

Government of Odisha
Forest & Environment Department

No-10, F (TR)-52/2012 22461 /F&E, Dt. 03.12.12

Notification

In exercise of the powers conferred by sub-sections (1) and (2) of Section 63 of the Biological Diversity Act, 2002 (No.18 of 2003), the State Government hereby makes the following rules, namely:-

1. **Short title and commencement:**
 - (1) These rules may be called the Odisha Biological Diversity Rules, 2012.
 - (2) They shall come into force on the date of their publication in the official gazette of the State.
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 Odisha Biodiversity Board established under section 22 of the Act;
 - (d) "Committee" means Biodiversity Management Committee established by the local bodies under sub-section (1) of section 41 of the Act.
 - (e) "Chairperson" means the chairperson of the Odisha State Biodiversity Board.
 - (f) "Fee" means any fee prescribed in these rules.
 - (g) "Form" means form appended to these rules.
 - (h) "Member" means member of the National Biodiversity Authority or Odisha Biodiversity Board and includes the chairperson as the case may be .
 - (i) "Member Secretary" means the Member Secretary of the Board.
 - (j) "Section" means section of the Act.
 - (k) "State Government" means the Government of Odisha.
 - (l) 'Year' means the financial year commencing on the 1st day of April.
 - (2) The words and expressions used but not defined in these rules 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) The Chairperson of the Board shall either be Secretary to Government in Forest & Environment Department or an eminent person having adequate knowledge and experience in the conservation and sustainable use of biodiversity and in matters relating to equitable sharing of the benefits or a person considered suitable for the post by the State Government. Provided that when the charge of the chairperson of the Board is held by the Secretary to Government in Forest and Environment Department he has to hold it as full additional charge and shall exercise his powers independently as Chairperson of the Board.

- (2) The Chairperson of the Board shall be appointed by the State Government.
4. **Term of Office of the Chairperson:**
- (1) The Chairperson of the Board shall hold office for a term not exceeding 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 one month's notice in writing to the State Government.
 - (3) The Chairperson shall be entitled to such salary and allowances as may be determined by the State Government from time to time.
 - (4) The chairperson may be removed from the Board at any time for the reasons specified in section 11 of the Act provided that no such order shall be passed without prior approval of the State Government.
5. **Nomination/ Selection Procedures term of office and allowances of non-official members:**
- (1) The non-official members of the Board shall be appointed for a term not exceeding three years at a time from the date of nomination. *They will be nominated/ selected based on their experience in field of biodiversity conservation, sustainable use of natural resources, sharing of benefits arising out of biological resources to the local population, sociological/anthropological knowledge and knowledge/ experience in other related fields.*
 - (2) The non-official members shall be entitled to such allowances, as may be fixed by the State Government for attending the meeting(s) of the Board.
 - (3) A non-official member of the Board may resign from his office at any time by sending a signed letter to the State Government and the seat of that member in the Board shall become vacant.
 - (4) 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 for the remainder of the term of the member, in whose place he was nominated.
6. **Appointment of the ex-officio members:**
- Not more than five ex-officio members from the officers of the Departments dealing with the subjects of Forest, Environment, Agriculture, Fisheries, Animal Resource Development, ST & SC Development, Urban Development and Panchayati Raj, shall be appointed by the State Government to the Board.
7. **Removal of Members:**
- The State Government may remove from the Odisha Biodiversity Board any member who, in its opinion, has-*
- (1) been adjudged as an insolvent; or*
 - (2) been convicted of an offence which involves moral turpitude; or*
 - (3) become physically or mentally incapable of acting as a member; or*
 - (4) so abused his position as to render his continuance in office detrimental to the public interest; or*
 - (5) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.*
8. **Head office of the Board:** The Head Office of the Board shall be at Bhubaneswar.

Member Secretary of the Board:

- (1) The Member Secretary of the Board shall be appointed by the State Government from among the Members of the Board. His terms and conditions of appointment shall be determined by the State Government.
- (2) The Member Secretary shall be responsible for day-to-day functioning of the Board, management of funds and implementation of various activities of the programme under the guidance and control 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) The Member Secretary shall be in charge of all the confidential papers of the Board and shall be responsible for their safe custody. He shall produce such papers whenever so directed by the Board/State Government.
- (6) 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.

