

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 10th December 2008

NOTIFICATION

BIOLOGICAL DIVERSITY ACT, 2002.

No.WLP. 1004/C.R.226/F-1.—In exercise of the powers conferred by sub-section (1) of Section 63 of the Biological Diversity Act, 2002 (18 of 2003), the Government of Maharashtra hereby makes the Following Rules namely :-

1. *Short Tital and Commencement.*—(1) These rules may be called the Maharashtra Biological Diversity Rules 2008.

(2) These rules shall come into force on the date of their publication in the *Maharashtra Government Gazette*.

2. *Definitions.*—(1) In these rules unless the context otherwise requires—

(a) "Act" means the Biological Diversity Act, 2002 (No. 18 of 2003);

(b) "Authority" means the National Biodiversity Authority established under sub section (1) of section 8 of the Act;

(c) "Board" means the Maharashtra State Biodiversity Board established under section 22 of the Act;

(d) "Biodiversity Management Committee" means a Committee established by the local bodies under section 41 of the Act;

(e) "Chairperson" means the Chairperson of the Maharashtra State Biodiversity Board;

(f) "Fee" means any fee stipulated in the Schedule of these Rules;

(g) "Form" means form appended to these Rules;

(h) "State Government" means the Government of Maharashtra;

(i) "Member" means the member of Maharashtra State Biodiversity Board and includes the Chairperson thereof;

(j) "Section" means a section of the Act;

(k) "Member Secretary" means the Member Secretary of the Maharashtra State Biodiversity Board;

(2) Words and expressions used but not defined herein and defined in the Act shall have the same meaning respectively assigned to them in the Act.

3. *Manner of selection and appointment of the Chairperson.*—(1) Every appointment of the Chairperson under clause (a) of sub section (4) of section 22 shall be made by selection of an eligible eminent person possessing in-depth knowledge and long experience in the conservation and sustainable use of biodiversity and in matters relating to the equitable sharing of the benefits. The person so selected shall not be a serving Government officer.

(2) The Chairperson of the Board shall be appointed by the State Government.

(3) The appointment under sub rule (2) will not be that of a serving officer of the Government and it shall be done on the recommendation of a three members search committee, headed by the Chief Secretary, appointed for the purpose.

4. *Term of office of the Chairperson.*—(1) The Chairperson of the Board shall hold the office for a term of three years and shall be eligible for re-appointment, provided that no Chairperson shall hold office beyond the age of 65 years.

(2) The Chairperson may resign from his office by giving at least one month notice in writing to the State Government.

(3) Notwithstanding any other provision of these rules, continuance of the Chairperson in the office shall be at the pleasure of the State Government.

5. *Pay and Allowance of the Chairperson.*—The Chairperson shall be entitled to such salary, allowances, leave, house and other perquisites, as may be determined by the State Government from time to time.

6. *Nomination and Term of office and Allowances of non-official members.*—(1) Five non-official members from amongst the 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 shall be nominated by the State Government. Such experts may also be from the field of Research and Academic. Not less than two of these five members shall be experts from local communities.

(2) The non-official member of the Board shall hold the office for a term not exceeding three years at a time from the date of his nomination.

(3) The non-official Member shall be entitled to sitting allowance, travelling expenses, daily allowance and to such other allowances, as may be fixed by the State Government for attending the meeting(s) of the Board.

7. *Filling up of vacancies of non-official members.*—(1) A non-official member of the Board may resign his office at any time by giving in writing a letter in his own handwriting addressed to the Secretary in charge of the Forest Department in the State Government and delivered in his office and the seat of that member in the Board shall become vacant.

(2) A casual vacancy in the Board shall be filled up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the member, in whose place he was nominated.

8. *Removal of the Members of the Board.*—No member of the Board shall be removed from the office on any grounds specified in section 11 without due and proper enquiry by an officer not below the rank of Principal Secretary appointed by the State Government for the purpose and without giving a reasonable opportunity to the member of being heard.

