

# Rajasthan Biological Diversity Rules, 2010

RAJASTHAN

India

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### Rule RAJASTHAN-BIOLOGICAL-DIVERSITY-RULES-2010 of 2010

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Rajasthan Biological Diversity Rules, 2010 Published vide Notification No. F. 4(8) Forest/2005, Part, dated 2.3.2009 - Rajasthan Gazette, Extraordinary, Part 4(C)(1), dated, 2.3.2010, page 151(1) = 2010 RSCS/Part 11/ Page 338/H. 172G.S.R.99. - In exercise of the powers conferred by Section 63 of the Biological Diversity Act, 2002 (Act No. 18 of 2003) and all other powers enabling it in this behalf, the State Government hereby makes the following rules, namely:-

#### 1. Short title and commencement.

(1)These rules may be called the Rajasthan Biological Diversity Rules, 2010.(2)They shall come into force on the date of their publication in the Official Gazette.

#### 2. Definition.

(1)In these rules, unless the context otherwise requires;(a)"Act" means the Biological Diversity Act, 2002 (Act No. 18 of 2003);(b)"Authority" means the National Biodiversity Authority established under sub-section (1) of Section 8 of the Act;(c)"Board" means that Rajasthan State Biodiversity Board established under Section 22 of the Act;(d)"Chairperson" means the Chairperson of the Rajasthan State Biodiversity Board ;(e)"Committee" means Biodiversity Management Committee established by the local bodies under sub-section (1) of Section 41 of the Act;(f)"Fee" means any fee prescribed in these rules;(g)"Form" means a Form appended to these rules;(h)"Member" means member of the Rajasthan State Biodiversity Board, and includes the Chairperson thereof;(i)"Schedule" means the Schedule appended to these rules;(j)"Member Secretary" means the Member Secretary of the Board;(k)"Section" means section of the Act;(l)"State Government" means the Government of Rajasthan; and(m)"Year" means the financial year commencing on the first day of April.(2)Words and expressions used but not defined in these 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.**

(1)The Chairperson of the Board shall be appointed by the State Government either on deputation from government service or from outside service. The Chairperson shall be an eminent person having adequate knowledge, and minimum 30 years of experience in the conservation and sustainable use of biodiversity and in matters relating to the equitable sharing of the benefits. In case the appointment is on deputation, the appointee shall not be below the rank of Secretary to the Government.(2)The appointment shall be made on the recommendation of three member search committee, headed by the Chief Secretary, Government of Rajasthan. The other two members of the search committee shall be Principal Secretary, Forest Department, Government of Rajasthan and Principal Chief Conservator of Forests, Rajasthan.

### **4. Term of Office of the Chairperson.**

(1)The Chairperson of the Board shall hold the office for a period of three years and shall be eligible for reappointment:Provided that no Chairperson shall hold office beyond the age of 65 years.(2)The Chairperson may resign from his office by giving at least one month notice in writing to the State Government.

### **5. Pay and Allowances of the Chairperson.**

(1)The Chairperson shall be entitled to such salary, allowances, leave, provident fund, house and other perquisites, as may be determined by the State Government from time to time. In case a retired Government servant is appointed as a Chairperson, his salary and allowances shall be fixed in accordance with the orders of the Government as applicable to such person.(2)No pension shall be attached to the office of the Chairperson or other members of the Board.

### **6. Nomination and Term of office and Allowances of non-official member.**

(1)Five non-official members from amongst the experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources shall be nominated by the State Government.(2)The non-official Member of the Board shall hold the office for a period of three years at a time, from the date of nomination.(3)The non-official Member shall be entitled to sitting allowance, travelling expenses, daily allowance and such other allowances, as may be fixed by the State Government for attending the meeting (s) of the Board.

### **7. Filling up of vacancies of non-official member.**

(1)A non-official member of the Board may resign from 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 in the Board shall be filled up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the

member, in whose place he was nominated.

## **8. Removal of the Members of the Board.**

- No member of the Board shall be removed from the office on any ground specified in Sections 11 of the Act, without due and proper enquiry by an officer not below the rank of Principal Secretary appointed by the State Government for the purpose and without giving a reasonable opportunity to the member, of being heard.

## **9. Appointment of the Ex-officio Members.**

- Four ex-officio members shall be appointed from the following departments/organizations of the State Government as long as they hold their respective office:-

**1. Director, Agriculture, Jaipur.**

**2. Principal Chief Conservator of Forests, Rajasthan, Jaipur.**

**3. Commissioner, Tribal Area Development, Udaipur or the Additional Commissioner, Tribal Area Development nominated by the Commissioner.**

**4. Director, Ayurved, Ajmer.**

## **10. Head Office of the Board.**

- The Head Office of the Board shall be at Jaipur.

