

JHRKHAND BIOLOGICAL DIVERSITY RULES 2007

1. Short title and commencement

- (1) These rules may be called as Jharkhand Biological Diversity Rules, 2007.
- (2) Thus shall come into force on 01st April, 2007.

2. Definitions

I. In these rules, unless the context otherwise requires, -

- (a) "Act" means the Biological Diversity Act 2002 (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 Jharkhand Biodiversity Board established in under sub-section 1 of section 22 of the Act;
 - (d) "Biodiversity Management Committee" means a Biodiversity Management Committee established by the local body under sub-section 1 of section 41 of the Act;
 - (e) "Chairperson" means the Chairperson of the Board;
 - (f) "Fee" means any fee stipulated in the Schedule;
 - (g) "Form" means form annexed to these rules;
 - (h) "Member" means a member of the Jharkhand Biodiversity Board, includes Chairperson and Secretary;
 - (i) "Member Secretary" means the full time Secretary of the Board;
- II. Words and expressions used but not defined in the 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 of the board

- (1) The Chairperson of the Board shall be appointed by the State government.
- (2) Every appointment or deputation of Chairperson under sub-rule (1) shall be made either case, the applicant should not be below the rank of Principal Chief Conservator of Forest. An eminent expert or scientist in Biodiversity may also be appointed as chairperson of the Board.
- (3) The Chairperson shall have the Qualification as determined by the State Government and mentioned in the section 22(4) (a), of the Biological Diversity Act, 2002.

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 reappointment.
- (2) Provided that no chairperson shall hold office as such as after he attains the age of Sixty five years or after his/her term of office expires, whichever is earlier.
- (3) The Chairperson may resign from his/her office by giving at least two months notice in writing to the State Government. The State Government may terminate the Chairperson by giving two months notice or paying two month salary in one time.

5. Pay and Allowances of the Chairperson

- (1) A Chairperson appointed from outside the Govt. shall be entitled to a pay scale of Rs. 22,400/- to Rs. 24,500/- per month.

In case of retired person being appointed his/her pay and allowances shall be fixed in accordance with the orders of the State Government or the Central Government as applicable to such person. In case an officer of the rank of Principal Secretary or Additional Principal Chief Conservator of Forest or Principal Chief Conservator of Forest is appointed as the Chairperson, his/her pay and allowances will continue to be governed by the same set of rules according to which he/she was drawing his/her salary.

- (2) A Chairperson shall be entitled to the allowances, leave. Pension, provident fund, house and other perquisites etc decided by the State Government from time to time.

6. Term of office and allowances to non-official members

- (1) Every non-official member of the Board shall hold his office for a term not exceeding three years at a time from the date of the publication of his appointment in the official gazette.
- (2) Every non-official member attending the meeting of the Board shall be entitled to an honorarium of Rs. 500/- (Five hundred only) and in addition to it the members residing outside Ranchi, will be entitled for travelling expenses, daily allowance and such other allowance as are applicable to a class 1 officer.
- (3) Every non-official member appointed by the State Government shall have the Qualification mentioned in section 22 (4) (c) of the Biological Diversity Act, 2002.

7. Filling up vacancies of non-official members

- (1) A non-official member of the Board may resign his office at any time by giving in writing under his hand addressed to the State Government and the seat of that member in the Board shall become vacant.
- (2) A casual vacancy of a non-official member 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/ she is nominated.

8. Removal of the members of the Board

The State Government may remove any member of the Board from his office on any ground specified in Section 11 of the Act in the manner in which the State Government may deem fit and proper in the circumstances of the case.

9. Member Secretary of the Board

- (1) The State Govt. shall appoint a full time Member Secretary to the Board on deputation from amongst serving Chief Conservator of Forests.
- (2) The Member Secretary shall be responsible for co-ordination and convening the meetings of the Board, maintenance of the records of the proceedings of the Board and such other matters as may be delegated to him by the Board.

