

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS



Megha Middha

Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

A CRITICAL ANALYSIS OF FARMERS RIGHTS IN INDIA

AUTHORED BY - KAUSTUBH MURKUTE

Roll no: 94

LL.M 1st

P.E. SOCIETY'S

MODERN LAW COLLEGE

GANESHKHIND, UNIVERSITY CIRCLE, PUNE

DEPARTMENT OF L.L.M 2023-2024

Abstract:

This research focuses on the Protection of Plant Varieties and Farmers Rights Act, 2001 (PPVFRA), a unique method of protection under the intellectual property framework that protects farmers' interests in plant varieties they generate. India was the first country to implement a system to protect farmers interests, which has received global recognition. This research aims to interpret PPVFRA provisions and identify weaknesses in the act. The report concludes with recommendations for legislators to improve the functioning of the act to promote farmer security and sustainability of the country's bio resources.

Key Words:

PPVFRA, Plant breeding, farmers rights, sui generis system of protection, short comings of the act.

Introduction:

Intellectual Property (IP) is an idea that was created to protect the rights of intellectual property. And people are the only creatures who would ever be interested in buying properties or goods. To satisfy that kind of human need and to encourage research and development, lawmakers have started to recognize the creations of minds through a concept called "intellectual property rights." These rights give the person who created something ownership over that creation and allow them

to use it without anyone else's permission.¹

Since time immemorial, Indians have worshipped specific trees (neem, banyan, etc.), animals (cow, elephant), birds, and reptiles, often equating them with gods and praying to them. According to the jurisprudential natural law approach, the relationship between nature and humans cannot be denied. Now, this human behaviour, passed down from generation to generation, can be linked to resource conservation and the preservation of the country's biological diversity. However, over time and as the country evolved, it began to lose its natural resources in order to cope with a rapidly changing world.

India has more than 42,000 different folk landraces, and 95% of them are now in danger of going extinct. Since the 1960s, India's biodiversity has been declining. This is because of the rise of foreign and national seed industries and their hybrid varieties, which put Indian species at risk and threatened the natural balance of the environment. Government lawmakers were created to protect farmers' interests and keep plant types alive. However, there were some gaps in the laws that weren't filled, which meant that farmers continued to suffer. So, this study looks at the problems farmers are having because the act doesn't go far enough and how to make agriculture grow in a way that is sustainable.²

INTERNATIONAL TREATIES ON PROTECTION OF FARMERS RIGHTS

Intellectual property rights should be protected to encourage invention, innovation, and research, to reward hard work, to value creativity, and to help the economy grow and develop. These are the most important reasons why intellectual property rights should be protected and promoted. It could be said that IP had more credibility now that the country is moving toward economic growth. IP has changed in different ways in each country. So, international agreements and treaties have grown so that there is less uncertainty about who gets an IP right and so that the process is the same in all countries. In the late 1800s, it became clear that plant breeders and farmers needed to be protected in the same way that performers, creators, inventors, innovators, and producers are

¹ Anil Gupta & Ronald R. Reichman, "Intellectual Property Rights for Plant Biotechnology: International Agreements and National Laws," 4 Int'l J. Biotech. 669 (2002), available at https://www.researchgate.net/publication/286755545_Intellectual_Property_Rights_for_Plant_Biotechnology_International_Agreements_and_National_Laws. Last seen on 31/03/2024

² See Vandana Shiva, "The Plunder of Agriculture in India," 10 Alternatives 623 (1983), available at <https://www.jstor.org/stable/10.2307/40643860>. Last seen on 31/03/2024

protected by copyright, patents, and trademarks.