10. **Meetings of the Board:**

- (1) The Board shall meet at least once every quarter of a year and more frequently if necessary if necessary.
- (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 special meeting of the Board.
- (3) Fifteen days notice for an ordinary meeting and three days notice for a special meeting specifying the purpose, the time and the place at which such meeting is to be held, shall be given to the members.
- (4) The decision of the Board at a meeting shall, if necessary, be taken by a simple majority of the members present.
- (5) Each member shall have one vote. In case of tie, the chairman will have the casting vote.
- (6) Quorum for the meeting of the Board shall be five.
- (7) In addition, the Board may evolve such other procedures for the transaction of its business as it may deem fit and proper.

11. **Appointment of Committees by the Board and their entitlements:**

- (1) The Board may constitute any number of Committees for such purposes as it may deem fit consisting of members of the Board and/or 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 decide.
- (3) The Board may invite any person, whose assistance or advice is considered useful in performing any of its functions and to participate in the deliberations of any of its meetings. Such person shall be entitled to get allowances as prescribed by the Board from time to time. The person so invited shall not have power to vote in the meeting of the Board.

12. **General functions of the Board:**

In particular and without prejudice to the generality of other provisions, the Board may perform the following functions; namely:-

- (1) Lay down the procedure and guidelines to govern the activities provided under section 23 of the Act;
- (2) 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;
- (3) Provide technical assistance and guidance to the departments of the State Government;
- (4) Regulate by granting of approvals or otherwise, the requests for commercial utilization, bio-survey and bio-utilization of any biological resource by Indian;
- (5) Facilitate updating and implementation of State Bio-diversity Strategy and Action Plan;
- (6) Commission studies and sponsor investigations and research;
- (7) Engage consultant for a specific period, not exceeding one year for providing technical assistance to the Board in the effective discharge of its functions: Provided that if it is necessary to engage any consultant beyond the period of one year, the Board shall seek prior approval of the State Government for such engagement;
- (8) Collect , compile and publish technical and statistical data, manuals, codes or guides relating to conservation of biological diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge;
- (9) Organize through mass media a comprehensive programme regarding conservation of biological bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising of the use of biological resource and knowledge;
- (10) Plan and organize training of personnel engaged or likely to be engaged in programmes for conservation of biological diversity and sustainable use of its components;
- (11) Take steps to build up database and to create information and documentation system for biological resources and associated traditional knowledge through Peoples Bio-diversity Registers and electronics data bases, to ensure effective management, promotion and sustainable uses.
- (12) Give directions to the Local Bodies and Bio-diversity Management Committees for effective implementation of the Act and to facilitate their meaningful participation in all measures relating to conservation, sustainable use and equitable benefit-sharing.
- (13) Report to the State Government about the functioning of the Board and implementation of the rules made there under.
- (14) Recommend, prescribe, modify, collect fee of biological resources from time to time.
- (15) To devise methods to ensure protection of rights including intellectual property rights over biological resources and associated knowledge while maintaining confidentiality of information, including information recorded in People's Biodiversity Registers.

