

Standard Operating Procedure for Notification of Threatened Species Under Section 38 of the Biological Diversity Act, 2002

1. INTRODUCTION

1.1 Section 38 of the Biological Diversity Act, 2002 empowers the Central Government, in consultation with the concerned State Government, to notify any species of plants or animals that is on the verge of extinction or likely to become extinct in the near future as a threatened species. The Central Government may prohibit or regulate the collection of such species for any purpose and take appropriate measures for their rehabilitation and preservation.

1.2 The Biological Diversity Act, 2002 further provides that the Central Government may delegate its powers under Section 38 to a State Government. Where such powers have been delegated, the State Government shall consult the National Biodiversity Authority before issuing any notification under Section 38.

1.3 The objective of this Standard Operating Procedure is to establish a transparent, science-based, participatory framework for the identification, assessment, notification, conservation, rehabilitation, monitoring and periodic review of threatened species under Section 38 of the Biological Diversity Act, 2002.

2. GUIDING PRINCIPLES

2.1 The process for notification of threatened species shall be guided by the principles of scientific rigor, transparency, stakeholder participation, precautionary conservation, ecosystem approach and adaptive management.

2.2 Identification and assessment of species shall be based on the best available scientific information, field evidence and traditional knowledge, as appropriate.

2.3 The assessment process shall, as far as practicable, be consistent with internationally accepted standards, including the International Union for Conservation of Nature Red List Categories and Criteria, Conservation Assessment and Management Planning methodology, or any other scientifically accepted assessment framework.

2.4 The process shall ensure effective participation of relevant stakeholders, including the National Biodiversity Authority, State Governments, State Biodiversity Boards, Union Territory Biodiversity Councils, Biodiversity Management Committees, Botanical Survey of India, Zoological Survey of India, Forest Departments, scientific institutions, universities, local communities, civil society organisations, and subject matter experts.

3. IDENTIFICATION AND ASSESSMENT OF CANDIDATE SPECIES

A. Identification of Candidate Species

3.1 The State Biodiversity Board or Union Territory Biodiversity Council in association with the Botanical Survey of India, Zoological Survey of India, Forest Departments, scientific institutions or any other organization shall undertake a scientific assessment which shall include population trends, geographic range, habitat quality, habitat fragmentation, exploitation pressures, reproductive biology, ecological requirements and extinction risk. They

shall also undertake field investigations, stakeholder consultations, verification of information relating to candidate species and preparation of proposals for notification.

3.2 Wherever feasible, the assessment shall utilise quantitative measures such as Extent of Occurrence, Area of Occupancy, population trends and probability of extinction.

3.3 During the review of the threat status of species, the State Biodiversity Board or Union Territory Biodiversity Council may also identify species considered to be under threat based on information available in secondary databases including Peoples Biodiversity Registers.

3.4 The proposal shall include available information relating to taxonomy, distribution, population status, ecological significance, utilisation patterns, known threats, conservation status and supporting literature.

3.5 The process for consideration of a plant and animal species under Section 38 may be initiated by the State Biodiversity Board or Union Territory Biodiversity Council based on the threat status of the species.

B. Stakeholder Consultation and Validation

3.6 Following completion of the scientific assessment, the State Biodiversity Board may convene a Stakeholder consultation to undertake a Conservation Assessment and Management Planning (CAMP) assessment or an equivalent assessment framework.

3.7 The workshop shall review the available evidence, validate the threat status, identify the drivers of decline, and recommend conservation and recovery actions.

4. RECOMMENDATION FOR NOTIFICATION

4.1 Based on the scientific assessment and stakeholder consultations, the State Biodiversity Board or Union Territory Biodiversity Council shall prepare recommendations for notification under Section 38 of the Biological Diversity Act, 2002.

4.2 The recommendation shall include:

- (a) scientific name, author citation and synonyms;
- (b) vernacular names;
- (c) distribution and habitat details;
- (d) justification for classification as a threatened species;
- (e) major threats affecting the species;
- (f) proposed regulatory measures;
- (g) recommended conservation and recovery actions; and
- (h) monitoring and review requirements.

4.3 The recommendation for notification of a species as threatened under Section 38 of the Biological Diversity Act shall be placed before the Board or Council. Upon its approval, the proposal may be submitted to the State Government for further action.

5. NOTIFICATION UNDER SECTION 38

A. Notification by the Central Government

5.1 The State Biodiversity Board or Union Territory Biodiversity Council shall submit the proposal, together with the assessment report and supporting scientific and technical documents, to the concerned State Government or Union Territory Administration.

5.2 The State Government or Union Territory Administration shall examine the proposal and, if satisfied, forward the same, together with its recommendations, to the Central Government for consideration under Section 38 of the Biological Diversity Act, 2002.

5.3 Upon receipt of the proposal, the Central Government shall examine the species list and supporting documents. Where the Central Government is satisfied that the proposal merits notification under Section 38 of the Act, it may proceed to notify the species as a threatened species.

