

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 4

2022

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Geographical Indications in Evolving Scenario of Today's World

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ABSTRACT

The Geographical indication is a dimension of the intellectual property which gives due recognition and legal protection to products. This article is cover the various aspects of geographical indications which are related to agriculture, foods and handicrafts of India. Which is that much potential to make local products the identity of Indian business in the global market. This takes look into the 'Vocal For Local' movement of the Government of India which has a major role to make domestic products a tool for preserving and rebranding the image of Indian products. The geographical indication will give a legal shield and platform to our artisans and manufacturers. This will make India a self-reliant country.

Keywords: *Geographical Indications, India, Intellectual property.*

I. INTRODUCTION

Intellectual property is the genesis of an individual creative imagination which can be a design, trademark, book, invention, artistic work or images which can be used for commercial purposes. Intellectual property includes trademarks, copyright, geographical indications, patents, industrial designs and trade secrets.

Geographical indications (GIs) are a unique and exclusive sign which is associated with goods, agricultural products, handicrafts, food items or any artistic works and is associated with a particular local community, region or country. Products that have unique characteristics, honour, grades and standards can qualify for a geographical indication. When a product gets the GIs then the consumer has trust on that product which he/she is consuming is genuine and free from any alteration.

II. THE EXIGENCY OF GEOGRAPHICAL INDICATIONS

In this commercial age when every little item is relabeled as a brand by the business houses. This is the holy duty to safeguard the local products which are the identity of a region or rural community. India has many Geographical Indications which has played a vital role to uplift the

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lives of local communities and the tourism sector also. Geographical indications are the lifeline for developing countries like India or other low-income countries to preserve their rich cultural heritage which is available in the form of arts and products.

Products like Paris Perfume, Swiss Watches or Chocolates and Bikaneri Bhujia are carrying their name of origin; they make it popular in the global market. The famous 'Scotch' indicates the origin of the unique whisky which is from Scotland. Some products carried their place of origin such as Darjeeling Tea, Kashmir Pashmina, Nagpur Oranges, Kohlapuri Chapples, Kashmir Saffron, Manipuri Black Rice, Gulbarga Tur Dal are some examples. In October 2004, Darjeeling Tea is the first product to get a geographical indication tag in India.

III. MAGNITUDE OF GEOGRAPHICAL INDICATIONS

In the 21st century, the whole world becomes a small global village, every nation is now more connected to each other. This gives a chance to developed economies to establish their business empire in low income or third world countries.² This is true that opens up a new door of employment and money generation to the less developed nations, but it can affect the unique and special local products and agricultural goods. To save guard these unique products and heritage geographical indications have a major role to play, It protects the standard and special character of the product by giving its legal protection from The Geographical Indications Of Goods (Registration And Protection) Act, 1999 and The Geographical Indication of Goods (Regulation and Protection) Rules, 2002. India is a signing member of the WTO (World Trade Organization) since 1 January 1995 which India into obligations of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

The TRIPS Agreement makes it clear that “Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristics of the good is essentially attributable to its geographical origin.”³

IV. GEOGRAPHICAL INDICATIONS IN INDIA

Geographical indications were initiated in India on 15th September 2003. There are approx. 400 different products across India that have been registered under Geographical indications. There is a large variety of products which includes handicrafts, agricultural goods, artisan works and foods. India is the signatory of WTO which means our internal policies will be on par with this

² Importance of Geographical Indication for Conservation of Traditional Products, Rajiv D. Kangabam et. al., A Journal of Environment and Biodiversity, Vol.II Issue 2, April 2013, Page 55.

³ Article 22 (1) of Trade Related Aspects of Intellectual Property Rights Agreement, 1994

agreement, this makes a great challenge among the local artisans and farmers who are still using the traditional methods for their livelihood. To protect the livelihood of these people the registration under The Geographical Indications, Act⁴ plays a vital duty. This is not limited to this only; it enhances the social and economic life of the workers and manufacturers. As well as it also promotes tourism in that particular area. Kathputlis of Rajasthan is a great example of this, it has exceptional audiences across the globe. This attracts tourists to watch this famous show on the journey of India. Now, it becomes the mark of the tourism industry of Rajasthan.

