



## Proprietorship of GI in India with Special Focus on the State of Assam

Jupi Gogoi<sup>†</sup>

University of Delhi, Chhatra Marg, University Enclave, Delhi 110 007, India

Received: 13<sup>th</sup> August 2019; accepted: 5<sup>th</sup> August 2020

The Geographical Indications Act, 1999 clearly mentions four eligible applicants for the registration of GI. They are any association of persons or producers or any organization or authority established by or under any law for the time being in force. Out of them, the maximum registration has been done by organization or authority established by or under any law for the time being in force. It is equally important to focus that the Act clearly states the applicant can apply for the GI registration only if they can represent the interest of the producers. This paper includes an analysis on the true meaning of the clause 'representing the interest of the producers' and whether the GI Registry emphasizes on this clause while granting registration of GI. Further, the paper also addresses other proprietorship debates under the GI Act with focus on some of the GI products from Assam and tries to explore the ideal proprietor for registration of a GI product. Lastly, the paper suggests certain measures that could tackle the proprietorship concern and explores if there is a need to amend the law on proprietorship of GI.

**Keywords:** IPR, Geographical Indications, Law of GI, Proprietorship of GI, Interest of GI Producers, AOC, INAO, IPAB, Agricultural and Processed Food Products Export Development Authority

The Geographical Indications (Registration and Protection) Act, 1999<sup>1</sup> clearly mentions that only association of persons, association of producers, organization or any authority established by or under any law for the time being in force can file for registration of a GI in India.<sup>2</sup> There is also a proviso which states that these applicants should 'represent the interest' of the producers. Coming to the first applicant, that is, association of producers, the Act defines producer<sup>3</sup> in relation to goods as any person who if such goods are agricultural goods, produces the goods and includes the person who processes or packages such goods; if such goods are natural goods, exploits the goods; and if such goods are handicraft or industrial goods, makes or manufactures the goods and includes any person who trades or deals in such production, exploitation, making or manufacturing, as the case may be, of the goods. These three categories of producers can jointly or severally form an association and file for registration of GI *if they can represent the interest of all the section of producers under the category.*<sup>4</sup> The producers of natural goods as defined under the Act is too vague and mentions anyone who exploits the natural goods as producers of natural products. Who shall be considered the exploiter is not defined? This

provision can be misused to reach undesired ends. The emphasis obviously should have been on indigenous, tribal or local communities who depend on the natural goods for their daily lives. However, since the definition is not clear any person who exploits the natural goods can file for registration of GI. In case of manufactured goods, the Act allows not only manufacturers but also traders and dealers to be proprietor of the GI product. How far can the traders or dealers whose interest is different from that of producers be able to appropriately represent the interest of the producers is a matter of serious concern.

### Association of Persons

The other category of applicants for GI is association of persons. Who constitutes person in this case is not defined. Whether it indicates natural person or includes legal person as well can become a matter of controversy at a later stage. There is definitely a fear that interpreting person as legal person can allow association of legal persons or companies to file for registration of GI leading to benefit only the corporations and not serving the interest of the producers. Hence, association of natural persons should be the interpretation and the GI authorities have to be careful to entrust proprietorship to only those associations of persons who belong to

<sup>†</sup>Email: jupi.gogoi.llm@gmail.com

the community or the locality from which the GI good originates.

### **Organization or Authority Established by or Under Law**

The statistics<sup>5</sup> reveals that it is this category of applicants that has been able to secure a huge number of registrations of GI products in India. Under this provision, various governmental departments or quasi-governmental bodies can file for registration of GI. In order to understand the effectiveness of the legislation and if 'interests of the producers' as provided in the aforementioned *proviso* are served or not, this category of applicants needs a closer scrutiny. Basically, an analysis is required if the registration of GI by this category of applicant is able to serve the interest of the producers of goods.

### **Concept of Representing Interest of Producers**

The important part of Section 11 of the Act which deals with filing for registration of GI is that the four aforementioned categories of applicants can get GI registration only if they are in a position to represent the interest of the producers of the goods concerned. In order to implement this criterion, it is provided in the GI Rules<sup>6</sup> that a statement containing particulars of the producers of the goods has to be provided to be initially registered. The statement shall contain particulars and details of producers mentioned in Section 11(2)(f) which includes a collective reference to all the producers of the goods in respect of which the application is made.<sup>7</sup> It is further provided in another rule that an affidavit as to how the applicant/proprietor claim to represent the interest of the association of persons or producers or any organization or authority established by or under any law has to be produced.<sup>8</sup>

First of all, Section 11 of the Act and Rule 32(1)(6)(a) are not in sync. Rule 32(1)(6)(a) wrongly finds place in the GI Rules. The entire purpose of Section 11 is that if anyone other than the real producer (that is packager, processor who are defined as producer under the Act or association of persons or organization or authority established by or under any law in force) of goods files for registration of the GI, they should not be granted registration until and unless they can prove that they can represent the interest of the 'real' producers of the goods. Rule 32(1)(6)(a) makes a complete misrepresentation of the provision of the Act stating that the applicant/proprietor has to give affidavit claiming that

they will represent interest of association of persons or producers or any organization or authority established by or under any law has to be produced. Where does the question of representing the interest of association of persons or packagers and processors or organization or authority established by or under any law in force arise? The purpose of *proviso* to Section 11 of the Act is to serve the interests of the producers who may not be the proprietors of the GI and Rule 32(1)(6)(a) misses the point and tries to misinterpret the *proviso* to Section 11.

