



**Biological Diversity Amendment Bill 2021 and its
Implications on AYUSH License Holders**

Biological Diversity Amendment Bill 2021 and its implication on AYUSH License Holders

Environment Minister Mr Bhupendra Yadav presented the Biological Diversity (Amendment) Bill in Lok Sabha; the Bill ratifies India's obligation of the Nagoya protocol. It seeks to ease a variety of regulations of the Biological Diversity Act 2002. This acts as a boon to the Indian medicine industry by empowering local communities to utilise medicinal plants by encouraging the cultivation of such plants and seeds. This legislative proposal also facilitates the research process by streamlining the process of patenting and opening regional patent centres. It shall also allow more foreign investments, but the same has to be done through an Indian company that conducts biodiversity research, and prior approval from the National Biodiversity Authority would be mandatory. The new provisions also decriminalise a lot of offences that are non-bailable in nature, such as the aspect of benefit-sharing and access to biological resources. A major development which this bill introduces is that it exempts Ayush Practitioners from its ambit which means that Ayush practitioners do not need to intimate the state board to use or commence research on any biological resource, and they don't have to share any benefits with the board for any commercial utilisation borne out from it.

The call for amendment in the Biodiversity Act 2002 was made post the Divya Pharmacy v. UOI case wherein the state biodiversity board of Uttarakhand sent a notice to Divya pharma stating that the company has violated the provisions of the biodiversity act where it used the biological resources without state board's permission, and it was held liable to pay the access fee and benefit-sharing fee. The company filed a writ petition challenging the powers of the board in the High Court of Uttarakhand, however, the Court upheld the powers of the biodiversity board in the matter.

The Biological diversity Amendment bill has been subjected to a lot of scrutiny by the legal experts as certain categories, which include local communities, cultivators, vaid, hakim's and Ayush practitioners, do not need to intimate the state board for accessing biological resources. This lack of requirement of approvals might lead to bio-piracy. It undermines the power of Marginalising Biodiversity Management Committees (BMCs), which in the Act determined the quantum of benefit-sharing when consulted by the National/State Biological board. The Bill also has reduced the penalties on violation of imprisonments with fines.

It is believed that in the larger picture, this legislative proposal seems to be focused on idea boosting trade and commerce instead of conserving resources or protecting the knowledge of local communities.

Due to the concerns shown by the experts, the Bill has been referred to a joint committee of parliament which shall include 31 MPs (21 MPs from different political parties from Lok Sabha and the remaining 10 from Rajya Sabha, chaired by the member of the ruling party). The committee shall examine the Bill, and submit the report by the budget session next year.



Ganesh Nair
Legal Researcher, R&D
Corpbiz