Drawbacks in Seeds Bill 2019

What is the issue?

- The Seeds Bill 2019 is under Parliament's consideration. [Click here to know more on the Bill]
- In this context, here is an analysis if the provisions are truly farmer-friendly.

What is the Bill on?

- The draft Seeds Bill aims to replace the Seeds Act, 1966.
- The Bill, essentially, regulate the quality of seeds sold.
- The earlier versions of the Bill, in 2004 and 2010, had generated heated debates.

- According to the government, a new Seeds Bill is necessary to -
    i. enhance seed replacement rates in Indian agriculture
    ii. specify standards for registration of seed varieties
    iii. enforce registration from seed producers to seed retailers

What necessitates seed protection?

- In 1994, India signed the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
- In 2002, India also joined the International Union for the Protection of New Varieties of Plants (UPOV) Convention.
- Both TRIPS and UPOV led to the introduction of some form of Intellectual Property Rights (IPR) over plant varieties.
- In this line, member countries had to introduce restrictions on the free use and exchange of seeds by farmers unless the "breeders" were remunerated.

What are the conflicting commitments?

- TRIPS and UPOV run counter to other international conventions in this reagrd.

- In 1992, the Convention on Biological Diversity (CBD) provided for "prior informed consent" of farmers before the use of genetic resources.
- It also called for "fair and equitable sharing of benefits" arising out of their use.
- In 2001, the International Treaty on Plant Genetic Resources for Food and

Agriculture (ITPGRFA) recognised farmers' rights.

- It covered the rights to save, use, exchange and sell farm-saved seeds.
- National governments had the responsibility to protect such farmers' rights.
- So, while TRIPS and UPOV gave priority to breeders' rights, the CBD and ITPGRFA emphasised on farmers' rights.
- Notably, India is a signatory to TRIPS and UPOV as well as CBD and ITPGRFA.
- So, any Indian legislation had to be in line with both these sets of laws.

How did the PPVFR Act address this?

- The Protection of Plant Varieties and Farmers' Rights (PPVFR) Act of 2001 sought to achieve the delicate balance between farmers' and breeders' rights.
- It retained the main spirit of TRIPS i.e. IPRs as an incentive for technological innovation.
- Nevrtheless, the Act also had strong provisions to protect farmers' rights.
- In this regard, it recognised three roles for the farmer: cultivator, breeder and conserver -
    i. as cultivators, farmers were entitled to plant-back rights
    ii. as breeders, farmers were held equivalent to plant breeders
    iii. as conservers, farmers were entitled to rewards from a National Gene Fund

How important are public institutions in having certified seeds?

- While the above goals are indeed worthy, any such legislation is expected to be in alignment with the spirit of the PPVFR Act.
- E.g. a shift from farm-saved seeds to certified seeds, which would raise seed replacement rates, is desirable
- As, certified seeds have higher and more stable yields than farm-saved seeds.
- However, such a shift should be achieved not through policing, but through an enabling atmosphere.
- Private seed companies prefer policing.
- This is because their low-volume, high-value business model is crucially dependent on forcing farmers to buy their seeds every season.
- On the other hand, an enabling atmosphere is generated by the strong presence of public institutions in seed research and production.
- Public institutions, not motivated by profits, supply quality seeds at affordable prices, which make policing redundant.
- But, from the late-1980s, Indian policy has consciously encouraged the growth of private seed companies, including companies with majority foreign equity.

- Resultantly, today, more than 50% of India's seed production is undertaken in the private sector.

Is the Seeds Bill 2019 against farmers' interests?

- Given their large share, the private sector interests have guided the formulation of the various versions of Seeds Bill between 2004 and 2019.
- The private seed firms have been demanding -
    i. favourable changes in seed laws and deregulation of seed prices
    ii. free import and export of germplasm
    iii. freedom to self-certify seeds
    iv. restrictions on the use, by farmers, of saved seeds from previous seasons
- Unsurprisingly, many of the Bill's provisions deviate from the spirit of the PPVFR Act.
- It is hence against farmers' interests in many ways and in favour of private seed companies.

What are the problematic provisions in the Bill?

- **Seed registration** - The Seeds Bill insists on compulsory registration of seeds.
- However, the PPVFR Act was based on voluntary registration.
- As a result, many seeds may be registered under the Seeds Bill but may not be under the PPVFR Act.
- For instance, a seed variety could have been developed by a breeder, but derived from a traditional variety.
- In this case, the breeder will get exclusive marketing rights.
- But no gain will accrue to farmers as benefit-sharing is dealt with in the PPVFR Act, under which the seed is not registered.
- **Data** - As per the PPVFR Act, all applications for registrations should contain the complete data of the parental lines from which the seed variety was derived.
- These include contributions made by farmers.
- This allows for an easier identification of beneficiaries and simpler benefit-sharing processes.
- But, Seeds Bill, demands no such information while registering a new variety, thus overlooking the recording of the contributions of farmers.
- Private companies are thus left free to claim a derived variety as their own.
- **Re-registration** - The PPVFR Act, which is based on an IPR like breeders' rights, does not allow re-registration of seeds after the validity period.
- However, as the Seeds Bill is not based on such principle, private seed companies can re-register their seeds.

- They can do this for an infinite number of times after the validity period.
- Given this “ever-greening” provision, many seed varieties may never enter the open domain for free-use.
- **Seed prices** - A vague provision for regulation of seed prices appears in the Seeds Bill.
- However, it appears neither sufficient nor credible.
- In fact, strict control on seed prices has been an important demand raised by farmers’ organisations.
- They have also demanded an official body to regulate seed prices and royalties.
- In its absence, they feel, seed companies may be able to fix seed prices as they deem fit, leading to sharp rises in costs of cultivation.
- **Compensation** - Under the PPVFR Act, if a registered variety fails in its promise of performance, farmers can claim compensation before a PPVFR Authority.
- This provision is diluted in the Seeds Bill, where disputes on compensation have to be decided as per the Consumer Protection Act 1986.
- Consumer courts are hardly ideal and friendly institutions that farmers can approach.
- Also, according to the Seeds Bill, farmers become eligible for compensation if a plant variety fails to give expected results under “given conditions”.
- Sadly, “given conditions” is almost impossible to define in agriculture.
- Seed companies would always claim that “given conditions” were not ensured.
- Again, this will be difficult to be disputed with evidence in a consumer court.

What is the way forward?

- Given the inherent nature of seeds, farmer-friendly pieces of seed legislation are difficult to frame and execute.
- This is particularly so as the influence of the private sector grows and technological advances shift seed research towards hybrids.
- In hybrids, reuse of seeds is technically constrained.
- The private sector, thus, has a natural incentive to focus on hybrids.
- In such a world of hybrids, even progressive seed laws become a weak defence.
- On the other hand, strong public agricultural research systems ensure that the choices between hybrids, varieties and farm-saved seeds remain open, and are not based on private profit concerns.
- Even if hybrids are the appropriate technological choice, seed prices can be kept affordable with public institutions in place.
- Thus, for the seed sector and its laws to be truly farmer-friendly, the public

sector has to recapture its lost space.

Source: Indian Express

