

## Geographical Indications: A Boon Which Can Boost Agriculture to A New High

**Adv. Eknoordeep**

BA. LL.B (Hons)

School of Law, Lovely Professional University (Phagwara), Punjab

Email ID: [eknoordeep1996@gmail.com](mailto:eknoordeep1996@gmail.com)

**ARTICLE ID: 041**

### Introduction

Geographical Indication of Goods (GI) as the name suggests, is a sign, as name or identification, utilized on the merchandise that have a particular geological starting point and groups characteristics or a standing that are because of the spot of source. To work as a GI, a sign should recognize an item as beginning in a originating place. Likewise, the characteristics, attributes or reputation of the product should be basically because of the place of source. Since the characteristics rely upon the geographical place of creation, there is a reasonable connection between the product and its unique place of creation. A geological sign right empowers the individuals who reserve the option to utilize the sign to forestall its utilization by an outsider whose item doesn't adjust to the appropriate norms. For instance, in the Jurisdiction wherein the Darjeeling tea was the first to GI, makers of Darjeeling tea can exclude utilization of the term Darjeeling for tea not produced in their tea gardens or not created by the norms set out in the code of training for the geological indication. Notwithstanding, an ensured GI doesn't empower the holder to keep somebody from making an item utilizing similar methods as those set out in the guidelines for that indication.



### **Geographical Indication in Agriculture**

Seed or planting material is essential to all farming creation. Seed costs least in complete expense of harvest creation yet has most extreme effect. Having received the reward through the seeds of green revolution varieties farmers rushed to understand the significance of good seeds of new and better varieties of yields. For such unrivalled seeds, farmers were significantly all the more ready to follow through on a greater expense. Seed companies and technology developers considered this to be an occasion to change over plant varieties and significant plant genes as benefit – making products. Worldwide system, pesticides and seed companies merged to consolidate capital and innovation to rule the market. In different countries the need to conserve biodiversity, farm level variety, offering credit to farmers for their customary crop varieties, folk varieties, farmers varieties, admittance to profit sharing, expanding consumer confirmation via geographic indication, appellation of cause, conventional information and so on were endeavoured to be ensured. Global commodity is presently dominated by a few such new issues, which in India are currently perceived and applied. Other part of GI in farming is connected the plant-based items or results. Plant-based items could be crude material for creation or its handling or the preparation. After getting GI tag successfully on 15th September, 2003, Darjeeling Tea 12 turned into the primary GI.

### **Protection by GI: Legal Side**

With the passage of a law specifically dealing with the protection of GIs, India has adopted a sui generis scheme of protection for GIs. The 'Geographical Indications of Goods (Registration & Protection) Act, 1999' (GI Act) and the 'Geographical Indications of Goods (Registration and Protection) Rules, 2002' are the laws dealing with the protection of GIs in India (GI Rules). India enacted its GI laws to allow the country to enforce national intellectual property laws in accordance with India's TRIPS obligations. The GI Act, unlike TRIPS, does not limit itself to wines and spirits. Instead, it has been left to the central government's discretion to determine which goods should be given higher standards of protection. The drafters of the Indian Act have purposely taken this approach in order to provide strict safeguards as guaranteed under the TRIPS Agreement for GIs of Indian origin. However, other WTO members are not obliged to provide all Indian GIs with Article 23-type defense, thus leaving space for misrepresentation in the global stage. The meaning of a GI referred to Section 1(3) (e) of the Indian GI Act specifies that, for the purposes of that

provision, any name that is not the name of a nation, locality or region of that country 'shall' also be treated as a GI if it applies to a particular geographical area and is used on or in relation to specific products originating in that country, region or locality, as may be the case with.

### **TRIPS (Trade-Related Aspects of Intellectual Property Rights)**

TRIPS prescribe minimum GI security requirements. Further safety of wines and spirits was granted in the Uruguay Round of WTO negotiations under Article 23 of the TRIPS Agreement. And several member nations decided to apply similar standards of security to some of their significant items in the Doha Round as well. Two GI security requirements are set out in the TRIPS and Article 22(2) allows countries to have legal means to avoid the use of GIs that imply that the products originate in a geographical region other than the true place of origin. And Article 23(3) allows countries to have legal means in place to disprove the registration of trademarks containing, or consisting of, a GI with regard to products not originating in the indicated territory. Article 24 says that if a GI has not been protected or ceases to be protected in the country of origin, or if it is a generic term for a product, it is not appropriate to protect the GI.

### **Relationship between Farmer's Varieties (FV) and GI:-**

The Protection of Plant Varieties and Farmer's Rights Act (PV&FR) Act 2001 grants farmers some rights, including those of the registered type, to save, use, sow, re-sow, swap, share or sell their farm produce. Farmers do not divide seeds of the registered variety on their own or sell seeds of the registered variety, such as packaging seeds of the registered variety, label, etc., and such infringement may invoke an action for infringement. Via unassisted calls for advanced scientific expertise, access to various germplasm and meticulous experimentation to access the commercial potential of the material, the Act recognized farmers as plant breeders and thus extended the advantage of entitlement to grow commercial varieties. For the conducts of Distinctness, Uniformity and Stability (DUS) testing and registration, farmers who grow new varieties of plants such as any other plant breeder may use their content. One advantage that will turn from the PPV& FRA is this de-centralization of variety production. The PPV&FRA 2001 allows breeders with some ownership claims of their varieties subject to fulfilment in the case of novelty in the case of new variety; and differentiation, homogeneity and stability. In certain instances, the Uniformity Invariable offers a window for