Ignoring the mistake in the Rule and looking at the provision of the Act in isolation, it becomes important to understand how this criterion of 'representation the interest of the producer of the goods' can be tested in practice. Are the voices of the producers actually heard? Is a body of producers of goods as mandatory criterion ought to be laid down under the GI Rules? In case of products where producers have not formed a collective body, should GI registration be denied to that product?

In India, there are products which have been registered without formation of collective body of producers.<sup>9</sup> In such situations, the truth about representing the interest of producers or working for the development of the product becomes difficult to establish. Can there be a guarantee that the applicants are not filing for registration for their own vested interest? It is high time that GI Registry comes up with some criteria to examine these issues raised. In the case of *Subhash Jewellery v Pavannur Pavithra Ring Artisans*,<sup>10</sup> the Intellectual Property Appellate Board (IPAB) brought certain clarity in this concept. According to the board, Section 11(2)(e) requires a statement 'containing such particulars of the producers of the concerned goods, proposed to be initially registered with the registration of the GI'. The Act clearly requires the submission of particulars of the producers. The application has to show that it represents the interest of the producers of the goods who are desirous of the registration of GI. The Order examined the definition of "producers" under the GI Act and held that the definition is wide enough and it can include any person "who trades or deals in such production, exploitation making or manufacturing" of the goods. However, it went on to note that although the definition can cover businessmen, but it should also be seen that the artisans, actual craftsmen and growers who are the real *interested persons* should not be ignored.<sup>11</sup> Hence

the applicant has to name the producers, whether they make or manufacture the good or whether they trade or deal in the making or manufacture of the good. The IPAB stated that this would appear to be a *sine qua non* for entertaining the application for registration.<sup>12</sup> The targeted group under the Act cannot be left unaware about the filing of any application which affects them. In the instant case, IPAB found that the first applicant was not representing the interest of the producers and hence removed the name from the Register and remanded the matter to the GI Registrar.

However, in another case of Darjeeling Tea, a rectification application was filed under Section 27 of the Act. It was cited in the application that mere registration of GI is not enough; it is also important to register and list the authorised users, which gives individual producers the legal right to sell their products under GI. In the case of Darjeeling tea, the Tea Board mentions no authorised users.<sup>13</sup> However, the Assistant Registrar held that the applicant has no *locus standi* and went on to add that “grievance of an applicant in rectification/cancellation petition must be legal and not sentimental and that common informers or persons who are interfering from merely sentimental notions are not persons aggrieved. Beyond a mere averment that the Applicant is a mere user of various kinds of tea, the Applicant has not shown the larger public that would be served and the mischief that would be remedied by the relief sought by him”.<sup>14</sup>

On one hand, the IPAB judgment in the *Pavannur Pavithra Ring Artisans* case seems pragmatic, but the Assistant Registrar’s order in the Darjeeling Tea case needs a re-evaluation. If the Tea Board is not able to fulfil the criterion under Section 11(2)(e) and not able to adequately represent the interest of the producers (the fact that there are no registered users of Darjeeling Tea even after 16 years of registration of the GI), does it have the legitimacy to be the proprietor of the GI? Keeping in mind that the real producers are from the vulnerable sections of the society, like, growers, artisans and craftsman who might be unaware and may not be in a position and capacity to understand the nitty-gritty of the law and approach the authorities concerned, it needs to be analysed if a lenient view of who is an ‘aggrieved person’ will be more helpful.

### **Legal Position on Proprietorship of GI in other Jurisdictions**

In France, the procedure for recognition of an AOC<sup>15</sup> normally begins with a request by an association of producers, even though this point is not

clearly established by law, which states that only INAO<sup>16</sup> can propose a recognition ‘following a notification by concerned producers association’.<sup>17</sup> In Singapore, the GI Act<sup>18</sup> provides that an interested party of goods identified by a GI may bring an action against any person for carrying out an act to which this section applies in relation to the GI.<sup>19</sup> The term “interested party”, in relation to goods identified by a GI, means a producer of the goods, a trader of the goods, or an association of such producers or traders or of such producers and traders.<sup>20</sup>

In the EU Regulation 2081/92, it is provided that only a group or, subject to certain conditions to be laid down in accordance with the procedure provided for in Article 15, a natural or legal person, shall be entitled to apply for registration. For the purposes of this Article, ‘Group’ means any association, irrespective of its legal form or composition, of producers and/or processors working with the same agricultural product or foodstuff. Other interested parties may participate in the group.<sup>21</sup> It is the EU Regulation that has given a wide range of options of who can be an applicant. It not only includes group (association of producers/processors and other interested parties) but also a natural or legal person in exceptional circumstances be an applicant of GI. The difference in India is that the maximum registration of GI is on behalf of organization or authority established by or under any law in force with or without the knowledge of the real producers as has been found out in the *Pavannur Pavithra Ring Artisans* case. In France, INAO can propose recognition but with the notification of producer’s association. In India, any legal person (authority or organization established by law is a legal person) may be the applicant in not only exceptional circumstances but also in normal circumstances whereas as stated earlier in Europe it is not so.