9. *Appointment of the Ex-officio Member.*—A maximum of five ex-officio members shall be appointed from amongst the following department/organizations of the State Government as long as they hold their respective office :—

- (1) Secretary, Agriculture Department ;
- (2) Secretary, Tribal Development Department ;
- (3) Principal Chief Conservator of the Forests ;
- (4) Vice Chancellor of any one Agriculture University of the State for a minimum of one year by rotation ;
- (5) Member Secretary, Maharashtra State Bio-diversity Board ;
- (6) Secretary, Animal Husbandry Department ;
- (7) Secretary, Fisheries Department.

10. *Head Office of the Board.*—The Head Office of the Board shall be at Mumbai.

11. *Member Secretary of the Board.*—(1) The Member Secretary shall be appointed by the State Government on deputation from a member of the State Cadre of the Indian Forest Service in the rank of Chief Conservator of Forest. His terms and conditions of appointment shall be determined by the State Government in accordance with the Provisions of All India Services Rules.

(2) The Member-Secretary shall be responsible for the day to day administration of the Board, management of funds and implementation of various activities of the Board under the guidance of the Chairperson of the Board.

(3) All orders or instructions to be issued by the Board shall be under the signature of the Member-Secretary or of any other officer authorized in this behalf by the Board.

(4) The Member-Secretary either himself or through an officer authorized for the purpose may sanction and disburse all payments against the approved budget.

(5) Upon delegation of administrative and technical powers by the Board, the Member-Secretary shall have powers of the Head of the Department to give administrative and technical sanctions to the estimates.

(6) The Member-Secretary shall be in charge of all the confidential documents of the Board and shall be responsible for their safe custody; he shall produce such documents whenever so directed by the Board or the Government.

(7) The Member-Secretary shall write and maintain confidential reports of all the officers and staff of the Board.

(8) The Member Secretary shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board;

12. *Meetings of the Board.*—(1) The Board shall meet at least four times in a year normally after three months at the Head Quarters of the Board or at such other place as may be decided by the Chairperson.

(2) The Chairperson shall, upon a written request from not less than five members of the Board or upon a direction of the State Government, call a special meeting of the Board.

(3) The member shall be given at least fifteen days notice of an ordinary meeting and at least three days notice of a special meeting specifying the purpose, the time and the place, at which such meeting is to be held.

(4) Every meeting shall be presided over by the Chairperson and in his absence, by a presiding officer to be elected by the members present from amongst themselves.

(5) The decision of the Board shall, if necessary, be taken by a simple majority of the members present and voting and the Chairperson or in his absence; the member presiding shall have a second or casting vote.

(6) Each member shall have one vote.

(7) The quorum for the meeting of the Board shall be five, Presence of two non official members shall be mandatory.

(8) No member shall be entitled to bring forward for the consideration of a meeting any matter of which he has not given ten days's notice unless the Chairperson in his discretion permits him to do so.

(9) Notice of the Meeting may be given to the member by delivering the same by messenger or sending it by registered post to is last known place of residence or in such other manner, as the Member-Secretary of the Board may, in the circumstances of the case, thinks fit.

(10) In addition, the Board may evolve such other procedure for the transaction of its business as it may deem fit and proper.

13. *Appointment of Expert Committee by the Board and their entitlements.*-(1) The Board may constitute any number of Committee for such purposes as it may deem fit consisting wholly of members or wholly of other persons or partly of members or partly of other persons.

(2) The members of the expert Committee other than the members of the Board shall be paid such fees and allowances for attending the meetings, as the Board may deem fit.

(3) The Board may invite any person, whose assistance or advice is considered useful to obtain in performing any of his function, and so participate in the deliberations of any of its meeting and such person associated with the Board shall be entitled to get allowances, as specified by the Board by Regulations from time to time.

14. *General functions of the Board.*-In particular and without prejudice to the generality of other provisions, the Board may perform the Following functions :-

(i) Advise the State Government on any matter concerning conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge ;

(ii) regulate by granting of approvals or otherwise requests for commercial utilisation or bio-survey and bio-utilisation of any biological resource by resident Indian nationals or from industrial registered in India which have at least 51% Share capital of Indian citizens.

