

2. A Potential Seedbed for Private Profits

Prelims Level: Governance-Schemes.

Mains Level: GS-II Government Policies and Interventions for Development in various sectors and issues arising out of their Design and Implementation.

Context:

- Seeds Bill 2019 which was introduced in the parliament was taken up for consideration recently. The earlier versions of the Bill, in 2004 and 2010, had generated heated debates. The present version has also been with certain problematic provisions and the article discusses it in brief.

Background Information:

1. India Signing TRIPS and UPOV

- In 1994, India signed the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In 2002, India also joined the International Union for the Protection of New Varieties of Plants (UPOV) Convention.
- The above two agreements has made a nation has to give priority to Seed breeder's rights over farmer's rights.
- Both TRIPS and UPOV led to the introduction of some form of Intellectual Property Rights (IPR) over plant varieties.
- Member countries had to introduce restrictions on the free use and exchange of seeds by farmers unless the "breeders" were remunerated.

2. India signing CBD and ITPGRFA:

- In 1992, India signed the Convention on Biological Diversity (CBD) which provided for "prior informed consent" of farmers before the use of genetic resources and "fair and equitable sharing of benefits" arising out of their use.
- In 2001, India signed the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) which recognised farmers' rights as the rights to save, use, exchange and sell farm-saved seeds.
- It is clear that these two agreements has made a country to favour farmer's rights over breeder's rights. So, national governments had the responsibility of protecting farmer's rights.
- Here we can notice TRIPS and UPOV runs counter to the above two international conventions.

3. A Delicate Balance of all:

- As India was a signatory to TRIPS and UPOV (that gave priority to breeders' rights) as well as CBD and ITPGRFA (that emphasised farmers' rights), any Indian legislation had to be in line with all.
- Protection of Plant Varieties and Farmers' Rights (PPVFR) Act of 2001 was enacted with this delicate balance.
- The PPVFR Act retained the main spirit of TRIPS viz., IPRs as an incentive for technological innovation. However, the Act also had strong provisions to protect farmers' rights. The PPVFR Act also recognised three roles for the farmer: cultivator, breeder and conserver. As cultivators, farmers were entitled to plant-back rights. As breeders, farmers were held equivalent to plant breeders. As conservers, farmers were entitled to rewards from a National Gene Fund.

Introduction of New legislation - Seed Bill, 2019

- According to the government, a new Seeds Bill is necessary to enhance seed replacement rates in Indian agriculture, specify standards for registration of seed varieties and enforce registration from seed producers to seed retailers.
- While these goals are indeed worthy, any such legislation is expected to be in alignment with the spirit of the PPVFR Act. Not surprisingly, many of the Bill's provisions deviate from the spirit of the PPVFR Act, are against farmers' interests and in favour of private seed companies. For instance, a shift from farm-saved seeds to certified seeds, which would raise seed replacement rates, is desirable. Certified seeds have higher and more stable yields than farm-saved seeds. However, such a shift should be achieved not through policing, but through an Enabling Atmosphere.

Interest of Private Companies:

- From the late-1980s, Indian policy has consciously encouraged the growth of private seed companies, including companies with majority foreign equity.
- Today, more than 50% of India's seed production is undertaken in the private sector.
- These firms have been demanding favourable changes in seed laws and deregulation of seed prices, free import and export of germplasm, freedom to self-certify seeds and restrictions on the use by farmers of saved seeds from previous seasons.
- Through the various versions between 2004 and 2019 of the same bill, private sector interests have guided the formulation of the Seeds Bill.

- As a result, even desirable objectives, such as raising the seed replacement rates, have been mixed up with an urge to encourage and protect the business interests of private companies.

Problematic Provisions of the New Bill:

- ✓ **The provisions of the new bill that runs counter to the existing PPVFR Act are as follows:**

1. Compulsory Registration of Seeds

- The Seeds Bill insists on compulsory registration of seeds. However, The PPVFR Act was based on voluntary registration of seeds.
- As a result, many seeds may be registered under the Seeds Bill but may not under the PPVFR Act.
- Assume a seed variety developed by a breeder, but derived from a traditional variety. The breeder will get exclusive marketing rights. But no gain will accrue to farmers as benefit-sharing is dealt with in the PPVFR Act, under which the seed is not registered.

2. Compensation for Farmer's Role in Development of a Seed Variety:

- As per the PPVFR Act, all applications for registrations should contain the complete passport data of the parental lines from which the seed variety was derived, including contributions made by farmers.
- This allows for an easier identification of beneficiaries and simpler benefit-sharing processes.
- Seeds Bill, on the other hand, demands no such information while registering a new variety. As a result, an important method of recording the contributions of farmers is overlooked and private companies are left free to claim a derived variety as their own.

3. Ever-Greening of registration

- The PPVFR Act, which is based on an IPR like breeders' rights, does not allow re-registration of seeds after the validity period.
- However under the new bill private seed companies can re-register their seeds an infinite number of times after the validity period. Given this "ever-greening" provision, many seed varieties may never enter the open domain for free use.

4. Seed Pricing

- The new bill has vague provisions for regulation of seed prices which appears neither sufficient nor credible.

- This has been the scenario ,when strict control on seed prices has been an important demand raised by farmers' organisations.
- In its absence, they feel, seed companies may be able to fix seed prices as they deem fit, leading to sharp rises in costs of cultivation.

5. Compensation to Farmers:

- According to the PPVFR Act, if a registered variety fails in its promise of performance, farmers can claim compensation before a PPVFR Authority.
- This provision is diluted in the Seeds Bill, where disputes on compensation have to be decided as per the Consumer Protection Act 1986. Consumer courts are hardly ideal and **friendly institutions that Farmers can Approach.**

Way Ahead:

- Private seed companies prefer policing because their low-volume, high-value business model is crucially dependent on forcing farmers to buy their seeds every season.
- So, on the other hand, an enabling atmosphere has to be generated by the strong presence of public institutions in seed research and production.
- When public institutions, not motivated by profits, are ready to supply quality seeds at affordable prices, policing becomes redundant. For the seed sector and its laws to be truly farmer-friendly, the public sector has to recapture its lost space.

About Protection of Plant Varieties and Farmers' Rights Authority, India:

- It has been established under the provisions of Protection of Plant Varieties and Farmers' Rights Act, 2001.
- **Its Objectives Includes:**
- An effective system for protection of plant varieties,
- The rights of farmers and plant breeders and
- To encourage the development of new varieties of plants it has been considered necessary to recognize and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources for the development of the new plant varieties.
- To accelerate agricultural development, it is necessary to protect plants breeders' rights to stimulate investment for research and development for the development of new plant varieties. Such protection is likely to facilitate the growth of the seed industry which will ensure the availability of high quality seeds and planting material to the Farmers.