- (16) Sanction grants-in-aid and grants to Bio-diversity Management Committee for specific purpose.
 - (17) Undertake physical inspection of any area in connection with the implementation of the Act.
 - (18) Ensure that biodiversity and biodiversity-dependent livelihoods are integrated into planning and management at all levels for effective conservation and sustainable use.
 - (19) Prepare the annual Budget of the Board incorporating its own receipts as also the devaluation from the State and Central Government provided that the allocation by the Central Government shall be operated in accordance with the budget provisions approved by the Central Government.
 - (20) Board shall have full powers for granting administrative and technical sanctions to all the estimates. It may delegate such administrative and technical sanction of powers to the Member Secretary of the Board, as may be deemed necessary.
 - (21) Recommend creation of posts to State Government, for effective discharge of the functions by the Board and to create such posts, provided that no such post whether permanent or temporary or of any other nature, would be created without prior approval of the State Government.
 - (22) Shall have power to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same with prior approval of the State Government.
 - (23) Perform such other functions, as may be necessary to carry out the provisions of the Act or as may be specified by the State Government from time to time.
13. **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 the Chairperson may issue necessary directions for the conduct and management of affairs of the Board.
 - (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 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
14. **Terms and Conditions of Service of employees of the Board:**
- (1) The terms and conditions of service of the employees of the Board shall be specified by the Board by regulations with prior approval of the State Government. The appointment may be on contractual basis or on deputation, unless otherwise decided by the State Government.
15. **Procedure for access to or collection of biological resources:-**
- (1) The intimation under section 24(1) of the Act shall be made to the Board in Form-1 as provided in Annexure-I of these rules and shall be accompanied by such fee, as may be fixed and notified by the Board with the prior approval of the State Government.
 - (2) The Board after consideration of the intimation shall take a decision as far as possible within a period of three months of receipt of the same.

- (3) On being satisfied with the merit of the application, the Board may allow the application or restrict any such activity if it is of the opinion that such activity is detrimental or contrary to the objective of conservation and sustainable use of the biodiversity or equitable sharing of benefits arising out of such activity.
- (4) The approval to access shall be through a written agreement duly signed by an authorized officer of the Board and the applicant. 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.
- (6) The Board may reject the application if it considers that the request can not be acceded to, after recording the reasons thereof. Before passing an order of rejection, the applicant shall be given a reasonable opportunity of being heard.

16. **Revocation of access or approval:**

- (1) The Board may either on the basis of any complaint or suo motto withdraws the access granted and revokes 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 the 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, livelihood, and knowledge of local communities.
- (2) The revocation order shall not be made without giving the person so affected an opportunity of being heard. However, the Board shall have the power to suspend such access, pending such inquiries and process.
- (3) The Board shall send a copy of such revocation order to the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

17. **Restriction on activities related to access to biological resources:-**

- (1) The Board, if it deems necessary and appropriate, shall take the steps to restrict or prohibit the proposal for access to biological resources for the following reasons:
 - (i) the request for access is for any threatened taxon or taxa that are 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 which is likely to result in adverse effect on the livelihood, culture or indigenous knowledge of the local people;
 - (iv) the request to access which may result in adverse environmental impact and be difficult to control and mitigate;
 - (v) the request for access which may cause genetic erosion or affecting the ecosystem function;
 - (vi) use of resources for purposes contrary to national interest and other related international agreements entered into by India.
- (2) Any order of restriction shall not be made without giving the person so affected an opportunity of being heard.

Operation of Odisha Bio-diversity Fund:

- (1) The Odisha Bio-diversity Fund shall be operated in a Nationalized Bank by the Member Secretary of the Board or by any such officer of the Board as may be authorized by the Board in this behalf.
- (2) The Odisha Bio-diversity Fund may have separate heads of accounts, namely:- one relating to the receipts (grants and loans) from the Central Government or National Bio-diversity Authority and State Governments including receipts from such other sources as decided by the Board; and the other concerning the fee, license fee, royalty and other receipts of the Board.
- (3) The Odisha Bio-diversity Board may receive the funds from national and international donor agencies by duly complying with the provisions of the Act and have the powers to prepare and submit such proposals and also execute such projects after the approval of the Board.

19. **Annual Report and Annual Statement of Accounts :**

- (1) The Board shall prepare its annual report for each financial year giving detailed accounts of its activities and annual statement of accounts and submit the same to the State Government within six months from the last of the financial year.
- (2) The Board shall lay down the procedure for upkeep of the accounts with prior approval of the state government. The accounts of the Board shall be audited annually by the Chartered Accountant appointed for the purpose by the Board. The Accountant General of the State may as well audit the accounts. The expenditure towards audit shall be payable by the Board.
- (3) The Board shall submit the Annual Report together with the audited statement of accounts for each financial year to the State Government by the end of September each year so as to enable the State Government to lay the reports before the Legislative Assembly.

20. **Establishment and management of Biodiversity Heritage Site:-**

- (1) The Board shall, 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.
- (2) The Board shall frame guidelines on the selection, management and other aspects of Biodiversity Heritage Sites.