(iii) lay down the procedure and guidelines to carry out the functions provided under section 23 of the Act ;

(iv) provide technical assistance and guidance to the departments of the State Government ;

(v) Facilitate updating and implementation of State Bio-diversity Policy and Action Plan ;

(vi) commission studies and sponsor investigations and research ;

(vii) engage consultant 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 the period of three years, the Board shall seek prior approval of the State Government for such an engagement ;

(viii) collect, compile and publish technical and statistical data, manuals, codes, rules, regulations guidelines etc. relating to the conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefit arising out of the use of biological resource and knowledge ;

(ix) facilitate a comprehensive awareness campaign using a range of media regarding conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge ;

(x) Plan and organise training of personnel engaged or likely to be engaged in programmes for the conservation of biodiversity and sustainable use of its components ;

(xi) take step to build up database and to create information and documentation system for biological resources and associated traditional knowledge through biodiversity registers and electronics data bases, to ensure effective management, promotion and sustainable utilization of these resources ;

(xii) give direction to the local bodies/Bio-diversity Management Committees in writing and through appropriate oral means for effective implementation of the act, and to facilitate their meaningful participation in all measures relating to conservation, sustainable use, and equitable benefits-sharing ;

(xiii) report to the State Government about the functioning of the Board and implementation of the Act the rules made there under ;

(3) The Chairperson shall convene and preside over all the meeting of the Board and shall ensure that all decisions taken by the Board are implemented in a proper manner.

(4) The chairperson shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board.

16. *Terms and Conditions of Service of employees of the Board.*—(1) The terms and conditions of the employees of the Board shall be the same as those of corresponding scale of pay under the State Government. The appointments in general shall be on contractual basis or on deputation, unless otherwise decided by the State Government.

(2) The board shall approve the method of recruitment to the posts in the Board.

17. *Procedure for access to and collection of biological resource.*—(1) Any person seeking access to and collection of biological resources and associated knowledge for reserch or for commercial utilization shall make as application to the Board in form I appended to these rules. Every application shall be accompanied by a fee of Rs. 500 in case such access is for research purpose and Rs. 5000 for commercial utilization, and shall be in the form of a cheque or demand draft, four fifth of which shall be refunded to the applicant in case of rejection of the application.

(2) The Board, after due appraisal of the application and after consultation with the concerned local bodies and after collecting such additional information, as it may deem necessary, shall decide the application, as far as possible within a period of 3 months of receipt of the same.

Explanation.—for the purpose of these rules the terms “consult”, includes any of the following steps, (a) issuing of public notice, in local languages, of the proposal for access or collection; (b) discussion or dialogue with general assembly of the local body; or (c) formal consent from the assembly after being provided adquate information about the proposal and its implications for conservation and livelihoods.

(3) The Board may on being satisfied allow the application or restrict any such activity if it is of the opinon that such activity is determental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity.

(4) A written agreement duly signed by an authorized officer of the Board and the applicant shall govern the acces/collection. The Form of the agreement shall be decided by the Board.

(5) The conditions for access to /collection may specifically provide measures for conservation and protection of biological resources to which the access to/collection is being granted.

(xiv) recommend, prescribe, modify and collect the fee for biological resources from time to time ;

(xv) to devise methods to ensure protection of right including intellectual property right over biological resources and associated knowledge including systems of maintaining confidentiality of such information as appropriate including the protection of the Information recorded in people Biodiversity Registers ;

(xvi) sanction grants-in-aid and grants to the Biodiversity Management Committees for specific purposes ;

(xvii) undertake physical inspection of any area in connection with the implementation of the Act ;

(xviii) ensure that biodiversity and biodiversity dependent livelihoods are integrated into all sectors of planning and management, and at all levels of planning from local to state, to enable such sectors and administrative levels to contribute effectively for conservation and sustainable use ;

(xix) prepare the annual Budget of the Board incorporating its own receipts as also the devaluation from the State and Central Government ;

(xx) exercise full powers to grant technical and administrative sanctions to all the estimates ;

(xxi) recommend creation of posts to State Government, for effective discharge of the functions by the Board and so create such posts, provided that no such post whether permanent/temporary or of any nature, would be created without prior approval of the State Government; perform such other functions, as may be necessary to carry out the provisions of the Act or as may be prescribed by the State Government from time to time ;

(xxiii) shall have power to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same.

