

PART III

GOVERNMENT OF PUNJAB

**DEPARTMENT OF SCIENCE, TECHNOLOGY
AND ENVIRONMENT**

NOTIFICATION

The 11th November, 2016

No. G.S.R.78/C.A.18/2003/S.63/2016.—In exercise of the powers conferred under section 63 of the Biological Diversity Act, 2002 (Central Act 18 of 2003), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules for carrying out the purposes of this Act, namely:-

CHAPTER – I

PRELIMINARY

- 1. Short title and commencement.**— (1) These rules may be called the Punjab Biological Diversity Rules, 2016.
(2) They shall come into force on and with effect from the date of their publication in the Official Gazette.
- 2. Definition (1).**— In these rules, unless the context otherwise requires,-
 - (a) “Act” means the Biological Diversity Act, 2002 (Central Act No.18 of 2003);
 - (b) “Appellate Authority” means the Appellate Authority constituted under rule 12 of these rules;
 - (c) “Authority” means the National Biodiversity Authority established under sub-section (1) of section 8 of the Act;
 - (d) “Board” means the Punjab Biodiversity Board established under section 22 of the Act;
 - (e) “Chairperson” means the Chairperson of the Board;
 - (f) “Committee” means the Biodiversity Management Committee established by a local body under section 41 (1) of the Act;
 - (g) “fee” means any fee stipulated in the Schedule;
 - (h) “Form” means the form appended to these rules;
 - (i) “State Government” means the Government of the State of Punjab, in the Department of Science, Technology and Environment;

- (j) "section" means section of the Act; and
- (k) "Member Secretary" means the Member Secretary of the Board.

- (2) The words and expressions used in these rules, but not defined, shall have the same meaning, as assigned to them in the Act.

CHAPTER II

FUNCTIONS OF THE BOARD

Sections 23
and 63.

3. **Functions of the Board.-** (1) Apart from the functions specified in clauses (a) and (b) of section 23 of the Act, the Board shall perform the following functions to carry out the purposes of the Act, namely:-

- (i) provide technical assistance and guidance to the State Government and the committees for carrying out the purposes of this Act;
- (ii) sponsor investigation and research;
- (iii) engage consultants for a specific period, not exceeding three years, for providing technical assistance to the Board in the effective discharge of its functions;

Provided that if it is necessary and expedient to engage any consultant beyond three years period, the Board shall seek prior approval of the State Government for extending such period;

- (iv) collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of biodiversity, associated traditional knowledge, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge;
- (v) organize through mass media, a comprehensive programme regarding conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge;
- (vi) plan and organize training of personnel engaged or likely to be engaged in programmes, for the conservation of biodiversity and sustainable use of its components;
- (vii) take steps to build up database and to create information, for biological resources and associated traditional knowledge through biodiversity registers and electronic databases, to ensure effective management, promotion and sustainable uses;

- (viii) give directions to the committees through the local bodies for effective implementation of the Act in consultation with National Biodiversity Authority.
- (ix) devise methods in collaboration with National Biodiversity Authority and/or the Biodiversity Management Committees within the State of Punjab to ensure protection of rights relating to biological resources and associated knowledge and protection of information recorded in Peoples' Biodiversity Registers.
- (x) sanction grants-in-aid and grants to the Committees for specific purposes;
- (xi) undertake physical inspection of any area in connection with the Biodiversity plans;
- (xii) ensure that biodiversity and biodiversity-dependent livelihoods are integrated in all sectors of planning and management and at all levels of planning to enable such sectors and administrative levels, to contribute effectively for its conservation and sustainable use;
- (xiii) prepare the annual budget of the Board:

Provided that the allocation by the Central Government or the State Government or both, shall be incorporated in the annual budget;

