

## More Bt brinjal trouble for Mahyco, Monsanto

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*National Biodiversity Authority has decided to take legal action against Mahyco and Monsanto for developing Bt brinjal by using Indian varieties without prior approval of competent authorities. Both the companies have denied the reports as false and not based on facts*

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Adding another twist to the already complicated Bt brinjal story, the National Biodiversity Authority (NBA), in a meeting held on June 20, 2011, minutes of which were published on August 11, 2011, decided to take legal action against the two major agri-biotech firms, Mahyco and Monsanto, for using Indian varieties of the crop for development of Bt brinjal without prior approval of competent authorities.


The authority, meant to govern the use of Indian genetic resources by business and research groups, decided to initiate legal action against the companies for violating the Biodiversity Conservation Act 2002, and using the genetic material from India without mandatory permission. This decision was taken after Bangalore-based NGO, Environment Support Group (ESG), filed a case before the Karnataka Biodiversity Board (KBA) on February 15, 2010, against the companies using Indian varieties without seeking mandatory permissions.

ESG has charged several organizations including Mahyco/Monsanto, University of Agricultural Sciences (UAS), Dharwad; Tamil Nadu Agricultural University, Coimbatore; Sathguru Management Consultants (representing the consortium involving the United States Agency for International Development and Cornell University,US) and others, for fundamentally violating section IV and related provisions of the Biological Diversity Act and criminally accessing at least 10 varieties of brinjal in Karnataka and Tamil Nadu without prior and informed consent from the NBA, the state biodiversity boards and applicable local biodiversity management committees. The NGO noted in its plea that such a rigorous process of appraisal was

mandatory to protect the loss of biodiversity due to misuse or overuse, theft of biodiversity and to secure biodiversity from contamination when transgenics are involved. In addition, the law mandates that when biodiversity is to be accessed in any manner for commercial, research and other uses, local communities, who have protected local varieties for generations must be consulted and, if they consent, benefits must accrue to them as per the internationally applicable access and benefit sharing protocol.

Clearly, the organizations were aware of these laws that were fully in operation when Monsanto and its collaborators initiated research in developing Bt brinjal in 2005. They deliberately chose to side-step conformance with this critical legislation, alleged the ESG. When questioned by the board during the investigation, Mahyco, in its letter dated June 25, 2010, to the board, categorically stated that it was "not in violation of any of the provisions of the Act" and claimed that Bt brinjal was developed by the University of Agricultural Sciences, Dharwad. On its part, the university has claimed, in its letter dated May 17, 2011, that it has secured all permissions from various government departments, but has not produced any evidence of clearance under the Biodiversity Act.

The ESG has urged the NBA to initiate criminal proceedings against Bt brinjal Mahyco/Monsanto and others in strict conformance with the law. Pending this process, administrative propriety demands that the NBA must suspend action on all applications by any of the agencies involved in biopiracy seeking access to any biological resource of India. This would imply that, the NBA must stop processing Monsanto's application for accessing two varieties of Indian onions. In addition, the ESG demanded that the NBA and its supportive regulatory agencies, such as the state biodiversity boards and biodiversity management committees, must immediately ramp up their capacities to ensure that such acts of biopiracy become a thing of the past.

Reacting to the ESG's charges, the KBA sought further information, in a  letter dated April 6, 2011, in respect of use of six local varieties of brinjal by the UAS, Dharwad, and those pertaining to the objectives of the agreements between the UAS, Dharwad. Furnishing the details to the KBA, Mahyco informed that it has not violated any provisions of the Biological Diversity Act, 2002.

"The public partners have developed their materials with gene access provided by Mahyco in accordance with the regulations governing product development and as per the stipulations of the public funding agencies with whose assistance the public partners are developing the product. Mahyco is neither a beneficiary of the public materials that are developed by the public partners nor has access to their research results. It is reiterated that Mahyco has not indulged in any activity which would be a violation of the Biological Diversity Act, 2002," said Mr Surya Kant Mishra, head of public relations, Mahyco.

When BioSpectrum spoke to Monsanto, it said that the company has not received any such information (as on August 17, 2011) directly from the NBA. The company reiterated that the reports suggesting that Bt brinjal was produced by Monsanto or in partnership with Mahyco are untrue and not based on facts.

Monsanto also clarified that Bt brinjal has been indigenously developed by Indian seed and biotech company, Mahyco, with the Cry1Ac gene accessed from Monsanto, in collaboration with multiple public sector institutions. "We understand that Mahyco has independently conducted Bt brinjal research for over nine years in full compliance with the guidelines and directives of the regulatory authorities, to ensure its safety by making Bt brinjal the most rigorously tested vegetable with 25 environmental biosafety studies," said the spokesperson of Monsanto.

"Monsanto is committed to innovating and partnering to help improve productivity for Indian farmers. In over four decades of partnership with Indian farmers, Monsanto has provided high-yielding seeds and biotech traits in corn, cotton, and vegetables; as well as agricultural herbicide products," added the spokesperson of the company.

Bt brinjal, which received the nod of genetic engineering appraisal committee (GEAC) for commercial launch in October 2009, suffered a set back when Mr Jairam Ramesh, the then minister for Environment and Forests, put the product under moratorium in February 2010. After this, an independent joint panel of the GEAC and eminent scientists on gene technology favored the lifting of the moratorium at its meeting held on April 27, 2011, and suggested for limited release of Bt brinjal under strict monitoring.

It is interesting to note that there was no mention of companies that were not seeking mandatory permissions from the NBA and its supportive regulatory agencies, such as the state biodiversity boards and biodiversity management committees, when the approval was given by the GEAC. The decision by the NBA to seek legal action on the matter has added another

controversy to the issue and will delay the research from reaching the farmers and the consumers.

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