The world-famous Hindu pilgrimage site Tirupati Balaji temple has a special case related to the food item which is known as Naivedhyam Prasadam. It is offered to Lord Venkateshwara, the board registered the laddus under the category of goods in geographical indications to stop the counterfeit selling of prasadam by the local shopkeepers. This gives the proprietorship to The Tirumala Tirupati Devasthanam Board which will be the sole producer of the laddus. It gives a special status and legal sanctity to the laddus.⁵ Now devotees are free from any doubt that they are getting the actual prasad of Tirupati or not.

V. VOCAL FOR LOCAL: STRENGTHENING INDIAN GI PRODUCTS

The exquisiteness of local Indian products can only be preserved when we provide an appropriate platform for them. The government has started many initiatives to give holistic support to Indian products. One of the great panes is Local For Vocal, this is a movement started by the Government of India to boost the Indian manufacturers to produce quality products that can compete with the international market. Prime Minister of India Shri. Narendra Modi, in his address to the nation on the radio program ‘*Man Ki Baat*’, had expressed that the Kashmiri Saffron after getting the GI tag became an internationally recognised product. Which enhanced the lives of hundreds of farmers who are involved in the farming of this food item. It is also now available in the supermarkets in Dubai, this will help India to become a self-reliant country⁶

The national exhibition named ‘Aadi Mahotsav’ has started by the government of India to promote tribal products and food items throughout India.⁷ This exhibition helped thousands of tribals (Scheduled Tribes) of India to showcase their products in the metro cities the

⁴ THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999

⁵ Geographical Indication : “Tirupati Laddu” valid, Chestha Sharma, Indian Institute of Patent and Trademark Attorney, September 2012. [<https://www.iipta.com/geographical-indication-tirupati-laddu-valid/>, accessed on 10 July, 2022].

⁶ MANUFACTURERS SHOULD ENSURE INDIAN PRODUCTS ARE WORLD-CLASS: PM MODI, ANUJA, MINT, DECEMBER 2020. [[HTTPS://WWW.LIVEMINT.COM/NEWS/INDIA/MANUFACTURERS-SHOULD-ENSURE-INDIAN-PRODUCTS-ARE-WORLD-CLASS-PM-MODI-11609054182128.HTML](https://www.livemint.com/news/india/manufacturers-should-ensure-indian-products-are-world-class-pm-modi-11609054182128.html), ACCESSED ON 10 APRIL,2022].

⁷ Tribal Co-Operative Marketing Development Federation of India Limited Ministry of Tribal Affairs, Govt. of India

geographical indications of these tribal products helped to survive and become a brand in the market. These artisans and manufacturers are on the verge of extinction but the GIs helped them to get exclusive identification and legal protection. This leads to the prosperity of the tribal communities in socio-economic aspects, now they find themselves closer to the mainstream population of India. This fulfils the vision of the framers of the Indian Constitution under Articles 38, 39 and 46.⁸

VI. REGISTRATION OF GEOGRAPHICAL INDICATIONS IN INDIA

The Geographical Indications Of Goods (Registration And Protection) Act, 1999 is the statutory provision under which all the details related to geographical indications has been given.

Geographical Indications-

Section 2(e) “an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristics of such goods is essentially attributable to its geographical origin and in a case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.”

Registrar of Geographical Indications-

Section 3 states that “The Controller-General of Patents, Designs and Trade Marks appointed under sub-section (1) of section 3 of the Trade Marks Act, 1999, shall be the Registrar of Geographical Indications.”