10. Meeting of the Board

- (1) The Board shall meet at least four times in a year normally after a period of every three months at the Headquarters of the Board or at such 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. In case of the vacancy of the office of chairperson, upon the directions issued by the State Government under the section 49 of the Act, the Member Secretary shall have the authority to call a special meeting of the Board.
- (3) The members shall be given at least fifteen days notice for holding an ordinary meeting and at least three days notice for holding 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 Chairperson and in his absence, by presiding officer to be elected by the members present from amongst themselves.
- (5) The decision of the Board at a meeting 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 the right to vote in case of tie.
- (6) Each Member shall have one vote.
- (7) The quorum at every meeting shall be five.
- (8) No member shall be entitled to bring forward for the consideration of meeting any matter of which he has not given

ten days 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 his last known place of residence or in such other manner as the Member Secretary of Board may, in the circumstances of the case, think fit.
- (10) Every Member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be considered and decided at the meeting shall disclose the nature of his/he concern or interest and after such disclosure, the member concerned or interested shall not attend the meeting.

11. Appointment of Expert Committee by the Board and their entitlements:

- (1) The Jharkhand Biodiversity Board may constitute a committee to deal with agro biodiversity.
- (2) The Board may constitute any number of committees 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.
- (3) The members of the committee, other than the members of the Board shall be paid such fee and allowances for attending the meeting as the State Government may deem fit.

- 11A. (1) The Board may appoint such officers and other employee as it considers necessary for the efficient discharge of its functions.
- (2) The appointment of such officers and other employees shall be made by the board either on deputation basis or on contract basis with the approval of the State Government.

12. General Functions of the Board

The Board may perform the following functions :-

- (1) lay down the procedure and guidelines to govern the activities provided under sections 7 and 24 of the Act;
- (2) advice 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) co-ordinate the activities of Bio-diversity Management Committees;
- (4) provide technical assistance and guidance to the Bio-diversity Management Committees;
- (5) commission studies and sponsor investigations and research related to Biological resources;
- (6) engage consultants for providing technical assistance to the Board in the effective discharge of its functions;
- (7) regulate and grant approvals for the commercial utilization of Biological resources in consultation with Bio-diversity Management Committees;

- (8) identify and promote Heritage Sites of Biodiversity importance;
- (9) collect, compile and publish technical and statistical data, manuals, codes or guidelines relating to conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge.
- (10) organize through mass media a comprehensive programme regarding conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the biological resource and knowledge;
- (11) plan and organize training of persons engaged or likely to be engaged in programmes for the conservation of bio-diversity and sustainable use of its components;
- (12) prepare the annual budget of the Board in accordance with the budget provisions approved by the State government;
- (13) recommend creation of posts to the State Govt. for the effective discharge of the functions by the Board and to create such posts, provided that no such post whether permanent/temporary or of any nature, would be created without prior approval of the Stat Govt.;
- (14) approve the method of recruitment of the officers and staff of the Board;
- (15) take steps to build up database and to create information and documentation system for biological resources and associated traditional knowledge through bio-diversity registers and

- electronic data bases, to ensure effective management, promotion and sustainable uses;
- (16) give directions to Biodiversity Management Committees in writing for the effective implementation of the Act;
 - (17) report to the State Govt. about functioning of the Board and implementation of the Act;
 - (18) prepare the Annual Report of the Board and submit it to the State Govt.
 - (19) recommend and modify the collection fees under section 41(3) of the Act from any person for accessing or collecting any biological resources for commercial purposes from areas falling within the territorial jurisdiction of Biodiversity Management Committees;
 - (20) sanction grants or loans to Biodiversity Management Committees for specific purposes;
 - (21) undertake physical inspection of any area in connection with the implementation of the Act;
 - (22) perform such other functions as may be assigned or directed by the State Govt. and the Central Government from time to time.
 - (23) Provided that the technical sanction of the estimate of the Construction schemes of the Board will be given by the competent technical officer of the Public Works Department (PWD).