The key agreements established at international level that paved way for the rigid base to sui generis system of protection for farmers' rights in India include-

- International Union for Protection of New Varieties of Plants (UPOV)
- International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA)
- Trade Related Aspects of Intellectual Property Rights (TRIPS)³

International Union for Protection of New Varieties of Plants (UPOV)

The International Union for the Protection of New Varieties of Plants, or UPOV (French: Union Internationale pour la protection des obtentions vegetables), was established in 1961 to protect new plant varieties and the rights that come with them for farmers through the intellectual property system. It was later revised in 1972, 1978, and 1991. The agreement focuses on the need and importance of protecting novel plant kinds while also conserving current ones. Plant breeding rights have been codified into the intellectual property system to benefit society.⁴

International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA)

The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA) plays a big part in our lives. This international treaty was made at an FAO meeting in November 2001, and it went into effect in 2004. The final goal of this treaty is to recognize the farmers who feed the hungry people of the world. It's very important to understand Article 9 of the treaty in order to understand what it means. It says:

- The need for sustainable diversity in food cultivation.
- The recognition of the efforts made by farmers to protect traditional varieties.⁵

When this international treaty was made, it was meant to help and protect the rights of unrecognized farmers, mostly in poor countries or countries whose economies depend on farming.

The agreement's goals are as follows:

³ International Union for Protection of New Varieties of Plants (UPOV), available at <https://www.upov.int/>. Last seen on 31/03/2024

⁴ For more information on the International Union for the Protection of New Varieties of Plants (UPOV), see the official UPOV website: <https://www.upov.int/en/about/upov>. Last seen on 31/03/2024

⁵ For more information on the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA), see the official Food and Agriculture Organization (FAO) website: <https://www.fao.org/plant-treaty/overview/en/>. Last seen on 31/03/2024

- To conserve and improve traditional varieties,
- Recognise the rights of farmers over plant genetic resources,
- Provide farmers the share of benefits/ profit accrued from the usage of farmers' variety,
- Provide enormous and exclusive right to farmers in saving, exchanging, sharing or using the seeds from their farm production and
- To encourage the participation of farmers in conserving and promoting plant genetic resources.

Trade Related Aspects of Intellectual Property Rights (TRIPS)

The TRIPS agreement under the WTO is often regarded as the most important for the harmonisation of the intellectual property system, and it is also known as the comprehensive multilateral agreement on intellectual property. It went into force on January 1, 1995. Article 27 of TRIPS emphasises the scope of farmers' rights. Under Article 27.3(b) of TRIPS, the agreement on Trade Related Aspects of Intellectual Property Rights recommends that member countries protect the rights of farmers and plant breeders by either adopting a sui generis system or a patent system of protection with separate provisions for farmer protection and plant variety propagation. The sui generis system of protection (in the context of PPVFRA) can be characterized as a separate system of protection that provides or establishes a new system of law under intellectual property for the protection of plant varieties and farmers' rights rather than adopting protection through other IP regimes. Thus, India adopted a sui generis method for preserving farmers' rights, which resulted in the study of farmers' rights and the protection of plant varieties under a separate system known as the Protection of Plant Varieties and Farmers Rights Act, 2001.⁶

The TRIPS agreement is a group of three or more countries that work together to make IP rules more similar. All kinds of IP are covered by the deal. In terms of farmers' rights, TRIPS offered a separate system to protect plant breeders and also pushed for better ways for farmers to trade. One of the main reasons why agricultural trade has grown in emerging countries like India is because of TRIPS. Since trade and India's GDP growth are both getting better, it is important to give agricultural goods incentives and lower taxes. A big part of it was played by TRIPS. Article 27 is enough to back up that claim when it comes to protecting plant varieties and supporting farmers' rights.

⁶ World Trade Organization. (n.d.). Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Retrieved from https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm. Last seen on 01/04/2024

From the above analysis of international agreement and conventions with regard to farmers' rights and protection of plant varieties, the UPOV is the model law that can be adopted by the member countries when they are opting for providing sui generis system of protection to farmers. And TRIPS is an agreement that suggests to have a sui generis system of protection, considering the farmers' interest. India, by complying with the above discussed conventions adopted PPVFRA. This research is to understand the significance of India's adoption of sui generis system for protection of plant varieties and farmers' rights and further to analyse the lacunae that lie as a constraint to the objective of achieving or restoring the plant diversity thereby recognising the importance of conservers of those resources and ensuring protection and promotion to both the plant varieties along with its conservers.