- (xiv) granting administrative and technical sanctions to all the estimates. It may, however, delegate these powers to the Chairperson or the Member Secretary of the Board, as it deems fit;
 - (xv) create posts and take steps for filling up such posts, for effective discharge of the functions by the Board, with the prior approval of the State Government;
 - (xvi) acquire, hold and dispose off property, both movable and immovable, and enter into contract for the same; and
 - (xvii) submit Annual Report to the State Government about the functioning of the Board.
- (2) The criterion adopted by the National Biodiversity Authority and the guidelines of the Government of India notified in the Official Gazette from time to time shall be followed by the Board, for monetary and other benefits like royalty, joint venture, technology transfer, product development, education, awareness, and venture capital fund for aiding the cause of benefit claimers.

Sections 23
and 24.

4. **Procedure for obtaining approval for commercial utilization of biological Resources.-** (1) Any citizen of India or a body corporate, organization or association registered in India seeking access to/collection of biological resources for commercial utilization or bio-survey and bio-utilization for commercial utilization with the exception of those in proviso to section 7 of the Act, shall make an application to the Board in Form-I appended to these rules for prior intimation and approval under clause (b) of section 23 of the Act.
- (2) Such an application shall be accompanied with a fee of five thousand rupees for commercial utilization, which shall be in the form of a demand draft in favour of the Punjab Biodiversity Board payable at Chandigarh.

Explanation: This rule shall not be applicable to any person covered under clause (b) of sub-section (2) of section 3 and (ii) of clause (c) of sub-section (2) of section 3 of the Act. Accordingly, a citizen of India who is not a non-resident as defined in clause (30) of section 2 of the Income Tax Act, 1961 or a body corporate, association or organization incorporated or registered in India having non-Indian participation in its share capital or management who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or commercial utilization or bio-survey and bio-utilization, shall apply to the Authority under section 19 of the Act read with rule 14 of the Biological Diversity Rules, 2004 notified by the Ministry of Environment and Forests dated the 15th April, 2004.

- (3) (i) The Board may, after consulting the concerned committee or a local body and after making such enquiries and collecting such additional information as it may deem fit, grant approval as per clause (b) of section 23 or pass a restrictive or prohibitory order as per section 24 of the Act;
- (ii) such approval shall be granted in such form and in such manner as decided by the Board as per clause (b) of section 23 of the Act and the relevant guidelines issued by the authority in this behalf;
- (iii) while granting approval/passing such order, the Board may impose such additional conditions as it may deem fit to carry out the provisions of the Act; and

- (iv) the process of grant/passing such orders shall be carried out as far as possible, within a period of six months, from the date of receipt of such application.

The written order indicating term of access shall be issued by the Member Secretary of the Board and Applicant shall perform the functions accordingly.

- (4) Any information given in Form I and Form-I A shall be kept confidential.
- (5) For the voluntary disclosure for access of biological resources for the purposes of research or bio-survey and bio-utilization as defined in clauses (m) and (d) of section 2 of the Act, respectively, any citizen of India or a body corporate, association or organization, which is registered in India may before or after accessing/obtaining biological resources or traditional knowledge of such biological resources, occurring within the State of Punjab, fill in FORM-I A accompanied with a cheque or Demand Draft amounting to Rs. 100/- in favour of the Punjab Biodiversity Board payable at Chandigarh towards administrative charges.

5. Revocation of access.- (1) The Board may, either on any complaint or *suo moto*, withdraw the approval granted under sub-rule (3) of rule 4, on any of the following grounds:-

- (i) that the request for access is to any biological resource, which is likely to become threatened or endangered due to such access; or
 - (ii) that the request for access is for any endemic and rare species; or
 - (iii) that the person, to whom the approval was granted, has violated any of the provisions of the Act or any of the conditions specified in Form-I.
- (2) The approval shall be cancelled only after an inquiry is made by an authority or committee, duly authorized in this behalf by the Board, by an order in writing:

Provided that the person concerned, shall be given an opportunity of being heard before an order for "revocation" of approval is passed.

