ON IA 32705/2021
IA No. 89435/2019 - EXEMPTION FROM FILING O.T.
IA No. 32705/2021 - INTERVENTION/IMPLEADMENT
IA No. 148089/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)**

Digitally signed by
Narendra Prasad
Date: 2024.05.16
16:25:15
Reason: I am the author

Date : 15-05-2024 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE S.V.N. BHATTI
HON'BLE MR. JUSTICE SANDEEP MEHTA**

**Mr. K. Parameshwar, Adv. (Amicus Curiae)
Ms. Kanti, Adv.**

For Appellant(s)

**Mr. Jatinder Kumar Sethi, D.A.G.
Mr. Akshat Kumar, AOR
Mr. Ashutosh Sharma, Adv.**

**Mr. K B Thakur, Adv.
Mr. Shashank Singh, Adv.
Mr. Madan Chandra Karnatk, Adv.
Mr. Ravindra S. Garia, AOR**

Mr. Jaswant Singh Rawat, AOR

**Mr. Krishna Ballabh Thakur, AOR
Mr. Shashank Singh, Adv.
Mr. Lokesh Kumar Gunjan, Adv.
Mr. Abhishek Kumar Sharma, Adv.
Mr. Rajul Srivastava, Adv.
Ms. Rashmi Kumari, Adv.
Mr. Abhishek Prasad, Adv.**

Petitioner/Applicant-in-person

For Respondent(s)

**Mr. Jatinder Kumar Sethi, D.A.G.
Mr. Akshat Kumar, AOR
Mr. Ashutosh Sharma, Adv.**

**Ms. Namita Choudhary, AOR
Mr. Ashutosh Kumar Sharma, Adv.
Ms. Srishti Choudhary, Adv.**

Mr. Kuldip Singh, AOR

**Mr. Umang Shankar, AOR
Mr. Ramesh Kumar, Adv.
Mr. Gagan Arora, Adv.**

Applicant-in-person

**UPON hearing the counsel the Court made the following
O R D E R**

1. In the note submitted by Mr. Jatinder Kumar Sethi, Deputy Advocate General for the State of Uttrakhand, the following issues

have been raised:-

i. The Annual plan of Forest fire management under Central Sponsored Scheme - forest fire prevention and mitigation scheme for FY 2024-25 had already been submitted to FPD, MoEF&CC. Request is for timely sanction and release of funds.

ii. A five year perspective Forest fire management plan had been prepared by Uttarakhand Forest Department incorporating the short term and long term measures including state of art technology, centre of excellence for the State, AI for fire protection and modelling risk factors, live visualization and forest fire monitoring/reporting app, replication of community based good initiative, decision support system (DSS), etc. Request is for timely sanction and release of funds.

iii. Exemption of field officials of the Forest Department from the Election/Char Dham Yatra and other related activities duties during the forest fire season.

iv. Provision of timely disbursement of NDMF/SDMF funds and resources (deployment of personnel and vehicles) to the forest department for forest fire mitigation by NDMA/SDMA.

v. Mandatory provision (5-7%) for the industries/factories to consume biomass specially pine needle-based fuel in their boilers/furnaces in the State.

vi. There is need of engagement of additional fire watchers for the crew stations in the divisions when there is continuous dry-spell prevailing. For this engagement additional funds are required from MoEF&CC/State Government.

vii. In the current fire season, for ensuring forest fire prevention/mitigation, a total of 41 mobile crew teams having forest field staff/fire watchers have been deployed along the

chardham routes along with vehicles (each mobile crew team for a stretch of around 20 kms.).

viii. Chir Pirul (Pine needles) collection is also being done involving Self Help Groups at present to provide raw material to the pirul based briquettes/pellets units which are operational.

2. In the note submitted by Mr. K. Parameshwar, learned Amicus Curiae, the following figures have been given, which are taken from the Report submitted by the State Government:-

Scheme	FY	Demand	Sanction	Release
CSS	2023-24	39.39 Cr	14.02 Cr	3.755 Cr
CAMPA		10Cr	8.0Cr	3.4059 Cr
State Plan		16.59 Cr	16.59 Cr	16.59 Cr
Total		65.98 Cr	38.61 Cr	23.75 Cr

3. Taking into consideration the importance of controlling the fires in the forest of State of Uttrakhand, we had requested Ms. Aishwarya Bhati, learned Additional Solicitor General of India to take instructions with regard to the disbursement of the fund for the financial year 2023-24.

4. Ms. Aishwarya Bhati, learned Additional Solicitor General of India, in the second half, informed that insofar as the funds to be disbursed from Central Sponsored Scheme, she has no instructions and she will require some more time to take instructions from the Department concerned. However, insofar as CAMPA Funds are concerned, she submitted that CAMPA Funds are lying with the State Government and it is for the State Government to release them for the works undertaken by the Forest Department.

5. It is further stated that the Central Authority had already sanctioned an amount of Rs.9.12 Crores for the financial year 2023-24.

6. Shri Mohan, Principal Chief Conservator of Forest and the Head

of Forest Forces (HoFF), who is present in the Court virtually, states that an amount of Rs. 2 Crores has already been released for present year and steps are being taken for releasing the balance amount.

7. We are at pains to say that the approach of the State of Uttarakhand in controlling the fire to say the least, is lackadaisical. Though action plans have been prepared and finalized no steps are being taken for implementation of the same. When the CAMPA Fund is very much available and also sanctioned by the Central Authority we see no reason as to why only 'Rs.3.40 Crores out of Rs. 9.12 Crores' were being released for the forest activities for the year 2023-24. We see no reason as to why the balance amount out of Rs.9.12 Crores was not utilized for the forest activities.