THE SCOPE OF FARMERS RIGHTS IN INDIA UNDER PPVFRA, 2001

With regard to the protection of farmers, this research provides more insight into the legislative framework of the Protection of Plant Varieties and Farmers' Rights Act (PPVFRA). In order to determine the differences in provisions that exist between the international agreement UPOV and PPVFRA, the analysis of PPVFRA would be conducted. During the process of analysing the PPVFRA, it is possible to observe the numerous attempts that legislators have made in order to provide farmers with a greater degree of protection. In the context of this particular matter (the protection of plant types and farmers), Indian legislation adopted a law that made the protection of farmers and the farmers themselves the primary focus of the legislation. Because of the significance that is placed on farmers, which has been lacking even in the worldwide convention, the PPVFRA is, in fact, one of the best pieces of legislation that was developed by the legislators of our country. It was extensively spoken by the countries that are located all over the world. In light of the fact that UPOV is an international legislation that takes into account all of the countries, it has established rules that are favourable to breeders in general. Nevertheless, developing nations like as India, who are also countries that are dependent on agriculture and farmers, are unable to immediately implement the UPOV clause since those rules would not place a enough priority on providing protection to farmers.⁷ Another significant part of this study is to examine the acknowledgment granted to farmers under this act. The farming community is one of the causes for preserving natural equilibrium. Though agriculture contributes significantly to the Indian economy's revenue production, and farmers are the donors of germplasm and makers of

⁷ Protection of Plant Varieties and Farmers' Rights Act (PPVFRA), 2001, No. 53, Acts of Parliament, 2001 (India)

commercial varieties, there has been no specific legislative structure in place for numerous years to protect and ensure farmers' and breeders' rights. Thus, the PPVFRA is an accomplishment of Indian legislators. Sui generis legislation for farmer and plant variety preservation was made possible in India as a result of the signing of two agreements, to which India was a signatory.

The UPOV, one of the notable international instruments that emphasised protection of plant genetic resources and also paved the way for protecting farmers rights. Whereas the TRIPS is an international agreement that assisted in harmonising the IP laws thereby insisted member countries to adopt separate legislation for the protection of farmers and plant varieties since those are excluded under the patents act. In concurrence with international legislation UPOV, India adopted a separate system of protection to farmers called PPVFRA in which it guarantees rights over various varieties of plant breeding. To know more about the plant variety technicalities, it is essential to understand certain definitions provided under the act which has been discussed as follows:

- The term plant variety has been defined under sec.2(za) which explains variety as grouping of plants in a given genotype. And that variety includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety.⁸
- Farmers variety is the traditional variety cultivated by farmers or it is a variety of landrace in which farmers possess the common knowledge.
- Extant variety -it includes other such varieties like farmers' variety, varieties under common knowledge, varieties in public domain and varieties mentioned under sec.5 of seeds act.
- The varieties that are significantly derived from initial plant varieties are called essentially derived varieties, though the derived varieties are distinguishable from initial varieties, it would exhibit the essential characteristics.

The act has recognised wide varieties of plants and provided for its registration. Further the following are key points with regard to PPVFRA's initiation towards protecting rights of farmers and plant varieties. The following points would help to understand more about the enhanced protection under the act.

- Recognition to Farmers as Custodians, Users or Breeders of Particular Variety
- Access to the seed

⁸ Jayashree Watal, Intellectual Property Rights in Indian Agriculture, ICRIER (July 1998).