- (3) The Board shall send a copy of the "revocation" order to the Committee or in its absence to the concerned local bodies for prohibiting the access by such person to the biological resources, for which such approval was granted.

Sections 24.

- 6. Restriction on activities related to biological resources for commercial utilization, or bio-survey and bio-utilization for commercial utilization.-** (1) The Board after prior intimation made by any citizen of India or a body corporate, organization or association registered in India in Form I may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict obtaining any biological resources for commercial utilization, or bio-survey and bio-utilization for commercial utilization, after giving an opportunity of being heard, on any of the following grounds:
- (i) that the request is related to any biological resources, which is threatened or endangered or likely to become threatened or endangered; or
 - (ii) that the request is related to any biological resource which is endemic and rare species; or
 - (iii) that the person, to whom the approval was granted has violated any of the provisions of the Act or any of the conditions specified in Form-I; or
 - (iv) for any species, which may not be endangered or of a rare category as per international criterion but is rarely found in the locality which it is to be accessed or its existence is otherwise threatened in such locality; or
 - (v) if the access may result in adverse environmental impact, which may be difficult to control and mitigate; or
 - (vi) is likely to affect adversely the livelihood, culture or indigenous knowledge of the local people; or
 - (vii) may cause genetic erosion or affect the ecosystem functioning; or
 - (viii) for the purposes contrary to the National or the State interests and other related international or inter-state agreements.
- (2) The restrictive or prohibitory order issued under sub-rule (1) of rule 6, shall be made after an inquiry is made by an authority or

committee duly authorized in this behalf by the Board, by way of an order in writing recording reasons as to why such activity is detrimental or contrary to the objectives of the Act and after giving an opportunity of being heard to the applicant/person to be affected by such order.

7. Management and Conservation of Biodiversity Heritage Sites.- Section 37.

(1) The Board shall, in consultation with the concerned local body, or any other person or persons, as it may deem fit, take necessary steps to identify an area of significant biodiversity to be a Heritage Site which shall be notified, as such, in the Official Gazette by the State Government.

(2) The Board shall, in consultation with the Authority, frame guidelines for selection, management and other aspects of Heritage Sites.

CHAPTER – III

FINANCE AND ACCOUNTS

8. Annual Report of the Board.- (1) The Board shall prepare its annual report for each financial year giving detailed account of its activities and annual statement of accounts and submit the same to the State Government by the 30th September of each year. Section 33.

(2) The Board shall submit the Annual Report together with the audit report for each financial year to the State Government for placing the report before the Legislative Assembly.

9. Operation and Maintenance of State Biodiversity Fund.- (1) The Board shall maintain an account in Scheduled Commercial Bank into which the proceeds of the fund shall be credited. Section 34.

(2) The Member Secretary of the Board and one officer of the Board authorized by it, shall jointly operate the account.

10. Local Biodiversity Fund.- (1) The Committee shall maintain an account in a Scheduled Commercial Bank into which all proceeds of the fund shall be credited. Sections 44.

(2) The account shall be operated jointly by the Chairman and the Secretary of the Committee.

11. Annual Report and Audit of Accounts of Committees.- (1) The Committee concerned, shall prepare annual report giving account of its activities and annual statement of accounts in the manner specified by the Board from time to time, and shall send the same to the State Sections 45.

Government by the 31st July of each financial year, or at any such time, as may be specified by the State Government.

- (2) The Committee shall submit its annual report and audited copy of accounts along with Auditor's report, to the local body having jurisdiction, or to any other officer, as may be specified by State Government, and shall send a copy thereof to the Board.
- (3) The accounts of the fund shall be maintained and audited in such manner, as may be specified by the Board.

CHAPTER – IV

APPEALS

Section 63.

12. Appeal for settlement of disputes.- (1) If any dispute arises between the Board and a Committee or between two Committees on account of implementation of any order or direction or on any other subject, the Board or such Committee, as the case may be, may prefer an appeal in Form II to the Appellate Authority which shall be the Secretary to Government of Punjab, Department of Science, Technology & Environment.