Application For Registration-

Section 11(1) states that “Any association of persons or producers or any organisation or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods, who are desirous of registering a geographical indication concerning such goods shall apply in writing to the Registrar in such form and such manner and accompanied by such fees as may be prescribed for the registration of the geographical indication.”

Application As An Authorised User-

Section 17 provides the following steps of application as an authorised user-

- 1) Filing and Examination

⁸ Part IV Directive Principles of State Policy, The Constitution of India, 1950

- 2) Preliminary Inspection
- 3) Cancellation of Acceptance
- 4) Advertisement
- 5) Opposition of Registration
- 6) Rectification in Application
- 7) Registration

Prohibition On Registration Of Certain GIs-

Section 9 of the Act provides that certain geographical indications are prohibited from registration, which would likely make confusion, conflict with any law, discreditable matter, any matter which can hurt the feelings of any religion or group of people, invalidate any law, names or goods which are protected in the country of their origin or goods which are originated in somewhere else but represents a different region or locality.

VII. INFRINGEMENT AND REMEDIES OF GEOGRAPHICAL INDICATIONS

Any person who doesn't have the registration of a product or goods as an authorised user and personifies that the product has originated from some other place or region of the country is known as an infringement of geographical indications. In the case of any infringement of geographical indications, the plaintiff has the right to move to court to demand an injunction, damages and criminal options also. According to Section 66⁹, the cases related to infringement will be instituted in the District Court.

Section 25 of the Act prohibits the registration of geographical indication as a trademark because GI is a public property that belongs to a community at large. The duration of the registration of geographical indication is for 10 years which can be extended from time to time (Section 18).

VIII. CONTROVERSIES RELATED TO GI

The most famous and landmark incident related to 'Basmati Rice'. Basmati rice is a special kind of rice that is produced in the foothills of the great Himalayas. This rice has a distinct aroma and taste which makes it a natural choice for business houses to capture this specific rice for their money-making purposes. A US-based multinational company had registered the basmati rice as a patent and become the sole owner of the name of Basmati for their businesses. This made Indian authorities wake from their somnolence and the Government challenged the

⁹ The Geographical Indications Of Goods (Registration And Protection) Act, 1999

issuance of a patent to the 'Basmati'. It takes more than two years to make it possible to cancel the patent registrations of the company. Then the United States Patent & Trademark Office issued only 3 out of 20 patents to the company. In this matter, India has a lesson to learn when your municipal laws are not protecting a product then how the authorities or law of a different nation can shelter it. The United States government has given their full support to the Indian government in this matter but we have no law regarding the geographical indications and this leads to the development of The Geographical Indications Act, 1999.¹⁰

Although the United States Patent & Trademark Office had made it clear that 'Basmati' is not a trademark or GI. It grows in countries like India, Thailand and Pakistan.

In the landmark judgement of *Scotch Whisky Association v. Golden Bottling*¹¹ in which the Indian manufacturer used the term 'Red Scot' which was challenged in the court for permanent injunction and restraint the defendant from using the term 'Scotch' and court has restrained from Indian company because the 'Scotch' is a registered as a geographical indication under the TRIPS Agreement which originates from Scotland.

IX. CONCLUSION

These cases and incidents suggest many more things to do in the area of GI. India is progressing on the path to protecting its local products and the rights of its artisans. This protects the local producers, enhances the chances of producers getting more consumers, strengthens the economic standard of the communities which are engaged in the local business such as weavers of Banaras Silk, workers of Jaipur Blue Pottery and Block Prints etc. As the economy is growing day by day the world is becoming smaller, this gives a chance to the developed nations to search for natural resources and other generic products from underdeveloped countries. The geographical indication is the saviour of these products which are registered under The Geographical Indications Of Goods Act, 1999. This legislation has saved many products to become patented by other countries. We as a nation should be aware of our heritage and old traditional items to give them the due which they deserve.

¹⁰ Ibid.

¹¹ 129 (2006) DLT 423, 2006 (32) PTC 656 Del