



Environmental Social
Justice
&
Governance Initiatives

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An appeal for your URGENT support

Should we encourage biopirates to expand their business in India?

06 August 2011

Dear Friends,

As you are aware, the environmental release of the first ever Genetically Modified Food (Bt Brinjal – eggplant) in India, promoted by M/s Mahyco (an Indian subsidiary of US TNC Monsanto), was stayed by a February 2011 decision by then Indian Environment Minister Jairam Ramesh who ordered a moratorium on the product's environmental and commercial release. This decision was the outcome of public opinion gathered in a series of nation-wide public consultations that he held and based also on a variety of scientific evidence and legal analysis. Fundamentally, Mr. Ramesh held that per the Precautionary Principle not enough was known of the environmental, public health, economic and social consequences of GMO foods. Therefore it was prudent to postpone the decision until there was absolute certainty that GMOs subserved the common good.

Moratorium decision on Bt Brinjal sidestepped biopiracy issue:

In addition to concerns over the public health and environmental implications of GMOs, Environment Support Group raised a serious concern that in promoting Bt Brinjal, Mahyco/Monsanto, along with its collaborators (University of Agricultural Sciences -Dharwad, Sathguru Consultants, Cornell University and Tamil Nadu Agricultural University; collaborators under the ABSP-II project funded by USAID) had fundamentally flouted laws protecting biodiversity in India. The specific charge made was that these agencies had accessed at least 9 local varieties of brinjal in developing the Bt Brinjal product and all this was done without any prior permission from the National Biodiversity Authority (NBA), State Biodiversity Board, Local Biodiversity Management Committees, as required per the Convention on Biological Diversity, 1992 and the Biological Diversity Act, 2002. Therefore, the action of bringing the Bt Brinjal product to a final decision of commercial release constituted an act of biopiracy: a very serious crime that is cognisable, non-bailable and additionally involves large fines. It was also submitted to the Minister that such actions seriously compromised and denied economic and social benefits to local communities under the Access and Benefit Sharing Regime.

Mr. Ramesh chose to sidestep this critical issue while ordering moratorium on the release of Bt Brinjal.

ESG complaint against biopiracy:

Environment Support Group, however, pursued the case, and filed a complaint before the statutory Karnataka Biodiversity Board on 15 February 2011 (copy attached). The Board took cognisance of this complaint, proceeded to investigate it thoroughly, issued notices on all agencies involved in promoting Bt Brinjal and also held hearings. In their defence, Bt Brinjal promoters Mahyco/Monsanto have absolutely denied violation of biodiversity protection laws while others, such as University of Agricultural Sciences – Dharwar have claimed that these laws do not at all apply to them. Based on this evidence, the Board has repeatedly requested the National Biodiversity Authority (NBA) to take appropriate action in accordance with law. NBA, however, has dithered on taking a decision on this critical complaint - for over a year now.

Monsanto now wants India's onions:

Perhaps encouraged by weak regulation by NBA, Monsanto Holdings has now applied for accessing a variety of onions grown in India for potential hybridisation, commodification and commercial release. A copy of the application made by Monsanto is enclosed. As we understand, NBA has forwarded Monsanto's application to relevant State regulatory authorities and applicable Biodiversity Management Committees (at Panchayat/Nagarpalika levels) with the demand

that the application be cleared no later than 27 August 2011.

It is a matter of very serious worry that NBA which has failed to demonstrate urgency in dealing with complaint of biopiracy against Mahyco/Monsanto, has wasted no time at all in processing Monsanto's application to access onions. It is imperative for NBA to enforce India's biodiversity protection laws and also act in conformance with the Public Trust Doctrine, Precautionary Principle, Principle of Intergenerational Equity and the Polluter Pays Principle and other applicable laws. We fear that such lax behaviour on the part of a key regulatory agency encourages businesses to continue their business-as-usual approach, untrammelled by any fear of punitive action for violating India's biodiversity protection laws and for compromising India's sovereign control over its biological resources.

Demand decisions in NBA meeting on 9th August 2011:

With this in view, we wish to demand that NBA in its meeting scheduled on 9th August 2011 must take a categorical decision on the charge of biopiracy against those promoting Bt Brinjal product based on comprehensive investigation and reporting by the Karnataka Biodiversity Board. Pending adjudication of this matter, no fresh application for accessing India's biological resources must be entertained from any agency being investigated for biopiracy. Such a norm is critical to safeguard ongoing investigations and protecting biological wealth of India, and is an approach that is in consonance with various Supreme Court decisions, most recently evidenced by banning mining by all in light of widespread illegal mining in Bellary.

If you wish to support this demand, kindly sign on the petition (enclosed) by providing your name, full address, and organisational affiliation (if any), no later than 11 pm on 8th August 2011. Kindly leave the subject as is to help us to process your endorsement.

To further assist you in endorsing this petition we have also made it accessible online at:
http://www.ipetitions.com/petition/monsanto_biopiracy/

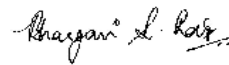
We seek this support from you so that India's biological resources are protected and conserved to ensure ecological, food, economic and social security of present and future generations.

Thank you for your cooperation and support.

Yours sincerely,




Leo F. Saldanha



Bhargavi S. Rao

Environment Support Group



Petition to National Biodiversity Authority:

Shri M.F.Farooqui, IAS.,
Chairman,
National Biodiversity Authority,
(Full Addl. Charge)
&
Additional Secretary,
Ministry of Environment and Forests,
Government of India,
5th Floor, TICEL Bio Park,
Taramani, Chennai - 600 113
Tel: 91-044-2254 1805
Fax: 91-044-2254 1073
E-mail: chairman@nbaindia.in

8th August 2011

Dear Shri. Farooqui,

As you are aware, Environment Support Group has filed a complaint against M/s Mahyco/Monsanto and their collaborators in promoting Bt Brinjal in violation of India's Biological Diversity Act, 2002 and Convention on Biological Diversity, 1992. This complaint has been pending adjudication by the National Biodiversity Authority for over a year now, notwithstanding comprehensive investigations that have been undertaken by Karnataka State Biodiversity Board.

The Authority which has not found the necessary time and resource to adjudicate the matter with due dispatch, has now proceeded to process an application from Monsanto Holdings to access onions in India for hybridisation and possible commercial release. Such double standards is not a healthy indicator that the Authority is independently and rigorously implementing Biological Diversity Act in order to protect our biological resources for the benefit of present and future generations.

When the Authority meets on 9th August 2011, it is imperative that it takes a decision on the pending complaint of biopiracy against M/s Mahyco/Monsanto and its collaborators. Such action is imperative on the part of the regulatory Authority and will build public confidence that it is not dithering in taking a correct decision due to extraneous pressures.

We also demand that pending adjudication of this matter, no application must be processed for accessing biological resources of India from any of the agencies being investigated on grounds of biopiracy. Such a policy is consistent with best practices employed by the Government of India and also with various Supreme Court decisions – most recently in banning mining by all as a measure of taking action against widespread illegal mining in Bellary district of Karnataka.

We hope that the Authority will take appropriate decisions with due dispatch to safeguard India's biodiversity and the wider public interest.