- (2) The appeal shall be filed by the aggrieved party within a period of thirty days from the date of passing of the order, direction or policy decision, as the case may be:

Provided that if the appellate authority is satisfied that there are sufficient grounds for preferring an appeal after the specified period, it may, for reasons to be recorded in writing, allow such appeal.

- (3) The notice of appeal, shall be given in Form-III, through:-
 - (i) registered post, with an acknowledgement due; or
 - (ii) e-mail; or
 - (iii) SMS; or
 - (iv) a courier agency duly approved by the appellate authority.
- (4) Every appeal shall be accompanied by a fee, as may be specified by the Board from time to time.
- (5) The Appellate Authority shall, after hearing the appellant and the other parties, dispose of the appeal. It may vary or modify or cancel the impugned order, direction or policy, as the case may be.

FORM I

[See rule 4 (1)]

“Application form for accessing biological resources for commercial utilization, bio-survey and bio-utilization for commercial utilization”

Part A

- (i) Full particulars of the applicant :
- (ii) Name :
- (iii) Permanent address:
- (iv) Address of the contact person/ agent, if any :
- (v) Profile of the organization (personal profile in case the applicant is an individual). Please attach relevant documents of authentication :
- (vi) Name of business:
- (vii) Turnover of the organization: (In rupees)

1. Details and specific information about nature of access sought and biological material to be accessed:-

- (a) Identification (scientific name/ names) of biological resource/ Resources and its/their traditional use:
- (b) Geographical location of the proposed collection (please give names of the block and the adjoining villages):
- (c) Description / nature of the traditional knowledge (oral / documented):
- (d) Any identified individual / community holding the traditional knowledge:
- (e) Quantity of the biological resources to be collected (also give the schedule):
- (f) Time span in which the biological resources are proposed to be collected:
- (g) Name and number of the persons authorized by the company/ research agency for making the selection:
- (h) The purpose for which the access is requested including the type and extent of research, commercial utilization being derived and expected to be derived from it:
- (i) Whether any collection of the resource endangers any component of biological diversity and the risks which may arise from the access:

2. Details of any National/State institution which will participate in the Research and Development activities:

3. Primary destination of the accessed resource and identity of the location where the Research and Development will be carried out:
4. The economic and other benefits out of the accessed biological resources and the knowledge that are intended, or may accrue to the applicant:
5. The biotechnological, scientific, social or any other benefits obtained from the accessed biological resources and knowledge that are intended, or may accrue to the applicant:
6. Estimation of benefits that would flow to the State / communities arising from the use of the accessed bio-resources and traditional knowledge:
7. Proposed mechanism and arrangements for benefit sharing (as per the extant guidelines issued in this behalf by the competent authority):
8. Any other information considered relevant:

Part B

Declaration

I / we declare that:

- Collection of the proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection of the proposed biological resources shall not entail any environmental impact;
- Collection of the proposed biological resources shall not pose any risk to the ecosystems;
- Collection of the proposed biological resources shall not adversely affect the local communities;

I/we undertake to pay any fee as may be levied by the Board or Biodiversity Management Committees. I/we further undertake to furnish any irrevocable bank guarantee, as may be prescribed by the Board

I / we further declare that the information provided in the application form is true and correct and I / We shall be responsible for any incorrect / wrong information.