(xxiv) give such research project to a University or a Research Institute where the Board feels it is necessary to carry out a research project to solve a specific problem or to treat a specific problem.

15. *powers and Duties of the Chairperson.*-(1) The Chairperson shall ensure that the affairs of the Board are run efficiently and in accordance with the provisions of the Act and the rules made there under.

(2) The Chairperson shall have the powers of general superintendence over the officers and staff of the Board and, for this purpose, he may issue necessary directions for the conduct and management of affairs of the Board.

(6) The Board may reject the application if it considers that the request cannot be acceded to after recording the reasons therefor : Provided that, no such order shall be passed without giving the applicant a reasonable opportunity of being heard.

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

18. *Revocation of access or approval.*—(1) The Board may either on the basis of any complaint or *suo moto* withdraw the access granted and revoke the written agreement under the following conditions :

(i) on the basis of reasonable belief that the person accessing the said bio-resource has violated any of the provisions of the Act or the condition on which application was allowed ;

(ii) when the person has failed to comply with the terms of agreement;

(iii) on failure to comply with any of the conditions of access ;

(iv) on account of overriding public interest with reference to protection of environment and conservation of biological diversity, and protection of the rights, livelihoods and knowledge of local communities.

(2) The revocation order shall be made only after making such inquiries as required after giving the person so affected an opportunity of being heard.

(3) The Board shall sent a copy of such revocation order to the Biodiversity Management Committee concerned for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

19. *Restriction on activities related to access to biological resources.*—

(1) The Board if it deems necessary and appropriate, shall take steps to restrict or prohibit the proposal for access to biological resources for the following reasons ;

(i) the request for access is for any threatend taxa, or taxa that is likely to become threatened due to such access ;

(ii) the request for access is for any endemic and rare species ;

(iii) the request for access is likely to result in adverse effect on the livelihoods, culture, or indigenius knowledge of the local people ;

(iv) the request to access may result in adverse environmental impact which may be difficult to control and mitigate ;

(v) the request for access may cause genetic erosion and/or affect the ecosystem function ;

(iv) there is reason to believe that the resources may be used for purposes contray to national interest and other related international agreements entered into by the country.

(2) Any order of restriction shall be made only after making such inquiries as required, consulting the concerned local bodies and Biodiversity Management Committees and giving the person so affected an opportunity of being heard.

20. *Operation of State Biodiversity Fund.*—(1) The State Biodiversity Fund, (hereinafter referred to as "the Fund") shall be operated by the Member-Secretary of the Board or by any such other officer of the Board as may be authorized by the Board in this behalf.

(2) The Fund shall have two separate heads of accounts, one relating to the receipts (Grants and Loans) from the Central Government/National Biodiversity Authority/State Government, including receipts from such other sources as decided by the Board, and, the other concerning the fee, licence fee, royalty and other receipts of the Board.

(3) The Board shall frame guidelines on ways to ensure that decisions regarding the management and use of the Fund are transparent and accountable to the public.

21. *Annual Report and Annual Statement of Accounts.*—(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.

(2) The Board shall lay down the procedure for maintenance and audit of the accounts in such manner as may, in consultation with the Accountant General of Maharashtra State, be specified.

(3) The Board shall submit the Annual Report together with the audited statement of accounts for each financial year to the State Government by September each year so as to enable the State Government to lay the reports before both the Houses of State Legislature.

22. *Establishment and Management of Bio-diversity Heritage Site.*—

(1) The Board may, in consultation with the local bodies and other key stakeholders, take necessary steps to facilitate setting up of areas of significant bio-diversity values as Heritage Sites. Following recommendation from the Board and after consultation with the Central Government, the State Government may issue a notification to this effect.

(2) The Board shall frame guidelines for the selection, management and other aspects of heritage sites, ensuring that these provide a decision-making role for the relevant Biodiversity Management Committees.

23. *Constitution of Biodiversity Management Committees (1) District level committee.*—(a) A district level committee shall be constituted for the implementation of the provisions of the Biological Diversity Act, 2002.