13. Powers and duties of Chairperson

- (1) The Chairperson shall have overall control over the functions of the Board.
- (2) Subject to the provisions of section 10 of the Biological Diversity Act, 2002, the chairperson shall have the powers of general superintendence over the officers and staff of the Board and he may issue necessary directions for the conduct and management of the affairs of the Board.
- (3) The Chairperson shall be competent to accord administrative sanction for all estimates of works relating to schemes not exceeding Rs. 25 lakhs.
- (4) The Chairperson shall have powers to accept tenders exceeding Rs. 25 lakhs.
- (5) The Chairperson shall convene and preside over all the meetings of the Board and shall ensure that all the decisions taken by the Board are implemented in a proper manner.
- (6) 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 or Authority or State Government or Central Government.

13.A Powers and duties of Member Secretary

- (1) The Member Secretary shall be the Chief Executive Officer of the Board and shall be responsible for the day to day and proper functioning of the office of the Board and he shall have all the powers necessary therefore.

- (2) The Member Secretary shall make all the arrangements for holding meetings of the Board and its committees.
 - (3) All orders and instructions of the Board shall be issued under the signature of the Member Secretary or any other officer duly authorized by him in this behalf.
 - (4) The Member Secretary either himself or through an office of the Board authorized for this purpose, may sanction and disburse all payments against the approved budget.
 - (5) The Member Secretary shall have to power to accept tenders not exceeding rupees twenty five lakhs.
 - (6) The Member Secretary shall exercise such powers and perform such functions as may be delegated to him from time to time by the Board.
 - (7) The Member Secretary shall be in charge of all the confidential papers and records of the Board and shall be responsible for their safe custody.
14. Procedure for giving prior intimation to the Board and approval by the Board to undertake any activity referred to in Section 7
- (1) Any citizen of India or a body corporate, association or organization which is registered in India, desirous of obtaining any biological resource for commercial utilization, or bio-survey and bio-utilization for commercial utilization shall give prior intimation to the Board in Form I.
 - (2) Every application under sub-rule (1) shall be accompanied by a fee of Ten Thousand Rupees in the form of a Demand Draft drawn in favour of the Board.

- (3) The Board shall after consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, dispose of the application, as far as possible, within a period of six months from the date of its receipt.
 - (4) The Board may, for reasons to be recorded in writing, as described in sub-rule (1) prohibit or restrict such activity which is detrimental to the objectives of conservation and sustainable use of biological resources or equitable sharing of benefits arising out of such activity.
 - (5) No application shall be rejected unless the applicant is given a reasonable opportunity of being heard.
 - (6) The Board shall give public notice of every approval granted by it under this section.
15. Restriction of activities relating to access to biological resources
- (1) The Board, if it deems necessary and appropriate, shall take the steps to restrict or prohibit the request for access to biological resources for the following reasons, namely:-
 - a. The request for access is for any endangered taxa;
 - b. The request for access is for any endemic and rare species;
 - c. The request for access is likely to result in adverse effect on the livelihoods of the local people;
 - d. The request to access may result in adverse environmental impact which may be difficult to control and mitigate;
 - e. The request for access may cause genetic erosion or affect the ecosystem function;

16. Expenses of the State Biodiversity Board to be defrayed out of the consolidated Fund of the State

The salaries and allowances payable to the members and the administrative expenses of the Board including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the Board shall be defrayed out of the consolidated Fund of the State.

17. Grants of money by the State Government to the Jharkhand Biodiversity Board

The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the Jharkhand Biodiversity Board by way of grants or loans such sums of money, as the State Government may think fit, for being utilized for the purposes of the Act.

18. Constitution of Jharkhand Biodiversity Fund

- (1) There shall be constituted a Fund to be called the Jharkhand Biodiversity Fund and there shall be credited thereto –

- a. any grants and loans made to the Jharkhand Biodiversity Board under Rule 17;
- b. any grants or loans made by the National Biodiversity Authority;
- c. all sums received by the Jharkhand Biodiversity Board from such other sources as may be decided by the State Govt.

