

ABSTRACT

PATENTS FOR GENETICALLY MODIFIED ORGANISMS IN INDIA: CHANGE IN THE VIEWPOINT OF THE INDIAN COURTS

***RAJESHWARI S KUCHALLI**

Genetically modified organisms in India are hardly recognized as positive impact on humans as well as environment. It nearly took 40 years for the Indian Judiciary to look into the patents issued for the Genetically Modified Organisms as per the Article 27.3 of the TRIPs agreement. The problem of misrepresentation of the genetically modified organisms has been recognized in this research article. This research article has given a wider interpretation to the Article 27.3 of the agreement. The article has been supported by the 'product of nature' doctrine and certain international cases as a primary source to interpret the definition of the genetically modified organisms. The article has recognized convention of European Union on the regulations of the genetically modified organisms. The article has provided the uses of the genetically modified organisms in the fields of agriculture and pharmaceuticals. The paper has referred to the case study of Bt Brinjal that took place in India, 10 years ago. It was a mass battle against the international companies by the public for the cultivation of the patented crops through violations of the Indian Patent laws. Through this, the Government had to order moratorium on the Bt Brinjal. The article has said that being in position of world's fourth largest GM crops production surpassing China in terms of acreage, India can be in the top list in the fields of agro-biotechnology. This can be said because India is known for its agriculture and the biotechnology in this field, would in turn be a growth in the India's research sector. The article has also provided a room for the growth in pharmaceutical industry if patents are granted to the Genetically Modified Organisms especially the microorganisms.

Keywords: Genetically Modified Organisms, Patents, Article 27.3, TRIPs agreement, Section 3(j) of the Patents act, 1970.