

THE NAVA KERALA AGRO CUM BIOSPHERIC DEVELOPMENTAL AND DEMOCRATIC UTILISATION OF RURAL PHENOMENAL RESURRECTION BILL

An Act to provide for the protection and promotion of the food security by conservation of the agricultural biological diversity in the State of Kerala and for the sustainable use of natural resources like rivers, backwaters, ground waters , high range areas.

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Nava Kerala Agro cum Biospheric Developmental and Democratic Utilization of Rural Phenomenal Resurrection Act —.

(2) It extends to the whole State of Kerala ;

(3) It shall come into effect on such date as the Government may by notification in the official gazette appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “agro-biological diversity” means plants, animals and micro organisms or parts thereof, found in rivers, backwaters, ground waters , high range areas and other ecologically fragile areas located within the State of Kerala which are necessary for the sustainable use of food security;

(b) “agro-biodiversity area” means places which are rich in agro-biological diversity;

Explanation.—Places like Kuttanad, Waynad, Thekkady, Silent Valley etc. are places which are rich in agro biological diversity.

(c) “Chairperson” means the Chairperson of the State Biodiversity and Food Security Board constituted under this Act;

(d) “conservation farming movement” means “a plan of action aimed at improving the ecological foundations such as land, water, biodiversity and climate essential for sustainable agriculture.”

(e) “Food Security Awards” means awards granted by the Government to individuals or tribal or farming families for their outstanding success in conservation of the rich agro-diversity of Kerala in genetic gardens in their homesteads by growing rice, tuber crops, vegetables and animal breeds which helps in increasing the productivity, profitability and sustainability of rice farming system so as to re-establish Kerala as a agricultural biodiversity paradise and includes methods used for food conservation of food articles of all kinds;

(f) “Mixed farming Systems” means “system of farming involving crop-livestock-fish integrated production system which gives multiple livelihood for persons involved in each of the field of farming.”

(g) “member” means a member of the State Bio-diversity and Food Security Board and includes the Chairperson;

(h) “sustainable food technology” means the use of agricultural crops of the State in such manner and at such rate that does not lead to the long term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;

(i) “Special Agricultural Zones” means “areas where conservation farming involving either organic farming or green agriculture is promoted based on integrated applications of the principles of ecology, economics, social and gender equity and employment generation.”

CHAPTER II CONSTITUTION OF STATE AGRO CUM BIODIVERSITY BOARD

3. *Constitution of State Agro cum Biodiversity Board.*—8. (1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint, there shall be established by the State Government for the purposes of this Act, a body to be called the State Agro cum Biodiversity Board.

(2) The State Agro cum Biodiversity Board shall consist of the following members,

(a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological agrobiodiversity and in matters connected therewith

(b) seven *ex officio* members to be appointed by the State Government to represent respectively the Department of the State Government dealing with—

- (i) Agricultural Research and Education;
- (ii) Biotechnology;
- (iii) Fisheries;
- (iv) Agriculture and Co-operation;
- (v) Indian Systems of Medicine and Homoeopathy;
- (vi) Science and Technology;
- (vii) Health and Environment.

(c) five non-official members to be appointed from amongst specialists and scientists having special knowledge of, or experience in, matters relating to conservation of agricultural biological diversity, sustainable use of agro-biological resources and equitable sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge holders of biological resources.

4. *Conditions of service of Chairperson and members.*—(1) The term of office and conditions of service of the Chairperson and the other members other than *ex officio* members of the State Agro-Biodiversity Board shall be such as may be prescribed by the State Government.

(2) The State Government is empowered to make rules for the purposes of effective functioning of the said Board;

5. *Removal of members.*—11. The State Government may remove from the State Agro-Biodiversity Board. Any member who, in its opinion, has—

- (a) been adjudged as an insolvent; or
- (b) been convicted of an offence which involves moral turpitude; or
- (c) become physically or mentally incapable of acting as a member; or
- (d) so abused his position as to render his continuance in office detrimental to the public interest; or
- (e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

CHAPTER III

FUNCTIONS AND POWERS OF THE STATE AGRO-BIODIVERSITY BOARD

6. *Functions and powers of the State Agro-Biodiversity Board.*—(1) The State Agro-Biodiversity Board shall—

- (a) advise the State Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of agro-biological resources;
- (b) formulate appropriate action plan for the sustainable food security;
- (c) perform such other functions as may be necessary to carry out the provisions of this Act.