- Right to have sharing of benefit
- Getting compensation
- Getting seeds at reasonable price
- Registration of farmers' varieties
- Right to commercialise the essentially derived variety
- Registration fee exemption to farmers
- Right to have protection to farmers for making accidental infringement (being an innocent infringer)

The comprehensive incorporation of many plant kinds and the acknowledgment of farmers across broad categories are indicative of the critical necessity of this legislation in our nation. Undoubtedly, the Plant Variety Protection and Research Act (PPVFRA) has facilitated enhanced accessibility to diverse plant varieties, hence stimulating breeders to innovate and cultivate novel types. The primary aim of the act is to safeguard the rights of farmers in relation to their involvement in the preservation of plant genetic resources and the production of new varieties, while also aiming to enhance research and development in both the public and private sectors. However, as previously said, despite the legislation being carefully crafted to safeguard the interests of farmers, its implementation is falling behind.

Consequently, there is a need for clearer understanding of specific provisions of the act, which will be thoroughly examined in this research. This study analyses the goals and operations of the PPV&FR Act in relation to the historical and present condition of Indian agriculture. The analysis initially examines the challenges encountered by farmers that the law aims to address, and subsequently conducts a statistical analysis of the patterns in plant variety application under the Act to ascertain its effectiveness in achieving PPVFRA's objective.

LACUNAE UNDER THE ACT AND ITS ADVERSE EFFECT OVERFARMERS

The act (PPVFRA) is known for giving farmers more rights than international law (UPOV), but there is a loophole in the form of unclear language in the provisions that makes the act's wider reach seem narrower. To reach the goals of this act, it is very important for lawmakers to make sure that certain sections are clear. So, the goal of this study is to clear up any confusion about

the act that has been talked about so far.⁹

Varieties Protected Under the Act- In Dispute

It is clear that the farmer's variety has received more registration over the years. But to whom was that registration granted: farmers or private seed industries? There is an issue. The various kinds were introduced by the legislation to assist farmers' interests, but in practice, private breeders and seed industries are abusing the immunity offered to farmers by exploiting the ambiguities left unanswered by the legislation. According to a study report, the three kinds stated in sec.2(za) of the act receive the most applications, which include:

- Farmers variety
- Extant variety and
- New variety

Furthermore, the report states that in the last two years (2018 and 2019), 3074 certificates have been issued, 1290 of which are for varieties notified under Section 5 of the Seeds Act and varieties of common knowledge (VCK) under the category of extant variety under Section 2 (j) of the PPVFRA, 2001. Though it is satisfying to know that more types of plants are being identified, the majority of which are registered by private seed corporations such as-

- Monsanto India Limited has registered 6 varieties,
- Nuziveedu Seed Limited has highest record of registration to 86 varieties and
- Kaveri Seed Company has 27 varieties registered under VCK.

Technicalities in Registration

People who make private seeds take advantage of the fact that farmers don't know much about the filing process and other legal details that go along with it. It's easy to see why farmers are having a hard time getting their crops registered—even the people in charge of this act aren't sure what the differences are between the different types and how to register them. Farmers cannot meet all these requirements and provide the additional information required by the act, so they must pay lawyers, researchers, scientists, or people who know the registration process for help. Farmers with low incomes can hire experts? Further, farmers who register wild varieties and land race

⁹ Mrinalini Kochipillai- "The PPV& FR act-2001: Historical and Implementation incentives".

varieties struggle to provide the necessary information to the registering body. These requirements contribute to farmers' low variety registration rates. The term "farmers" in Sec. 2 (k) of the act refers to a group of farmers or individuals working together to identify traditional plant types or their valuable features. Farmers can register in organizations under the act. The act's officials don't encourage farmer registration because it's more difficult than individual registration. This led farmers to register their varieties individually, leaving the group's variety unregistered. The difference between farmers' variants and existent types necessitates clear law for non-hostile registration. Private seed firms utilize registration technicalities and obscure statute clauses to undermine farmers' rights to recognition and rights over their varieties.¹⁰

