

## **A. Introduction ;Protection of Plant Varieties and Farmers Rights Act,2001**

Scientific advancement in the field of biotechnology and tissue culture has ushered in an agricultural revolution. Development of new plant varieties and better quality of seeds have accelerated the agricultural development. It has, therefore, been internationally recognized that rights of plant breeders should not only be recognized but a sui generis legal mechanism be evolved to protect their rights as well. At global level the international convention for protection of New Varieties of Plant (UPOV) was concluded in 1961. The WTO-TRIPs also recognized the need to develop legal system for protection of plant varieties either through patent or an effective sui generis system. India being a member of WTO also realized the need to protect interests of plant breeders, farmers and promote conservation of genetic resources and seed industry. It was thought proper to enact a separate sui generis legislation for this purpose.

### **B. UPOV Convention, 1961**

The International Union of Protection of New Varieties of plants was concluded in 1961. It was subsequently amended in 1972, 1978 and 1991. As on April 15, 2001 it has 47 state parties. India has also become a member of the Union.

### **C. Indian Law-The Protection of Plant Varieties and Farmers' Rights Act, 2001**

Being member of UPOV convention and WTO India was required to provide legal protection to plant varieties and protect the rights of plant breeders. The main focus of the law is to define plant breeders' rights, extend protection to all categories of plants excluding micro-organism. The Indian law is primarily

based on UPOV convention. But it includes number of provisions, not present in UPOV convention. For instance, it recognizes the role of farmers as cultivators and conservers and the contribution of traditional rural and tribal communities in the country's agro-biodiversity by making provision for benefit sharing and compensation and also protecting the traditional rights of farmers.

**(i) Need and Justification of the Act**

The concept of plant breeders' rights arises from the need to provide incentives to plant breeders in creative work of research which sustains agricultural progress through return on investment made in research and persuade the researcher to share the benefit of his creativity with society.

It is considered necessary to recognize and protect rights of farmers in respect of their contribution made in consuming, improving and making available plant genetic resources for development of new plant varieties.

It is also necessary to protect plant breeders' rights to stimulate investment for research and development both in public and private sector for the development of new plant varieties.

The grant of such protection will facilitate growth of seed industry, which will ensure the availability of high quality seeds and plant material to farmers.

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