(b) The constitution of District Level Committee shall be as follows :-

Collector	Chairman
Chief Executive Officer, Zilla Parishad	Member
District Health Officer	Member
President, Agriculture and Animal Husbandry Committee, Z. P.	Member
President of local NGO Operating in the District for common cause	Member
Microbiologist	Member
Chemist and Druggist Association	Member
Ayurvedic Association	Member
Ornithologist	Member
District Head of Fisheries Department .	Member
Representative, Zoo Advisory Board	Member
An Expert from Water/Irrigation Department	Member
Deputy Director, Social Forestry	Member
District Superintendent Agriculture Officer (for Non-forest Area)	Member
Deputy Conservator of Forest (For Forest Area)	Nodal Officer.

The committee will assist the Biodiversity Management Committees at the appropriate levels according to the sub-rule 23 (8) of these rules.

(2) Every local body that is to say Zilla Parishad, Panchayat Samiti and Gram Panchayat level in the case of rural areas and at Municipal Council, Nagar Panchayats and Municipal Corporation level in the urban areas shall constitute a Bio-diversity Management Committee.

(3) The Biodiversity Management Committees for the villages under sub-rule (2) shall be constituted as development sub committees of the Gram Sabha at the village level in accordance with section 49 of the Bombay Village Panchayats Act, 1958. In all other cases, these committees shall have seven persons nominated by the local body, of whom not less than one third shall be women. Seven local knowledgeable persons being so nominated should be drawn from amongst the herbalists, agriculturist, Non Timber Forest Produce Collectors or traders, fisherfolk, representatives of user associations, community workers, academicians and any person or representative of organization, on whom the local body trusts that he can significantly contribute to the mandate of the Biodiversity Management Committee. The Proportion of member belonging to the Schedule Caste

and the Scheduled Tribe shall be the as nearly as may be the same proportion of Scheduled Caste or Scheduled Tribe population to the other population of the district, where such a committee is set up. All the above should be residents within the said local body limits and be registered in the voters list of the area.

(4) The local body may nominate six special invitees from forest, agriculture, livestock, health, fisheries and education department.

(5) Except in the case of Village level committees, the chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be presided over by the chairperson of the local body. The Chairperson of the local body shall have the casting vote in case of a tie.

(6) The chairperson of the Biodiversity Management Committee shall have a tenure co-terminous with the term of the local Body.

(7) The local Member of the Legislative Assembly and member of parliament would be special invitees to the meetings of the Biodiversity Management Committees constituted for Panchayat Samiti, Zilla Parishad, Municipal Councils, Nagar Panchayats and Municipal Corporations.

(8) A technical support group comprising of experts in the field of biodiversity drawn from government agencies, Non Government Organisations, academic field, community and individuals shall be established by Zilla Parishad or Municipal Administration concerned. The expert group shall lend support to Biodiversity Management Committees at the appropriate levels.

(9) The key mandate of the Biodiversity Management Committees will be to ensure conservation and sustainable utilization of biological resources and equitable sharing of benefits accruing from the local biodiversity. The Biodiversity Management Committees shall facilitate preparation of People's Biodiversity Registers. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them. The District and Taluka Level Biodiversity Management Committees, set up at the Zilla Parishad and Panchayat Samiti levels, shall be responsible for developing a district or Taluka wide network of People's Biodiversity Registers database. The People's Biodiversity Registers shall be prepared at the Gram Panchayat or Municipal Council or Municipal Corporation as the case may be, level by using the process and the format specified by the Board. The Biodiversity Management Committees and local bodies shall ensure the protection of the knowledge recorded in the People's Biodiversity Registers especially to regulate its access to outside agencies and individuals.

(10) The Board shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers, and shall ensure that all information recorded in such Registers receives legal protection against misuse and appropriation by outside agencies and individuals.

(11) The Committee shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted, details of the collection fee imposed and details of the benefits derived and the mode of their sharing.

(12) The Biodiversity Management Committee, at Gram Panchayat or Municipal Council, Nagar Panchayat or Municipal Corporation as the case may be, may decide the terms on which it would permit access to Biodiversity resources and associated knowledge to different parties for various purposes within their jurisdiction and levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purpose from the area falling within its jurisdiction. The major share of levy charged for the material collected/ cultivated from private land should be given to the owner/cultivator of the land/knowledge holder/s and the balance should be deposited in Local Biodiversity Fund of the Biodiversity Management Committee. The levy charge for the material collected/ cultivated from government land should be totally deposited in local Biodiversity Fund of Biodiversity Management Committee.