Signed

Name

Title

Place

Date

FORM IA

[See rule 4 (5)]

**Application form for voluntarily disclosing access to biological
resources for the purpose for research or bio-survey or
bio-utilization by Indian or Indian entities**

Part A

- (i) Full particulars of the applicant :
 - (ii) Name :
 - (iii) Permanent address:
 - (iv) Address of the contact person/ agent, if any :
 - (v) Profile of the organization (personal profile in case the applicant is an individual). Please attach relevant documents of authentication:
 - (vi) Name of business/R & D project:
1. Details and specific information about nature of access sought and biological material to be accessed:-
 - (a) Identification (scientific name/ names) of biological resource/ Resources and its/their traditional use:
 - (b) Geographical location of the proposed collection (please give names of the block and the adjoining villages):
 - (c) Description / nature of the traditional knowledge (oral / documented), if any:
 - (d) Any identified individual / community holding the traditional knowledge:
 - (e) Quantity of the biological resources to be collected (also give the schedule):
 - (f) Time span in which the biological resources are proposed to be collected:
 - (g) Name and number of the persons authorized by the company/ research agency for making the selection:
 - (h) Type and extent of research:
 - (i) Whether any collection of the resource endangers any component of biological diversity and the risks which may arise from the access:
 2. Details of any National / State institution which will participate in the Research and Development activities:

3. Primary destination of the accessed resource and identity of the location where the Research and Development will be carried out:
4. Any other information considered relevant:

Part B

Self Declaration

I / we declare that:

- Collection of the proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection of the proposed biological resources shall not entail any environmental impact;
- Collection of the proposed biological resources shall not pose any risk to the ecosystems;
- Collection of the proposed biological resources shall not adversely affect the local communities;
- The collected resource will not be used for any commercial purpose.

I / we further declare that the information provided in the application form is true and correct and I / We shall be responsible for any incorrect / wrong information.

Signed

Name

Title

Place

Date

(KRTK 30, 1938 SAKA)

FORM II

[See rule 12 (1)]

Form of Memorandum of Appeal**BEFORE THE _____ APPELLATE AUTHORITY**

(Memorandum of appeal under section 50 of the Biological Diversity Act, 2002)

Appeal No. _____ of 20

-----Appellant

(s)

Vs.

Respondent (s)

(mention the designation of the Authority /Board, as the case may be)

The appellant begs to prefer this Memorandum of Appeal against the order/ dispute arises between (the Board and a Committee or between two Committees on account of implementation of any order or direction or on any other subject, the Board or such Committee) dated _____ passed by the Respondent on the following facts and grounds.

1. FACTS:

(Here briefly mention the facts of the case):

2. GROUND:

(Here mention the grounds on which the appeal is made):

(i)

(ii)

(iii)

3. RELIEF SOUGHT

- (i)
- (ii)
- (iii)

4. PRAYER

- (a) In the light of what is stated above, the appellant respectfully prays that the order/decision of the respondent be quashed / set-aside
- (b) The policy/guidelines/regulation framed by the Respondent be quashed/ modified/annulled to the extent _____

- (c) _____

Place: _____

Signature of the appellant

Date: _____

with seal

Address:

VERIFICATION

I, the appellant do hereby solemnly affirm and declare that above information is true to the best of my knowledge and belief.

Verified on _____ day of _____

Signature of the appellant
with seal Address

Signature of the Authorized representative of the appellant

Enclosures: 1. Authenticated copy of the order/direction/policy decision, against which the appeal has been preferred.

FORM III

[See rule 12 (3)]

**BEFORE THE _____ APPELLATE AUTHORITY, PUNJAB
BIODIVERSITY BOARD, SECTOR 26, CHANDIGARH**

Appeal No. _____ 20

Between:

.....Appellant (s)

Vs.

.....Respondent (s)

NOTICE

Please take notice that the above appeal filed by the appellant, against the order / direction / policy decision (give details) is fixed for hearing on _____ at _____.

The copies of the appeal memorandum and other annexure filed along with the appeal are sent herewith for your reference.

Please note that if you fail to appear on the said date or other subsequent date of hearing of the appeal, the appeal would be disposed of finally ex-parte.

Authorized signatory on behalf of the Appellate Authority (Seal)

Date: _____

Place: _____

ANURAG VERMA,

Secretary to Government of Punjab,
Department of Science, Technology and Environment.