## **11. Member Secretary of the Board.**

(1) There shall be a Member Secretary of the Board, who shall be an officer of Indian Forest Service not below the rank of Chief Conservator of Forests, appointed by the State Government. (2) The Member Secretary shall be responsible for the efficient discharge of the functions of the Board, convening the meetings, maintaining the records of the proceedings, etc. (3) The Member Secretary shall be responsible for day to day administration of the Board, management of funds and implementation of various activities of the programme under the guidance of the Chairperson of the Board. (4) The Member Secretary shall be in charge of all the confidential papers of the Board and shall be responsible for their safe custody. (5) The Member Secretary shall exercise such other powers and perform such other functions, as may be assigned to him, from time to time, by the Board.

## **12. Meetings of the Board.**

(1)The Board shall meet at least four times in a year normally after three months at the Head quarters of the Board or at such other place, as may be decided by the Chairperson.(2)The Chairperson shall, upon a written request from not less then five members of the Board or upon a direction of the State Government, call a special meeting of the Board.(3)Fifteen days notice of an ordinary meeting and three days notice of special meeting specifying the purpose, the time and the place, at which such meeting is to be held shall be given to the members.(4)Every meeting shall be presided over by the Chairperson and in his absence, by a presiding officer to be elected by the members present from amongst themselves. -(5)The decision of the Board shall if necessary, be taken by a simple majority of the members present and voting and if the number of votes are equal then Chairperson or in his absence, the member presiding over the meeting shall have a second or casting vote.(6)Each member shall have one vote.(7)Quorum for the meeting of the Board shall be five.(8)No member shall be entitled to bring forward for the consideration of a meeting of any matter for 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 business or in such other manner, as the Member Secretary of the Board may, in the circumstances of the case, thinks fit.(10)In addition to above, the Board may evolve such other procedure for the transaction of its business, as it may deem fit and proper.

## **13. Disposal of urgent matter by circulation.**

- The Board may dispose of urgent matters by circulation of papers, if so desired by the Chairperson. All resolutions and decisions made would be put up in the next meeting of the Board for ratification.

## **14. Appointment of Expert Committee by the Board and their Entitlements.**

(1)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 and partly of other persons.(2)The members of the expert committee other than the members of the Board shall be paid such fees and allowances for attending the meetings, as specified by the Board.(3)The Board may invite any person, whose assistance or advice is considered useful to obtain in performing any of its functions, and to participate in the deliberations of any of its meetings. Such person associated with the Board shall be entitled to get allowances, as specified by the Board, from time to time.

## **15. General functions of the Board.**

- In particular and without prejudice to the generality of other provisions, the Board may perform the following functions-(i)Lay down the procedure and guidelines to govern the activities provided under Section 23 of the Act.(ii)Advise 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.(iii)Provide technical assistance and guidance to

the departments of the State Government.(iv)Regulate by granting of approvals or otherwise requests for commercial utilisation or bio-survey and bio-utilisation of any biological resource by Indian Nationals.(v)Facilitate updating and implementation of State Biodiversity Strategy and Action Plan.(vi)Commission studies and sponsor investigations and research.(vii)Engage consultant for a specific period, not exceeding three years, for providing technical assistance to the Board in the effective discharge of its functions:Provided that if it is necessary and expedient to engage any consultant beyond the period of three years, the Board shall seek prior approval of the State Government for such an engagement.(viii)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 resource and knowledge.(ix)Organise 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 use of biological resource and knowledge.(x)Plan and organise training of personnel engaged or likely to be engaged in programmes for the conservation of biodiversity and sustainable use of its components.(xi)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.(xii)Co-ordinate the activities of the Bio-diversity Management Committees.(xiii)Report to the State Government about the functioning of the Board and implementation of the Act and the Rules made there under.(xiv)Recommend, prescribe, modify, collect fee of biological resources from time to time.(xv)Devise methods to ensure protection of rights including intellectual property rights over biological resources and associated knowledge including systems of maintaining confidentiality of such information as appropriate, including the protection of the information recorded in People's Biodiversity Registers.(xvi)Sanction grants-in-aid and grants to Bio-diversity Management Committee for specific purposes.(xvii)Undertake physical inspection of any area in connection with the implementation of the Act.(xviii)Strive to integrate biodiversity and biodiversity-dependent livelihoods into all sectors of planning and management, and at all levels of planning from local to state, to enable such sectors and administrative levels to contribute effectively for conservation and sustainable use.(xix)Prepare the annual Budget of the Board incorporating its own receipts as also the devaluation from the State and Central Government:Provided that the allocation by the Central Government shall be operated in accordance with the budget provisions approved by the Central Government.(xx)Board shall have full powers for granting administrative and technical sanctions to all the estimates, it may, however, delegate such administrative and technical sanction powers to the Member Secretary of the Board, as may be deemed necessary.(xxi)Recommend for creation of posts and mode of recruitment of such post; to State Government for effective discharge of the functions by the Board:Provided that no such post whether permanent/temporary or of any nature, shall be created without prior approval of the State Government.(xxii)Perform such other functions, as may be necessary to carry out the provisions of the Act or as may be specified by the State Government from time to time.(xxiii)Shall have power to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same.(xxiv)Patenting of the important biological resources that are indigenous of the State.