CHAPTER IV

DUTIES OF THE STATE GOVERNMENTS

7. *State Government to develop State Policies, Plans, Awards etc., for conservation of agro-biological diversity.*—(1) The State Government shall develop strategies, plans, programmes, awards for the conservation and promotion and sustainable use of agro-biological diversity including measures for identification and monitoring of areas rich in biological resources, for the conservation of biological resources, incentives for research, training and public education to increase awareness with respect to agro-biodiversity.

(2) Where the State Government has reason to believe that any area rich in agro-biological diversity, biological resources and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned District Collectors to take immediate ameliorative measures, offering such State Government any technical and other assistance that is possible to be provided or needed.

(3) The State Government shall, as far as practicable wherever it deems appropriate, integrate the conservation, promotion and sustainable use of agrobiological diversity into relevant sectoral or cross sectoral plans, programmes and policies.

8. *Declaration of Agro-Biodiversity areas.*—(1) Without prejudice to any other law for the time being in force, the State Government may, from time to time in consultation with the local bodies notify areas of agro biodiversity importance as agro biodiversity areas under this Act.

(2) The State Government, in consultation with the Agro-Biodiversity Board may frame rules for the management and conservation of all agro-biodiversity areas.

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

9. *Schemes to “bridge the yield gap”.*—Government shall implement appropriate schemes to help farmers to bridge the gap between potential and actual productivity through supporting technologies, services and public policies designed to ensure an assured remunerative price for farm products.

10. *Government to take steps to encourage and ensure involvement of farmers in conservation farming movement and mixed farming systems.*—Government shall take all necessary steps through the Commissions and Committees constituted under this Act to involve farmers in conservation farming as defined in Sec.2 (d) of this Act and to adopt mixed farming systems as defined in Sec.2 (f) to the maximum extent possible.

11. *Institution of Food Security Awards to farmers.*—Government shall institute at State, District and different Panchayath levels annual food security awards on the recommendation of the commission after obtaining detailed reports in that behlf from Committees under whose jurisdiction concerned farmers are having their farms.

12. *Establishment of Special Agricultural Zones.*—Government shall establish in consultation with the commission special agricultural zones as defined in Sec.2 (i) of this Act at places found suitable after conducting due enquiries.

13. *Prior sanction for making construction and other development of agrobiodiversity area.*—(1) No persons shall develop or make any construction in any agro-biodiversity area without the prior sanction of the State Agro-Biodiversity Board.

(2) Any person who is aggrieved by an order as referred to above shall file an appeal before the High Court within ninety days of the order. The order passed by the High Court shall be final.

14. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or any member, officer or employee of the State Agro-Biodiversity Board for anything which is in good faith done or intended to he done under this Act or the rules or regulations made thereunder.

15. *Penalties.*—Whoever contravenes or to or abets the contravention of the provisions of section 9 or violates any direction issued by the State Agro Diversity Board shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees and where the damage caused exceeds one lakh rupees such fine may commensurate with the damage caused, or with both.

6. *Offences by companies.*—(1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the

offence or contravention and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

17. *Offences to be cognizable and non-bailable.*—The offences under this Act shall be cognizable and non-bailable.

18. *Act to have effect in addition to and not in derogation of other Acts.*—The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, including the Biological Diversity Act, 2002 (Central Act) for the time being in force, relating to forests or wildlife.

19. *Cognizance of offences.*—No Court shall take cognizance of any offence under this Act except on a complaint made by—

- (a) the State Government or any authority or officer authorized in this behalf by that Government; or
- (b) any benefit claimer who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the State Government or the authority or officer authorized as aforesaid.

20. *Power to remove difficulties.*—The State Agro-biodiversity Authority shall, with the previous approval of the State Government, by notification in the Official Gazette, make regulations for exercising its powers and performing its functions under this Act.

21. *Power of State Government to make rules.*—(1) The State Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for any of the following matters, namely:—

- (a) terms and conditions of service of the Chairperson and members under section 4;
- (b) powers and duties of the Chairperson under section 6;
- (c) the functions to be performed by the State Agro-biodiversity Board;
- (d) form of application and payment of fees for undertaking certain activities under sub-section (1) of section 9;

- (e) the form and manner of making an application under sub-section (2) of section 9;
- (f) the formats to be used for communication and orders to be passed;
- (g) the manner of maintaining and auditing the accounts of the State Agro Biodiversity Board and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished to the State Government
- (h) management and conservation of agro biodiversity area; or regulation.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.