- (2) The Jharkhand Biodiversity Fund shall be applied for –

- a. the management and conservation of heritage sites;

- b. compensating or rehabilitating any section of the people economically affected by notification under sub-section (1) of section 37 of the Act;
- c. conservation and promotion of biological resources;
- d. socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under section 24 of the Act, in consultation with the local bodies concerned;
- e. meeting the expenses incurred for the purposes authorized by the Act and the rules made there under.

19. Operation of State Biodiversity Fund:-

- (1) The State Biodiversity Fund shall be operated by the chairperson or by such other officer of the Board as may be authorized in this regard.
- (2) The State Biodiversity Fund shall have two separate heads of accounts, one relating to the receipts from the State Government and the other concerning the fee and other receipts of the Board.

19A. Audit of accounts of the State Biodiversity Board

The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the State Biodiversity Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report.

19B. Annual Report of the State Biodiversity Board to be laid before the State Legislature

The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received before the House of State Legislature.

20. Constitution of Biodiversity Management committees

- (1) Every local body shall constitute a Biodiversity Management Committee (BMCs) within its area of jurisdiction.
- (2) The Biodiversity Management Committee as constituted under sub-rule(1) shall consist of a chairperson and not more than six persons nominated by the local body of whom not less than one third should be women and not less than 36% should belong to Scheduled Castes/Scheduled Tribes.
- (3) The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be chaired by the Chairperson of the local body. The Chairperson of the local body shall have the casting vote in case of a tie.
- (4) The Chairperson of the Biodiversity Management Committee shall have tenure of three years.
- (5) The local Members of the Legislative Assembly and Members of Parliament would be special invitees to the meetings of the committee.
- (6) The main function of the BMC is to prepare People's Biodiversity Register in consultation with the local people. The Register shall contain comprehensive information on the

availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them.

- (7) The other functions of the BMC are to advise on any matter referred to it by the Board or Authority for granting approval and to maintain data about the local vairs and practitioners using the biological resources.
- (8) The Board shall take steps to specify the form of the People's Biodiversity Registers and the particulars it shall contain and the format for electronic database.
- (9) The Board shall provide guidance and technical support to the Biodiversity Management committees for preparing People's Biodiversity Registers.
- (10) The People's Biodiversity Registers shall be maintained and validated by the Biodiversity Management Committees.
- (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 or their sharing.

21. Local Biodiversity Fund

Grants to Local Biodiversity Fund

- (1) The State government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of

money as the State Government may think fit for being utilized for the purposes of this Act.

Constitution of Local Biodiversity Fund

- (2) There shall be constituted a Fund to be called the Local Biodiversity Fund at every areas notified by the State government where any institution of self-government is functioning and there shall be credited thereto-
 - a. any grants and loans made under section 42 of the Act;
 - b. any grants or loans made by the National Biodiversity Authority;
 - c. any grants or loans made by the State Biodiversity Boards;
 - d. fees referred to in sub-section (3) of section 41 of the Act received by the Biodiversity Management committees;
 - e. all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government.
- (3) Application of Local Biodiversity Fund
 - a. Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied are in the manner as may be prescribed by the State Government.
 - b. The Fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.

Annual Report of Biodiversity Management Committees

- (4) The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full accounts of its activities during the previous financial year, and submit a copy thereof to the concerned local body.

Audit of accounts of Biodiversity Management Committees

- (5) The accounts of Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the concerned local body, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

Annual report etc. of the Biodiversity Management Committee to be submitted to District Magistrate

- (6) Every local body constituting a Biodiversity Management Committee under sub-section (1) of section 41 of the Act shall cause, the annual report and audited copy of accounts together with auditor's report thereon referred to in section 45 and 46 of the Act, respectively and relating to such committee to be submitted to the District Magistrate having jurisdiction over the area of the local body.