Biological Diversity (Amendment) Bill, 2021

Why in news?

The Biological Diversity (Amendment) Bill was passed in the Lok Sabha, bringing in a number of changes to the over 20-year old Biological Diversity Act of 2002.

What is the Biological Diversity Act, 2002 about?

- Biological diversity refers to all kinds of life forms - animals, plants and micro-organisms, their gene pools, and the ecosystems that they inhabit.
- The 2002 Act was a response to the global need to protect and conserve biological resources, which are under threat due to human activities.
- **Biological Diversity Act 2002-** It was enacted by the Parliament for
    - Conservation of biological diversity
    - Sustainable use of its components
    - Fair and equitable sharing of the benefits arising out of the use of biological resources.
- **Three tier Structure-**

Authority	Jurisdiction
National Biodiversity Authority (NBA)	At National level
State Biodiversity Boards (SBA)	At State level
Biodiversity Management Committees	At Local level

- **National Biodiversity Authority-** It is established as a regulatory body under the Act, which prescribes the conditions, purposes for which biological resources could be utilised.

As per report of Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services (IPBES), about 1 million animal and plant species, out of 8 million, were facing the threat of extinction.

What is the need for the amendment?

- **Triple crisis** - The world is facing triple crisis of *climate change, desertification and loss of biological resources.*
- **Simplification-** Over the years, the modification in 2002 law is pointed by multiple stakeholders.
- There is a need for simplification of the compliance requirement for ease of doing business, promoting research innovation and cooperation.
- **Indigenization**- Promotion of biological resources among the users of codified

traditional knowledge and AYUSH practitioners.

How is the bill different from the existing Act?

Features	Existing Act	New Bill
Approval from NBA for access to biological resources	Foreign individuals, non-resident Indians, companies not registered in India, and companies registered in India and having non-Indian participation in share capital or management	Approval is not needed for companies registered in India and controlled by Indians
Exemption for prior intimation to State Biodiversity Boards(SBB) regarding biological resources access	Use by local people and communities including growers and cultivators of biodiversity	Codified traditional knowledge, cultivated medicinal plants and their products and AYUSH practitioner
Approval of Intellectual Property rights	Approval of NBA is required before applying for IPR involving biological resources obtained from India, or sealing of patent.	Approval will be required before the grant of IPR instead of before the application itself.
Benefit sharing provision	Applicable to research, commercial utilisation, as well as bio-survey and bio-utilisation for certain entities. NBA is required to determine terms of benefit sharing while granting approvals for various activities.	Removes applicability to research, bio-survey and bio-utilisation. SBB will determine benefit sharing while granting approvals to domestic entities as per the regulations by NBA.
Offences and penalties	Offences are punishable with imprisonment of up to 5 years or fine or both.	Decriminalises the offences and makes offences punishable with a penalty between Rs 1 lakh - Rs 50 lakh.

What is the significance of the amendment?

- **Promotion of Indian Medicine –** Promotes Indian medicine as the practitioners of Indian systems of medicine, have been exempted from making payments towards the access and benefit-sharing mechanism.
- **Reduced restriction-** Treating the companies registered in India and controlled by Indians as Indian companies, even if they have foreign equity or partnership reduces the restrictions on them.
- **Speedy approval-** It will reduce the time taken for approval to use the biological resources in scientific research and for filing of patent applications.
- **Rationalised penalty provisions-** The penalty provisions for wrongdoing by user agencies have been rationalised through decriminalisation of all the offences under the Act.

What are the issues of the amendment?

- **Ambiguity in the exemption for codified traditional knowledge** –It exempts codifies traditional knowledge from sharing benefits with the local communities but it has not defined the term 'codified traditional knowledge'.
- **Curtail the role of local communities**- The bill removes the direct role of local bodies and benefit claimers in determining mutually agreed terms.
- **Penalty-** The bill decriminalised the offences and makes them punishable with penalty but there is a lack of substantive legislative guidance on adjudging the penalty.
- It also changes the adjudicating authority from judges to government officials.
- **Lack of clarity -** It is unclear whether certain activities require prior approval of SBA or its intimation.
- In certain cases application process is not specified for NBA approval.
- The bill seeks to remove bio-utilisation, but it still remains in certain provisions.

References

1. Indian Express| Explained biodiversity act amendment
2. PRS| Key features and highlights of the bill

