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With the new global norms on intellectual property rights in place, it will no longer be possible for private industry to have free or unconditional access to the agricultural technology being generated by public sector research bodies. Gone are, therefore, the days when the new seeds or technology developed by the Indian Council of Agricultural Research (ICAR) or the agricultural universities were readily available to public agencies or private companies for further multiplication and sale for commercial gains without making suitable

investments on research.

However, since the technology ultimately needs to reach the end-users for whom it is meant (mostly farmers) and the research institutes cannot, for obvious reasons, do so entirely on their own, involvement of other public or private agencies is a must for this purpose. This is now sought to be facilitated by the ICAR by evolving a new intellectual property management regime that will allow smooth transfer and commercialisation of its technology with provisions for benefit sharing.

The committee set up for this purpose under the chairmanship of Department of Agricultural Research and Education (DARE), Additional Secretary Rita Sharma has released a draft containing detailed guidelines for intellectual property management besides transfer and commercialisation of technology.

DARE to be different

ICAR's new policy combines commercialisation of new intellectual property with provisions of benefit sharing

Significantly, it envisages allowing the private, public and other agencies to multiply and sell seeds of the ICAR plant varieties under their own trade mark or trade name, with certain conditions attached to it. Since the recently-enacted Plant Varieties Protection and Farmers Rights Act, 2001, requires compulsory registration of all new varieties, the commercialisation of these seeds will have to be done under the denomination registered under this law. For this, licences will be issued to the parties for commercialisation of the varieties, including the

parent lines of the hybrids, in the domestic market or abroad.

The licence holders will, however, have to use, besides its own trade mark, the ICAR's collective mark or the institution's trade mark, along with the use of registered denomination on all packets of seed. The foreign clients in seed business, who are interested in commercialisation of the ICAR seeds in other countries, will have to secure protection of the ICAR varieties in their respective countries.

Indeed, till the late 1990s, the country did not have any specific intellectual property policy con-

cerning agriculture technology though some general legal measures like the Patents Act, 1970, the Trade Marks Act, 1999, and some others applied loosely to the farm sector as well. Where agricultural research was concerned, the emphasis was mainly on the transfer of technology and not on commercialisation of technology. As such, the need for protection of the intellectual property was not felt.

But with the signing of several new global agreements and conventions on the intellectual property rights issues related to agricultural products and emergence

of the multinational companies having strong agricultural research programmes, the ICAR also began conceiving measures to protect its technology. However, this was sought to be done largely through guidelines, orders or instructions, besides mutual agreements. But that kind of an approach did not leave much scope for generation of revenue for the research institutes through the technologies developed by them. Such revenue generation is useful not only to partly cover the cost of technology generation but also to provide an incentive to the scientists to come out with more innovations.

The ICAR and its institutes will, therefore, charge royalty on seed sale of even a protected variety developed by another agency, company or breeder by using the institute's genetic material. Such a royalty is allowed under the PVP and FR Act. The net total income resulting from commercialisation of ICAR's seeds or technology will be shared by the ICAR headquarters, the developer institute and the innovator scientists. A part of it will be utilised for strengthening research facilities and part for the welfare of ICAR employees. There will, of course, be exemption from royalty for the use of all registered varieties and genetic stocks of the ICAR by others for research purposes.

Another significant provision of the proposed policy concerns partnership between the ICAR and its institutions with the private sector for the purpose of agricultural research itself. For this, the industry will be allowed to use the ICAR's infrastructure for carrying out need-based research in important areas through contract research, contract services and by availing the core shared facilities at the ICAR institutions.