## **16. Powers and Duties of the Chairperson.**

(1)The Chairperson shall ensure that the affairs of the Board are run efficiently and in accordance with the provisions of the Act and these rules.(2)The Chairperson shall have the powers of general superintendence over the officers and staff of the Board and the Chairperson may issue necessary directions for the conduct and management of affairs of the Board.(3)The Chairperson shall convene and preside over all the meetings of the Board and shall ensure that all decisions taken by the Board are implemented in proper manner.(4)The Chairperson shall have full powers for granting administrative and financial sanction to all estimates.(5)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.

## **17. Terms and conditions of service of employees of the Board.**

- The terms and conditions of the service of employees of the Board shall be specified by the Board by regulations with the prior approval of the State Government. The appointments in general shall be on contractual basis or on deputation, unless otherwise decided by the State Government.

## **18. Operation of State Bio-diversity Fund.**

(1)All revenues received under Section 32 (1) of the Act in the State Biodiversity Fund shall be deposited in a PD Account of the Board and the same shall be regulated in accordance with the decision of the Board.(2)The State Biodiversity Fund shall be operated by the Chairperson of the Board under his seal and signature or by such other officer of the Board as may be authorized by the Board in this behalf.

## **19. Procedure for access to/collection of biological resources for certain purposes.**

(1)Any citizen of India or a body corporate, association or organization registered in India seeking permission of the Board for access to/collection of biological resource for commercial utilization or bio-survey and bio-utilization for commercial utilization shall make an application in Form 1 to the Board. Every application shall be accompanied by a fee as may be fixed and notified by the Board with the prior approval of the State Government, in the form of a cheque or Demand Draft drawn in favour of the State Biodiversity Board at the head office of the Board.(2)The Board, on due consideration of the application and in consultation with the local Bodies concerned and after collecting such other additional information, as it may deem necessary, shall take decision on the application as far as possible within a period of three months of the receipt of the application.(3)On being satisfied with the merit of the application, the Board may allow the application or restrict any such activity if it is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity.(4)The permission shall be in the form of a written agreement signed by the Chairperson or any duly authorized officer of the Board on the one part and the applicant on the other part. The

form of agreement shall be specified by the Board and shall contain such conditions, as the Board may consider necessary to protect the biological diversity of the country.(5)The agreement shall provide measures specifically for the conservation and protection of the biological resources.(6)The Board shall have the full right to reject any application for good and sufficient reasons, but before rejecting applications it shall give the applicant an opportunity of being heard.(7)Any information given in the Form referred to in the sub-rule (1) for prior intimation, shall be kept confidential and shall not be disclosed, to any person not concerned thereto.

## **20. Revocation of permission/Access/Approval.**

(1)The Board may, either suo moto or on the basis of any complaint, withdraw any permission granted or revoke the written agreement in the circumstances specified below, namely:-(a)on the ground of reasonable apprehension that the person to whom the permission was granted has violated any of the provisions of the Act or the conditions on which the permission was granted or he has failed to comply with any of the conditions of the written agreement or any of the conditions of access granted;(b)in the interest of public cause or for the protection of environment and conservation of biological diversity.(2)The revocation order shall be made only after making such enquiries as required after giving the person so affected an opportunity of being heard.(3)The Board shall communicate a copy of such withdrawal or revocation order to the Biodiversity Management Committee for prohibiting the person concerned from utilizing the biological resources and also to assess the damage, if any, caused and to recover the damages.

