



Environmental Social
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Release : Bangalore : 24 May 2012

NBA confirms Monsanto/Mahyco and ors. to be criminally prosecuted in B.t. Brinjal Biopiracy Case

In its first official confirmation, National Biodiversity Authority (NBA, India's independent regulator on all matters pertaining to biodiversity protection, conservation and use) has stated that **“it is proceeding with lodging of complaint against the alleged violators”** of Biological Diversity Act on grounds of biopiracy in promoting B.t. Brinjal, India's first transgenic GMO food. This information was provided to Environment Support Group (ESG) in response to a Right to Information query, and a copy is enclosed. As per Indian law, the filing of the complaint against this serious environmental crime assumes launching of criminal prosecution against the violators. India has already enforced a moratorium on the commercial release of B.t. Brinjal on various scientific, legal, health and community concerns.

The undersigned on behalf of Environment Support Group had filed a complaint in February 2010 accusing the world's largest agritech company Monsanto along with its Indian partner Mahyco, Sathguru Consultants (representing USAID and Cornell University) and various public funded agriculture institutions such as University of Agriculture Sciences (Dharwar, Karnataka), Tamilnadu Agricultural University (Coimbatore) and Indian Institute of Vegetable Research (Uttar Pradesh), of accessing over 16 varieties of brinjal endemic to India in comprehensive violation of the Biological Diversity Act while promoting the commercial release of transgenic B.t. Brinjal through 2005-2010. None of the regulatory agencies, including the NBA and Ministry of Environment and Forests, had bothered to verify compliance with the B D Act throughout this period, and began to take action with much reluctance after ESG filed the complaint.

The RTI query was filed seeking all documentation pertaining to the case filed by ESG. Shockingly, and quite questionably, NBA has refused to part with the documentation even to the complainants. Justifying this stand, it has controversially and peculiarly claimed that the documentation cannot be shared with the complainants as *“the matter is under advanced stage of lodging of complaint and taking into account the intricacies which involve nuances of biotechnology it is felt that it may not be appropriate to provide the documents/instructions at this juncture”*. Evidently, NBA is not even sure if this is the right decision to take, and ESG will file an appeal against this decision soon.

As reported in the media, the decision to initiate criminal prosecution against this case of biopiracy was taken by NBA in its meeting held on 28 February 2012, after it was put to a vote. The vote became essential as some members of the NBA were keen on stopping the prosecution. This when when NBA had already resolved in June 2011 to prosecute the violators, a fact repeatedly confirmed in Parliament by the Indian Environment Minister Smt. Jayanti Natarajan. ESG has consistently raised concerns over such dithering by NBA to initiate action against violators of the Biological Diversity Act.

Karnataka Chief Minister urged to re-initiate prosecution against Bt. Brinjal violators

ESG has also submitted a representation to Karnataka Chief Minister Shri. Sadananda Gowda urging him to immediately revive the decision to criminally prosecute those engaged in biopiracy through the Karnataka Biodiversity Board. It may be recalled that the Board had decided to initiate appropriate legal action against University of Agricultural Sciences (Dharwar), Monsanto and Mahyco for accessing 6 local varieties of brinjal illegally from Karnataka, and converting them into transgenic B.t. Brinjal products, all in violation of the Biological Diversity Act. However, due to pressure, apparently brought by none other than the Principal Secretary of Karnataka's Environment Department (the chief custodian of Karnataka's biodiversity), the investigation built over two years was suspended in a controversial decision of the Board in January 2012. ESG initiated a mass petition in February this year against this illegal and retrograde decision to the Chief Minister. Over 500 groups and individuals across India and the world have endorsed this representation which is accessible at: <http://www.ipetitions.com/petition/karnataka-biodiversity-board-must-prosecute/>. A copy of the representation now made to the Chief Minister is also enclosed.

More details about ESG's efforts to tackle biopiracy in India are accessible at: www.esgindia.org



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About ESG: Environment Support Group is a small group committed researchers, lawyers and activists responding to various issues of environmental, social justice and governance concern. More details about the group may be accessed at: <http://esgindia.org/about-us/esg-team.html>

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