21. **Constitution of Biodiversity Management Committee:**

- (1) Every local body shall constitute a Committee (BMC) within its area of jurisdiction. Accordingly the Committees are to be constituted at District, Panchayat Samiti and Gram Panchayat level as well as at Notified Area Council, Municipality and Municipal Corporation level.
- (2) The Committees constituted under sub-rule (1) shall have seven persons nominated by the local body of whom not less than half shall be women. Seven knowledgeable persons being so nominated shall be drawn from amongst the local herbalists, agriculturist, non-timber forest produce collectors/ traders, fisher-folk representatives, community workers, academicians and any person or representative or organization on whom the local body trusts that he can significantly contribute to the mandate of the Committee. The proportion of members belonging to the Scheduled Caste and the Scheduled Tribe shall not be less than Scheduled Caste/ Scheduled Tribe percentage of the District, where such a committee is set up. All the above shall be residents within the said local body limits and be in the voters list.

- (3) The local body shall nominate six special invitees from any of the departments such as Forest, Agriculture, Horticulture, Health, Fisheries & Animal Resource Development and Education.
- (4) The Chairperson of the 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.
- (5) The Chairperson of the Committee shall have tenure of three years.
- (6) The local Member of the Legislative Assembly and Member of Parliament or their representatives would be special invitees to the meetings of the Committee at District levels.
- (7) A technical support group comprising of experts in the field of biodiversity drawn from Government agencies, non-government organizations, academic field, community and individuals shall be established by district administration. The expert group shall lend support to Committees.
- (8) The key mandate of the Committees shall be to ensure conservation, sustainable utilization and equitable sharing of benefits from the biodiversity. The 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 values or any other use or any other traditional knowledge associated with them. The District and Panchayat Samiti Committee shall be responsible for developing a District or Panchayat Samiti wide network of People's Biodiversity Registers database. The People's Biodiversity Registers shall be prepared at Committee level by using the process and the format set by the Board. The Committees and local bodies will be responsible for ensuring the protection of the knowledge recorded in the People's Biodiversity Registers, especially to regulate its access to outside agencies and individuals.
- (9) The other functions of the 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 Vaidyas and practitioners using the biological resources.
- (10) The District Committees shall strive to streamline biodiversity conservation concerns in the developmental planning at the local level.
- (11) 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. The appropriation of information by outside agencies and individuals shall also be regulated by the Board and Committee.
- (12) 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.
- (13) The Committees 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 or cultivated from private land should be given to the owner or cultivator of the land or knowledge holder or holders and the balance shall be deposited in Local

Biodiversity Fund of Committee. The levy charged for the material collected or cultivated from Government land shall be totally deposited in Local Biodiversity Fund of Biodiversity Management Committee.

- (14) The Board shall provide detail guidelines for terms of access and fee collection by the Biodiversity Management Committees.
- (15) The District level Committees shall prepare a Biodiversity Management Plan using output from People's Biodiversity Register and shall be responsible for or participate in its implementation.
- (16) The local bodies shall ensure that the Committees are integrated with the functioning of existing local institutions by cross-membership, regular coordination meeting and other such measure as determined by the local bodies or as specified by the Board.

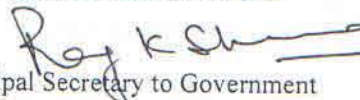
22. Local Biodiversity Fund:

- (1) The Local Biodiversity Fund shall be constituted at the level of local body. The Board shall provide to the local body any loan or grant received by it from State Government, Central Government or from the Authorities for the purposes 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 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.
- (3) The fund shall be deposited in a nationalized bank or scheduled bank approved by the Committee and it shall be operated by the chairperson of the committee under his seal and signature or any other member of Committee as may be authorized in this behalf. The Board shall lay down the operational guidelines for operation of fund by the Committees.
- (4) The 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.
- (5) The account of the Local Biodiversity Fund shall be maintained and audited in such manner, as may be specified by the Board.

23. Settlement of disputes:

The Board shall lay down the procedure 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.

By the order of the Governor


Principal Secretary to Government