stability evaluation. Uniformity in open pollinated crops relies on the effectiveness of the inbred line. Apart from that, it also depends on the technique of plant breeding followed (top cross, two way cross, etc. If genetic male sterile systems (GMS) are being used in hybrid production, the degree of homogeneity may be reduced. Private seed companies prefer to concentrate their attention on the endowed fields in which agriculture is productive, diverse and strong in terms of productivity. Private breeders may not receive the same type of attention from crops grown under marginal, suppressive soils or under arid conditions. However, the advantage steadily reaches out to all farmers over a prolonged period of time.

### **Case Study – Darjeeling Tea**

Tea is the oldest sector in the organized manufacturing sector in India and has maintained its status in this sector as the single largest employer. The country produces around 30 per cent of the world's tea. India is also the largest buyer of tea worldwide. However, India faces tremendous competition on the export front other main tea producing countries, such as Kenya, Sri Lanka and China. 'Darjeeling' tea is a high quality tea grown in the hilly areas of the West Bengal district of Darjeeling, a state in India's eastern province. Darjeeling tea's history dates back to the 1840s, when it was a British colony in India. The forests of the area, known today as Darjeeling, were populated by the Lepcha tribes before the British arrived. The significant chunk of Darjeeling tea's annual production is exported, with Japan, Russia, United States, United Kingdom and other countries of the European Union (EU) such as France, Germany and the Netherlands being the biggest buyers. A mandatory scheme to certify the authenticity of exported Darjeeling tea was introduced into the Indian Tea Act of 1953 in order to make sure the supply of genuine Darjeeling tea in February 2000. The scheme makes it mandatory for all dealers in Darjeeling tea to sign into a license agreement for payment of the annual license fee with the Tea Board of India. Why Protecting 'Darjeeling Tea' as a Geographical Indicator. For the protection of legal right holders of Darjeeling tea from the misleading business practices of various corporate enterprises, adequate legal safety is required. For example, tea produced in nations such as Kenya, Sri Lanka or even Nepal has often been passed off as 'Darjeeling tea' around the globe. It would be difficult to prevent the misuse of the prestige of Darjeeling Tea, where tea manufactured elsewhere would also be sold under the Darjeeling name, causing harm to customers and

denying the premium price to the Darjeeling tea industry, without adequate GI security in both the domestic and international arenas.



### Few Examples of GI Tagged Agricultural Produce

**Assam:** Assam Karbi Anglong Ginger, Tezpur Litchi, Joha Rice

**Andhra Pradesh:** Guntur Sannam Chilli, Banaganapalle Mangoes and Araku valley Arabica coffee

**Arunachal Pradesh:** Arunachal Orange

**Himachal Pradesh:** Kangra Tea, Basmati

**Jammu and Kashmir:** Kashmir Saffron

**Karnataka:** Coorg Orange, Mysore Betel leaf, Nanjanagud Banana.

Government of Himachal Pradesh is trying to obtain geographical indication for five products and from which three are related to agriculture named “Kasrog Kulth”- In Himachal Pradesh, Kulthi or Kulth (horse gram) is a legume grown as a kharif crop. “Thangi of Pangi”-It is a kind of hazelnut that grows on the north western edge of Himachal n the Pangi valley. It is known for its special sweetness and flavor. “Bharmouri rice”- Bharmouri Rajmah: More precisely, as it grows in the area around Kugti Pass in the Bharmour region of Chamba district, it is called the Kugtalu Rajmah. It is rich in proteins and has a distinctive taste.

### Conclusion

Different institutions and agencies in India have recently made significant efforts to ensure legal security for Indian GI. In addition, appropriate promotional strategies are required to popularize GI tagged goods and to benefit from their commercial potential. It is important to highlight the specific cultural aspects of rural communities associated with GI. As India continue to be a net exporting economy for agriculture, with a high share of exports of primary commodities: rice, shrimp, bovine meat, sugar, tea and spices. Processed goods, primarily palm oil and sunflower oil, constitute the majority of its imports. Given the

country's mandate to speed up the pace of agricultural growth and double the income of farmers by 2022-23, exports must play a key role. The rise in the intensity of agricultural exports is well known in the Export Policy for Agriculture and is also evident through adjustments to the tariff and non-tariff measures. India should take an initiative to brand agri-products by means of measures such as geographical indication (GI), especially for organic products commodities that would produce higher returns on global markets. In 'buyer-driven' global markets, setting up productive agricultural brands will help farmers gain a competitive edge. Branded goods typically cost better and can contribute to brand loyalty and are often seen as a move to a strong customer base. Branding adds value by identifying the brand and also because of the understanding of the customer that such goods are of higher quality than unbranded products. Another reasoning that underpins aggressive agri-product branding is that, if granted, government funding will be WTO-compliant as it is put under the 'green box' rather than the 'amber box.' India currently supports agri-exporters by duty disadvantages and under the India Merchandise Export Scheme, which could be at risk of non-compliance by the WTO. It goes without saying that sufficient budgetary allocations will motivate producers and exporters to aggressive branding and packaging.