□ **The Extant Variety and DUS Standard**

The act's provision sets DUS guidelines that are in line with an international agreement (UPOV). This can be used to judge the new breeds. But the act doesn't make it clear what the connection is between the DUS standard and the filing of existing varieties. According to research, only 330 of the 370 VCK-existing varieties are registered by private seed industries. This clearly shows that farmers aren't getting enough chances to be listed under those varieties. For this reason, the farmers' community needs those unclear parts to be made clearer and the application process to be made easier so that the act's goals can be met.¹¹

□ **Disparity among the breeders**

The term clearly indicates that breeders can also be a group or community of farmers. However, as previously noted, individual farmers are more encouraged during the registration procedure than groups of farmers. Furthermore, given the complexities of registration, the word breeder is always dominated by private seed makers or other public entities rather than farmers.¹²

□ **Issues in the Grant of Right to Farmers**

In comparison to international agreements or conventions like UPOV, ITPGRFA or FAO, the PPVFRA has granted enough recognition and rights to farmers. The act under sec.39 provides for farmers rights. Though the rights are provided, it doesn't reach the farmers' community to promote their interests. Even the rights given to them are used as a tool by the private breeders to

¹⁰ Srividhya Ragavan & Jamie M. O'Shields, Has India Addressed Its Farmers' Woes? A Story of Plant Protection Issues, *Geo. Int'l Envtl. L.Rev.*20:97 (2007).

¹¹ Elizebeth Verkey, "Law of plant varieties protection", Eastern Book Company, 8th March, 2007.

¹² Barton, John H and Peter Berger, "Patenting Agriculture" *Issues in Science and Technology*, (4th ed. 2001).

exploit them. One such example is the lays potato case (series of cases filed by different farmers against PepsiCo), widely spoken across the country. Herein the farmers were made to harvest potatoes under contract farming, later that became as a trap to them. Under Sec.39(1)(iv) of the act, the farmers are restricted from dealing with branded seeds still they are allowed to save, use or share the farm produce. This being the situation, the innocent farmers mostly get their contracts through local dealers are having the least possibilities of knowing the provisions of the act and the manipulative terms of contract made by the private seed manufacturers. One such circumstances is this case, therein the private breeders taking advantage of farmers situation made farmers to agree for contracts over the varieties unregistered. Later getting registration for those varieties (FL 2027) and making the farmer to fall prey for the corporate play. Further imposing exorbitant fine over poor farmers, is the extreme situation that farmers in our country face. When a farmer produces new variety and seeks protection under the act has to comply with-

i • Registration formalities and ii • Statutory fee.

Both the requirements prescribed under the act are not farmer friendly. The conditional requirements provided under the act exempts certain mandates for registration of farmers' variety; still farmers suffer due to technicalities in the process that is making them search for expert's assistance. Though section 18 of the act relieves farmers from producing DUS test reports. As provided earlier, the registration form has that lacuna which asks farmers to provide all the technical details. If the farmer produced a new variety by means of traditional/informal method of breeding, the end results of the DUS test would give difficulties to prove the viability of the variety produced. This test, requirement under registration form and the farmers cannot work together in reality. Apart from this, the act prescribes fee exemption for farmers under section 44 of the act. But that protects farmers from paying for any proceedings in the court or tribunal with regard to the disputes arising in grant of registration, not for any other payments. Thus, a farmer or group of farmers whoever is seeking registration under the act has to pay that nominal value of amount prescribed under the statute for processing the registration.

The registration formalities and the requirement of statutory fee to farmers can be reduced. The formal IP protection for informal method of breeding is not found appreciated for many reasons that include-

- Not providing sufficient incentive to farmers,
- Dispute with regard to sharing of benefits,
- Not promoting the means of traditional breeding,

- Not ensuring sustainable development and
- Lack of harmony in conservation.