5.4 Where the Central Government is of the opinion that additional information or clarification is required, it may refer the proposal back to the concerned State Government or Union Territory Administration for furnishing such information or clarification as may be specified.

5.4 The State Government or Union Territory Administration shall furnish the information or clarification sought by the Central Government, after consultation with the concerned State Biodiversity Board or Union Territory Biodiversity Council.

5.5 Where the Central Government considers it necessary to obtain further scientific or technical inputs, it may also seek the views of the Botanical Survey of India, Zoological Survey of India, research institutions or such other agencies on the proposed notification.

5.6 After considering the recommendations of the State Government or Union Territory Administration and, if necessary, the views of the National Biodiversity Authority, the Central Government may notify such species as threatened species under Section 38 of the Act.

B. Notification by the State Government

5.10 Where the powers under Section 38 of the Act have been delegated to a State Government or Union Territory Administration, it shall examine the proposal and seek the views of the National Biodiversity Authority before issuing any notification.

5.11 The National Biodiversity Authority may examine the proposal with the assistance of the Botanical Survey of India, Zoological Survey of India, subject matter experts, research institutions or such other agencies as it may deem necessary.

5.12 Where the National Biodiversity Authority is satisfied with the proposal, it may communicate its concurrence to the State Government. The State Government or Union Territory Administration may notify such species as threatened species under the delegated powers.

5.13 Where the National Biodiversity Authority is of the opinion that additional information or clarification is required, it may seek such information or clarification from the concerned State Government or Union Territory Administration, which may, where necessary, refer the matter to the State Biodiversity Board or Union Territory Biodiversity Council concerned.

5.14 Upon receipt of the information, clarification or revised proposal, the National Biodiversity Authority shall re-examine the matter and communicate its final views to the State Government or Union Territory Administration.

5.15 After considering the views of the National Biodiversity Authority, the State Government or Union Territory Administration may notify such species as threatened species under the delegated powers.

C. Measures to be Specified in the Notification

5.16 A notification issued under Section 38 may prohibit, restrict or regulate the collection, harvest, extraction, possession, transport, trade, transfer or utilisation of the notified species, as may be necessary for its conservation and recovery.

5.17 The notification shall specify the extent and manner of such prohibition, restriction or regulation, including permissible activities, exemptions, research requirements, monitoring and reporting obligations, review mechanisms and such other conditions as may be necessary for the conservation and recovery of the species.

5.18 A notification issued by a State Government or Union Territory Administration under delegated powers shall contain such regulatory, conservation and management measures as may be necessary for the conservation and recovery of the notified species.

6. SPECIES RECOVERY AND CONSERVATION ACTION

6.1 Notification under Section 38 shall be followed by the preparation of a Species Recovery and Conservation Action Plan by the concerned State Government or Union Territory Administration in association with the State Biodiversity Board or Union Territory Biodiversity Council and other agencies concerned.

6.2 The Action Plan shall include measures for habitat protection and restoration, in-situ conservation, ex-situ conservation, propagation, cultivation, reintroduction where necessary, threat mitigation, research, monitoring and community participation.

6.3 For species subjected to commercial use, emphasis shall be placed on sustainable utilisation, cultivation and propagation to reduce pressure on wild populations.

6.4 The Biodiversity Management Committees may be involved in conservation actions at the local level and provide relevant information for monitoring.

7. MONITORING, DOCUMENTATION, REPORTING AND REVIEW OF NOTIFICATION

7.1 The status of notified species shall be monitored periodically by the concerned State Government, State Biodiversity Board, Union Territory Biodiversity Council and relevant scientific institutions.

7.2 Monitoring records, assessment reports, notifications, recovery plans and review findings shall be maintained by the State Biodiversity Board or Union Territory Biodiversity Council, while the National Biodiversity Authority shall maintain a national database of species notified under Section 38 and associated assessment and monitoring records.

7.3 A comprehensive review of each notified species and the corresponding notification shall be undertaken by State Biodiversity Board/ Union Territory Biodiversity Council, at least once every five years, or earlier if warranted by scientific evidence, monitoring results or changes in the conservation status of the species.

7.4 The review shall evaluate population trends, conservation outcomes, continuing threats and the effectiveness of regulatory measures, and shall determine whether the notification should continue, be modified or be withdrawn.

7.5 Based on the review findings, the State Biodiversity Board/ Union Territory Biodiversity Council may recommend the continuation, modification or withdrawal of the species from the notification issued under Section 38.

8. MISCELLANEOUS

8.1 Nothing contained in this Standard Operating Procedure shall affect the powers of the Central Government under the Biological Diversity Act, 2002 or any other applicable law.

8.2 Any difficulty arising in the implementation of this Standard Operating Procedure shall be referred to the Central Government or National Biodiversity Authority for guidance.

8.3 For ease of understanding, the process for notification of threatened species has been depicted in a flow chart, which is appended as Annexure.

Draft Standard Operating Procedure (SOP) For Notification of Threatened Species under Section 38 of the Biological Diversity Act, 2002