(13) The Board shall provide guidelines for terms of access and fee collection by the Biodiversity Management Committees.

(14) The Zilla and Taluka Biodiversity Management Committees shall strive to mainstream Biodiversity conservation concerns in the developmental planning at the local level.

(15) The Gram Panchayat or Municipal Council, Nagar Panchayat or Municipal Corporation level Biodiversity Management Committees shall prepare a Biodiversity Management Plan using information from People's Biodiversity Register and will be responsible for or participate in its implementation.

(16) The Local bodies shall ensure that the Biodiversity management Committees are integrated with the functioning of existing local institutions by cross-membership, regular co-ordination meetings, and other such measures, as determined by the local bodies or as specified by the Board.

(17) The other function of the Biodiversity Management Committees are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local vaidus and practitioners using the biological resources.

24. *Local Bio-diversity Fund.*—(1) A local Bio-diversity fund shall be constituted for each Biodiversity Management Committee.

The Board shall provide to the local body any loan or grant received by it from State Government, Central Government or from the Authority for the purpose of the Act. The local body can also access such funds from other sources as it identifies, or as specified by the Board.

(2) The local Biodiversity fund shall be operated by the Biodiversity Management Committees. The Board shall lay down the operational guidelines for operation of the fund by the Biodiversity Management Committees, including ways in which its functioning is transparent and accountable to all members of the relevant local body.

(3) The fund shall be used for the conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the local community in so far such use is consistent with conservation of bio-diversity.

(4) The account of the local biodiversity fund shall be maintained in such forms at such intervals as may be specified by the Board.

(5) The Biodiversity Management Committees shall prepare its annual report giving full account of its activities during the previous financial year, and submit a copy thereof to the Board and a copy to the general assembly of the local body.

25. *Appeals.*—(1) If a dispute arise between the Authority and Board or between one Board and other Board (s) on account of implementation of any order/ direction or on any issue of policy decision, either of the aggrieved parties i.e. Authority or the Board, as the case may be, prefer an appeal under Section 50 of the Act, in Form II appended to these rules to the Secretary, Ministry of Environment and forests Government of India or to the Chairperson National Bio-diversity Authority in the case of dispute between one Board and other Board.

(2) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant and the relief sought for, for preferring the appeal and shall be accompanied by an authenticated copy of the order, direction or policy decision, as the case may be, by which the appellant is aggrieved. The memorandum of appeal shall be duly signed by the authorized representative of the appellant.

(3) The Memorandum of appeal shall be submitted in quadruplicate accompanied with the authenticated copy of the order, directions or policy decisions as the case may be, by which the appellant is aggrieved, either in person or through a registered post with acknowledgement due, within 30 days from the date of the order, direction or policy decision. Provided that

if the appellate authority is satisfied that there was good and sufficient reason for the delay in preferring the appeal, the appellate authority, for reasons to be recorded in writing allow the appeal to be preferred after the expiry of the aforesaid period of 30 days but before the expiry of 45 days from the date of the order, direction, or policy decision as the case may be.

(4) The notice for hearing of the appeal shall be given by registered post with an acknowledgement due.

(5) Every memorandum of appeal shall be accompanied by a fee of Rs. 500.

(6) The procedure laid down by the Board shall apply after making appropriate changes for settlement of disputes between Board and the Biodiversity management Committees or amongst Biodiversity Management Committees, and between Biodiversity Management Committee and relevant local bodies.