## **21. Annual Report and Annual Statement of Accounts.**

(1)The Board shall prepare its annual report for each financial year giving detailed account of its activities and annual statement of accounts and submit the same to the State Government.(2)The Board shall lay down the procedure for upkeep of the accounts. The accounts of the Board shall be audited annually by the Chartered Accountant appointed for the purpose by the Board. The Accountant General of the State may as well audit the accounts and the fee for the same shall be payable by the Board.(3)The Board shall submit the Annual Report together with the audited statement of consolidated accounts (incorporating the accounts of the local bodies i.e., BMCs) for each financial year to the State Government by 30th September each year so as to enable the State Government to lay the reports before the Legislative Assembly.

## **22. Notification and Management of Bio-diversity Heritage Site.**

(1)The Board shall, in consultation with the local bodies and other key stakeholders, take necessary steps to notify areas of significant bio-diversity values as Heritage Sites. On recommendation of the Board after consultation with the Central Government, the State Government may issue notification to this effect.(2)The Board shall frame guidelines on the selection, management and conservation and other aspects of Heritage Sites, ensuring that these provide decision- making role for relevant Biodiversity Management Committee.

## 23. Constitution of Biodiversity Management Committees.

(1) Every local body shall constitute a Biodiversity Management Committee within its area of jurisdiction. (2) If the local body is satisfied that the function of the Biodiversity Management committee can be discharged by the general assembly of the local body, or by one of its existing committees, the same should be recorded as resolution passed by such local body, following due procedure. (3) The Biodiversity Management Committees constituted under sub-rule (1) shall have seven persons nominated by the local body, of whom not less than one third shall be women. Seven local knowledgeable persons being so nominated should be drawn from amongst the herbalists, agriculturists, foresters, Non Timber Forest Produce collectors/traders, fisher-folk, representatives of user associations, community workers, academicians and any person/representative of organization, on whom the local body trusts that he can significantly contribute to the Biodiversity Management Committee. The proportion of members belonging to the Scheduled Caste and the Schedule Tribe should not be less than Scheduled Caste/Scheduled Tribe percentage of the District, where such a Committee is set up. All the persons nominated should be residents of the area of local body and must be voters of such local body. (4) The local body shall nominate six special invitees from forest, agriculture, livestock, health, fisheries and education department. (5) The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be presided over the Chairperson of the local body. The Chairperson of the local body shall have casting vote in case of a tie. (6) The Chairperson of the Biodiversity Management Committee shall have tenure of three years. (7) The local Member of the Legislative Assembly and Member of Parliament would be special invitees to the meetings of the Biodiversity Management Committee at different levels. (8) A technical support group comprising of experts in the field of biodiversity drawn from Government agencies, Non Government Organization, academic field, community and individuals shall be established by District administration. The expert group shall lend support to Biodiversity Management Committee at different levels. (9) The key mandate of the Biodiversity Management Committees shall be to ensure conservation, sustainable utilization and equitable sharing of benefits from the biodiversity. The Biodiversity Management Committees shall facilitate preparation of People's Biodiversity Registers. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medical or any other use or any other traditional knowledge associated with them. The Zila Parishad Biodiversity Management Committee shall be responsible for developing a district wide network of People's Biodiversity Registers database. The People's Biodiversity Registers shall be prepared at the Gram Panchayat/Municipality/Municipal Council/Municipal Corporation Biodiversity Management Committee level by using the process and the format set by the Board. The Biodiversity Management Committees and local bodies shall be responsible for ensuring the protection of the knowledge recorded of the People's Biodiversity Registers, especially to regulate its access to outside agencies and individuals. (10) The Zila Parishad and Panchayat Samiti Biodiversity Management Committees shall strive to mainstream biodiversity conservation concerns in the development planning at the local level. (11) The Board shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers, and shall ensure that all information recorded in such Register receives legal protection against misuse and appropriation by outside agencies and individuals. (12) 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 of their sharing.(13)The Biodiversity Management Committees at Gram Panchayat/Municipality/Municipal Council/Municipal Corporation level may decide the terms on which it would permit access to biodiversity resources and associated knowledge to different parties for various purposes within their jurisdiction and levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purpose from the area falling within its jurisdiction. The major share of levy charged for the material collection/cultivated from private land should be given to the owner/cultivator of the land/knowledge holders and the balance should be deposited in Local Biodiversity Fund of Biodiversity Management Committee. The levy charged for the material collected/cultivated from Government land should be totally deposited in Local Biodiversity Fund of Biodiversity Management Committee.(14)The Board shall provide guidelines for terms of access and fee collection by the Biodiversity Management Committees.(15)The Gram Panchayat/Municipality/Municipal Council/Municipal Corporation level Biodiversity Management Committees shall prepare a Biodiversity Management Plan using output from People's Biodiversity Register and shall be responsible for or participate in its implementation.(16)The local bodies shall ensure that the Biodiversity Management Committees are integrated with the functioning of existing local institutions by cross-membership, coordination meetings, and other such measure as determined by the local bodies or as specified by the Board.(17)The other functions of the Biodiversity Management Committees are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local vaids and practitioners using the biological resources.