In the case of Prabhat Agri Biotech Ltd., and another Vs. Registrar of Plant Varieties and others, the main issue is with respect to powers given to the authorities under PPVFRA and whether those powers given are in concurrence with constitutional provisions or not since powers given to them are not guided. That is giving exclusive powers to authorities without limitations might infringe the rights of benefit seekers under the act. Considering the same, the court has allowed the appeal by stating that this provision would be not in concurrence with rule of law principle provided under the Indian Constitution.¹³

CONCLUSION AND SUGGESTIONS

Undoubtedly, the act made resources more accessible to farmers. Our plant variety preservation and farmer rights laws were advanced to benefit private breeders and farmers. Farmers benefit from containing plant variations since they can easily access plant genetic resources or other breeders' varieties. After this measure, Indian farmers seem to have gained greater recognition and are prospering greatly. Statistics reveal no difference in plant resource availability or farmer importance in our country.

Farmers can access additional plant kinds thanks to enclosure. The problem is that private seed industries are taking advantage of the act's benefits. Since farmers are unaware of most legislative mechanisms, private breeders with the help of authorities under the act are invading the benefits granted to farmers. According to the graph above, farmers have filed few applications for existent VCK, which is derived, and authorities are rejecting them for informal breeding and failing to meet DUS criteria. Because of this, private breeders have registered most common knowledge varieties, preventing farmers from registering with their community. To remedy this problem, farmers should be educated and the act should be made more flexible.

The legislators should add a provision in the act to form a committee to educate farmers about PPVFRA and its benefits. The committee can also help farmers with registration technicalities if they have trouble. If created under the statute, farmers could seek help from this group without paying expensive registration fees. These authorities can also raise awareness among farmers to generate more kinds, encouraging them to conserve genetic resources and evolve new ones. The

¹³ Pankhuri Agarwal, the 'Farmers' Rights' Law Lays the IPR Trap, Spicyip (April 21, 2019).

act is unclear about distinguishing farmers' varieties as existing and registering them. Legislators should identify this confusion and create cohesion. The time limit for plant variety and farmer rights protection has failed. For cultivation, producers would share their seeds or new varieties with other farms or community members. Since there is no monopoly, the normal time limit set in intellectual property rights to curtail monopoly does not apply to farmer variety protection. To conclude, legislators must clarify provisions and improve protection of plant varieties and farmers while maintaining sustainability in agriculture by bringing back traditional methods for preserving plant varieties in conjunction with modern breeding techniques.

References

1. See Vandana Shiva, "The Plunder of Agriculture in India," 10 *Alternatives* 623 (1983), available at <https://www.jstor.org/stable/10.2307/40643860>. Last seen on 31/03/2024
2. International Union for Protection of New Varieties of Plants (UPOV), available at <https://www.upov.int/>. Last seen on 31/03/2024
3. For more information on the International Union for the Protection of New Varieties of Plants (UPOV), see the official UPOV website: <https://www.upov.int/en/about/upov>. Last seen on 31/03/2024
4. For more information on the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA), see the official Food and Agriculture Organization (FAO) website: <https://www.fao.org/plant-treaty/overview/en/>. Last seen on 31/03/2024
5. Protection of Plant Varieties and Farmers' Rights Act (PPVFRA), 2001, No. 53, Acts of Parliament, 2001 (India).
6. Jayashree Watal, *Intellectual Property Rights in Indian Agriculture*, ICRIER (July 1998).
7. Mrinalini Kochipillai- "The PPV & FR act-2001: Historical and Implementation incentives.
8. Srividhya Ragavan & Jamie M. O'Shields, *Has India Addressed Its Farmers' Woes? A Story of Plant Protection Issues*, *Geo. Int'l Envtl. L.Rev.*20:97 (2007).
9. Elizebeth Verkey, "Law of plant varieties protection", Eastern Book Company, 8th March, 2007.
10. Barton, John H and Peter Berger, "Patenting Agriculture" *Issues in Science and Technology*, (4th ed. 2001).
11. Pankhuri Agarwal, *the 'Farmers' Rights' Law Lays the IPR Trap*, *Spicyip* (April 21, 2019).