Maharashtra State Biodiversity Board

FORM I

(See Rule 17)

Application form for access to/collection of Biological resources for commercial utilization and associated traditional knowledge

Part 'A'

1. Full particulars of the applicant
 - (a) Name:
 - (b) Permanent address :
 - (c) Address of the contact person/agent, if any, in India :
 - (d) Profile of the organization (personal profile in case the applicant is an Individual). (Please attach relevant documents of authentication) :
 - (e) Nature of Business :
 - (f) Turnover of the organization in Indian Rupee
2. Details and specific information about nature of access sought and biological material and /or associated knowledge to be accessed
 - (a) Identification (scientific name and local name) of Biological resources and its traditional use :
 - (b) Geographical Location (Including Village, Taluka and district) of proposed collection :
 - (c) Description/nature of traditional knowledge and its existing manifestations and uses (oral/documented) :
 - (d) Any identified individual/family/community holding the traditional knowledge :

(e) Quantity of Biological resources to be collected and methodology to be used for its collection :

(f) Time span in which the Biological resources are proposed to be collected :

(g) Name and number of person authorized by the company for making the collection :

(h) The purpose for which the access is requested including the type and extent of research commercial use being derived and expected to be derived from it :

(i) Whether any collection or use of the resource endangers any component of biological diversity and the risks which may arise from the access and whether such use and collection would be sustainable in perpetuity.

(ii) Explanation as to how such use and collection is sustainable in perpetuity.

3. Estimation of benefit, that would flow to communities arising out of the use of accessed bio-resources and traditional knowledge.

(4) Proposed mechanism and arrangements for benefit sharing.

(5) Any other information.

Part ' B '

Declaration

I/we declare that :

Collection and use of proposed biological resources shall not adversely affect the sustainability of the resources :

Collection and use of proposed Biological resources shall not entail any irreversible environmental impact :

Collection and use of proposed biological resources shall not pose any risk to biodiversity, including ecosystems, species and genetic diversity :

Collection and use of proposed biological resources shall not adversely affect the local communities :

The approval/no objection letter of the Biodiversity Management Committee of the area from which the Collection is proposed has been obtained

I/we undertake to pay any fee and/or royalty, 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 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 :

Maharashtra State Biodiversity Board

FORM II

(See rule 25)

Form of Memorandum of Appeal

BEFORE THE ———— MINISTRY OF ENVIRONMENT AND
FORESTS, GOVERNMENT OF INDIA, NEW DELHI

OR

NATIONAL BIODIVERSITY AUTHORITY

(as the case may be)

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

Appeal No. of 200

.....Appellant(s)

Versus.

.....Respondent (s)

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

The appellant begs to prefer this Memorandum of Appeal against the
order dated———passed by the Respondent on the following facts
and grounds.

1. FACTS :

(Here briefly mention the facts of the case) :

2. GROUNDS :

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

(i)

(ii)

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/rules/regulations framed by the Respondent be quashed/modified/annulled to the extent—

(c) _____

5. The amount of Rs. _____ (Rupees _____) as fee for this appeal has been paid to—vide order No. _____ dt. _____

Place : _____

Signature of the appellant

with Seal.

Address :

VERIFICATION

I, the appellant do hereby declare that what is stated above is true to the best of my information and belief.

Verified on—day of—

Signature of the appellant

with Seal.

Address :

Signature of the Authorised representative of the appellant.

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

Maharashtra State Biodiversity Board

FORM III

FORM OF NOTICE

(See Section 61(b))

By Registered Post/Acknowledgement due

From,

Shri _____

To, _____

Sub.—Notice Under Section 61 (b) of

The Biological Diversity Act, 2002

Whereas an offence under *sub-section (1) / (2)* of section 55 / Section 56 of the Biological Diversity Act, 2002 has been committed/is being committed by _____

2. I/we hereby give notice of 30 days under Section 61 (b) of the Biological Diversity Act, 2002 of my / our intention to file a complaint in the Court against _____ for violation of the provisions of the Biological Diversity Act, 2002.

3. In support of my / our notice, I am / we are enclosing herewith the following documents as evidence of proof.

Place : _____

Dated : _____

Signature

Explanation.—(1) In case the notice to be given in the name of a company, documentary evidence authorising the person to sign the notice on behalf of the Company shall be enclosed to the notice.

(2) Give the name and address of the alleged offender. In case of using biological resource/knowledge/research/bio-survey and bio utilisation, the intellectual property right, patent, without the approval of the Authority, the details thereof and the commercial utilisation if any, may be furnished.

(3) Documentary evidence shall include photograph, technical report etc. for enabling enquiry into the alleged violation.

By order and in the name of the Governor of Maharashtra,

J. P. DANGE,
Additional Chief Secretary
to Government.