## **24. Local Bio-diversity Fund.**

(1)At the level of local body, the local biodiversity fund shall be constituted. The Board shall provide to the local body any loan or grant received by its from State Government, Central Government or from the Authority for the purpose of the Act. The local body can also access such funds from other sources as it identifies or as specified by the Board.(2)The local Biodiversity Fund shall be utilized strictly in accordance with the provisions of sub-section (2) of Section 44 of the Act, which states that 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.(3)The fund shall be deposited in a Nationalised Bank/Schedule Bank approved by the Biodiversity Management Committee and it shall be operated by the Chairperson of the Committee under his seal and signature, or any other officer of the Bio-diversity Management Committee as may be authorised in this behalf.

## **25. Annual report and annual statement of accounts of Biodiversity Management Committee.**

(1)The Biodiversity Management Committee shall prepare the annual report for each year giving detailed accounts of its activities. The annual report shall invariably contain,(a)the name of the Committee(b)the period to which the report relates(c)the incumbency of office of the period(d)detailed statement of programmes of action for the year(e)detailed report on the activities performed during the year, a brief account of financial position of the Committee.(2)The

Biodiversity Management Committee shall submit the annual report together with the audited statement of accounts to the State Biodiversity Board and the local body by 30th June each year to the District Magistrate having jurisdiction over the area of the local body.(3)The accounts of the local Biodiversity fund shall be audited by the Examiner of Local Fund Audits. The Principal Accountant General (Civil Audit), Rajasthan has the right to audit this fund at his discretion.(4)The accounts of the local Biodiversity funds shall be maintained in such manner as may be specified by the Board.

## **26. Settlement of disputes.**

- The Board shall lay down the procedure for settlement of disputes between Board and the Biodiversity Management Committees or amongst Biodiversity Management Committees, and between Biodiversity Management Committee and relevant local bodies. Form I[See Rule 19]Application form for access to/collection of Biological resources and associated traditional knowledgePart-A

### **1. Full particulars of the applicant:**

(a)Name:(b)Permanent Address:(c)Address of the Contact person/agent, if any, in India:(d)Profile of the organization (personal profile in case the applicant is an individual). (Please attach relevant documents of authentication):(e)Nature of Business:(f)Turnover of the organization in Indian Rupees:

### **2. Details and specific information about nature of access sought and biological material and/or associated knowledge to be accessed:-**

(a)Identification (scientific name) or biological resources and its traditional use;(b)Geographical location (including village, Tehsil and District) of proposed collection;(c)Description/nature of traditional knowledge and its existing manifestations and uses (oral/documented):(d)Any identified individual/family/community holding the traditional knowledge;(e)Quantity of biological resources that are proposed to be collected;(f)Time span in which the biological resources are proposed to be collected;(g)Name and number of person authorized by the company for making the collection;(h)The purpose for which the access is requested including the type and extent of research, commercial use being derived and expected to be derived from it;(i)Whether any collection or use of the resource endangers any component of biological diversity and the risks, which may arise, from the access.

### **3. Estimation of benefits that would flow to communities arising out of the use of accessed bio-resources and traditional knowledge.**

#### **4. Purposed mechanism and arrangements for benefit sharing.**

#### **5. Any other information**

Part-B Declaration I/We declare that:-\* Collection and use of proposed biological resources shall not adversely affect the sustainability of the resources;\* Collection and use of proposed biological resources shall not entail any environmental impact;\* Collection and use of proposed biological resources shall not pose any risk to biodiversity including ecosystems, species, and genetic diversity;\* Collection and use of proposed biological resources shall not adversely affect the local communities;I/We undertake to pay any fee and/or royalty, as may be levied by the Board or BMCs. I/We further undertake to furnish any irrevocable bank guarantee, as may be prescribed by the Board.I/We further declare the information provided in the application form is true and correct and I/We shall be responsible for any incorrect/wrong information. Signature of the Applicant Name of the Applicant Place.....Date.....