8. Another issue that needs to be addressed is with regard to the huge vacancies in the Forest Department of the State of Uttarakhand. Shri K. Parameshwar, learned Amicus Curie, as well as Shri Rajiv Dutta, applicant-in-person, submit that on account of large number of vacancies the force is not available for controlling the forest fires.

9. Shri Mohan, states that 1250 vacancies have been filled and steps are being taken for filling up the remainder of the vacancies.

10. Insofar as the issue with regard to the exemption of the Field Officers of the Forest Department from the Election/Char Dham Yatra and other related activities is concerned, the Election Commission of India, by various orders, has exempted requisitioning of the forest staff as well as the forest vehicles for the election and allied purposes.

11. Be that as it may, we direct that in all the States the forest staff as well as the forest vehicles shall not be requisitioned for the election purposes or any other purposes like Char Dham Yatra.

12. One of the grievances the State has addressed is regarding failure of timely disbursement of the National Disaster Management Fund/State Disaster Management Fund (NDMF/SDMF) and non-

availability of resources (Deployment of Personnel and Vehicle). We fail to understand as to how the State should have grievance with regard to the disbursement of the SDMF, inasmuch as it is within the domain of the State to disburse the said fund. Insofar as the NDMF is concerned, we will consider passing appropriate orders.

13. It is further pertinent to note that on one hand the State contends that the resources i.e. the manpower and the vehicles are not available and on the other hand keeps large number of vacancies unfilled.

14. Shri Rajiv Dutta, applicant in person, further submits that in Ranikhet the Army is using pine needles for generation of electricity, He suggests that considering the same to be an example the State Government should also consider using the pine needles for either generation of electricity or generation of biogas. We find that the State Government needs to take some concrete decision in that regard.

15. Insofar as the inadequacy of funds is concerned, we fail to understand as to how the State Government can make such a grievance when a huge amount of CAMPA Fund is lying with it and is not releasing it for the forest related activities.

16. Shri Gaurav Kumar Bansal, petitioner/applicant in person, submits that the salaries of the contractual/daily wage staff, who have been deployed by the Forest Department have not been paid for months together and writ petitions are being filed for the said purpose by such labourers/employees.

17. We, therefore, direct the Union of India to explain their position with regard to timely disbursement of the NDMF so also the timely disbursement of fund with regard to Central Sponsored Schemes.

18. We direct the Chief Secretary of the State of Utrkhand to personally remain present before this Court on 17.05.2024 and explain:-

- i. As to why from the CAMPA Fund only Rs.3.40 Crores was released for the financial year 2023-24, when the Union of

India had sanctioned Rs.9.12 Crores. It shall also be explained as to whether the said fund is being utilized for other purposes, which are not related to forest activities.

ii. What steps were being taken for releasing the SDMF?

iii. As of now, how many vacancies are remaining unfilled and as to within how much period the said vacancies would be filled?

iv. The measures that State Government proposes to take for preventing fires on account of pine needles.

v. As to why the forest personnel were deployed on election duties, in spite of their being a specific exemption issued by the Election Commission of India.

vi. Why steps are not being taken for providing necessary equipments for fire fighting in various Districts, Talukas of the State?

vii. As to why the salaries/wages of the contractual employees/daily wagers have not been paid for such a long period?

19. List on 17.05.2024. To be taken up at the end of the miscellaneous Board.

(NARENDRA PRASAD)
DEPUTY REGISTRAR

(ANJU KAPOOR)
COURT MASTER



GOVERNMENT OF ASSAM
OFFICE OF THE SPECIAL CHIEF SECRETARY
ENVIRONMENT, FOREST & CLIMATE CHANGE DEPARTMENT
JANATA BHAWAN, DISPUR-06

SCS/MKY/MISC/2026/17

Dated Dispur, the 19th March, 2026

To,

1. 1st Commandant, AFPF, Basistha,
2. 2nd Commandant, AFPF, Jakhalahandha,
3. 3rd Commandant, AFPF, Basistha,

Sub: Regarding deployment of AFPF personals for upcoming Assam Assembly election 2026.

With reference to the subject cited above, it is to inform you that as per the discussion held with Director General of Police, Assam, Assam Forest Protection Force (AFPF) is required to be deployed to assist Assam Police in forthcoming Assam Assembly Election to be held on 9th April, 2026.

In this regard, please mobilize force of 1600 AFPF personals and report to ADGP on or before 3rd April, 2026. Force is likely to be back on 10th April, 2026. You are also required to position your goodselves in the Rhino bearing areas of the State to oversee protection and anti-poaching activities.

(M. K. Yadava)

Special Chief Secretary to the Govt. of Assam
Environment, Forest & Climate Change Department
Janata Bhawan, Dispur, Ghy-06

Copy to:

1. Chief Secretary to the Govt. of Assam.
2. The DGP, Assam Police for kind information.
3. Addl. Chief Secretary to the Hon'ble Chief Minister, Assam.
4. Addl. Chief Secretary to the Govt. of Assam, Home and Political Department for kind information.
5. The Principal Chief Conservator of Forests & HoFF, Assam, for early needful action. He is also requested to ensure that senior forest officials camp in wildlife areas to oversee protection measures. Additionally, at least 600 to 800 frontline staff may be deployed in the Rhino bearings during this period.
6. The Principal Chief Conservator of Forests (Wildlife) & CWI.W, Assam.

Special Chief Secretary to the Govt. of Assam
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