### **Role of Governmental Bodies as GI Proprietor and Representing Interest of Producers**

The purpose of the GI Act is to give recognition and protection to goods with special characteristics/qualities which are attributable to the particular area where the good originates. Also, the GI Act helps producers and other stakeholders by helping them protect the reputation earned/acquired in respect of their goods. The records<sup>22</sup> in the GI Registry shows that the maximum proprietorship of GI goods is by organizations or authorities established by or under

any law and not by producers, associations of producers or association of persons representing the interest of the producers.

#### **Government Body Filed for GI Registration**

In India, there are a lot of goods which are registered by organization or authority established by or under any law in force. Basmati rice which has been one of the major debates in the GI world is registered by Agricultural and Processed Food Products Export Development Authority (APEDA).<sup>23</sup> APEDA is a governmental body and it is not an association of producers/ farmers. APEDA as stated in the legislation which establishes it protects the intellectual property right of unique/ special products in India or outside India. Such products are to be prescribed by the rules of the Central government. "In a way it can be observed that the legislature in India helped in nationalization of the mark 'basmati' which otherwise would have been the property of private farmers."<sup>24</sup> Another example is of Kolhapuri Chappals which is registered by Central Leather Research Institute (CLRI) located in Chennai.<sup>25</sup> The product is manufactured in the Kolhapur District of Maharashtra. Ideally, the artisans and the producers should have filed for the registration instead of CLRI.

The Horticulture department of Karnataka has filed for registration of several goods from Karnataka and has been successful in getting the registration. The question is what is the reason behind producers of these goods not forming the association and filing for registration thereby eventually regulating and managing the use of such GIs? Other examples are that of the Central Government registering GI for products all over India. For example, Ministry of Textile's Development Commissioner (Handicrafts) has filed and got many GIs registered. Some such GIs are Kutch Embroidery, Agates of Cambay and Sankheda Furniture of Gujarat etc. The problem and controversy arises whether the artisan groups in these states will be able to access the development commissioner sitting in Delhi and in what manner will they be able to work together.<sup>26</sup> Various departments of state Governments have been registering GIs in their names for a long time. It includes states such as Andhra Pradesh, Karnataka Nagaland, Uttar Pradesh, Assam, Tamil Nadu, West Bengal etc. Even certain Ministries of Central Government, such as Textile Ministry, Spices Board, and Coffee Boards have filed for GIs.<sup>27</sup> The general

trend in India is hence governmental organization/ bodies filing for GI registration and in only few cases association of producers have filed for registration of GI.

As mentioned earlier under the EU regulations, groups that is any association, irrespective of its legal form or composition, of producers and/or processors working with the same agricultural product or foodstuff can file for GI. In exceptional circumstances, legal persons are allowed to file for registration. Whereas in India, the trend seems to be reverse. Although the law permits organizations and bodies established by law to file for registration of GI, the GI authorities can use their discretion in only granting GI registration to association of producers who are able to properly represent the interest of all producers and only in genuine exceptional circumstances can other authorities be allowed to file for GI registration.

#### **Interesting Instance from Assam**

In Assam, out of the eight registered GIs, four are registered by organisation or authority established by or under any law in force. One is registered jointly by a University and an NGO. One is registered jointly by an NGO and a Centre supported by Ministry of Environment and Forest (MoEF). The last two are registered by NGOs and facilitated by a University.

The first GI from Assam, i.e., Muga silk was registered at the behest of the Patent Information Centre, Assam Science Technology and Educational Council (ASTEC). Assam Orthodox Tea was filed by Tea board of India (a statutory body), Tezpur Litchi and Karbi Anglong Ginger was filed by NERAMAC, an organization under the Central Ministry of DoNER. The fifth GI that is Joha Rice was registered jointly by Assam Agricultural University and Seuj Satirtha (an NGO). The sixth GI, Boka Chaul was registered by an NGO (Lotus Progressive Centre) and CEE, a centre supported by Ministry of Environment and Forest (MoEF). The seventh and eighth GI, Kaji Nemu and Chokuwa rice were both facilitated by Assam Agricultural University and registered by two different NGOs, CRS NA Dihing Nemu Tenga Unnayan Samity and Seuj Satirtha, respectively.

The controversy arose with regard to GI registration of the fifth GI from Assam, Joha Rice. In the beginning, Assam Agricultural University (AAU) alone filed for registration of Joha Rice,<sup>28</sup> a rice variety famous in Assam. This rice variety is of

premium quality and is considered to be a luxurious variety used for special occasions. The rice has a beautiful aroma and unique taste. When the application was filed, GI Registry rejected AAU's application and mentioned that it cannot be a proprietor. It mentioned that AAU can be a facilitator to any group which files for the GI registration. Interestingly, there are examples of GI applications being filed and granted to Universities. For instance, 'Kerala Agricultural University has registered Central Travancore Jaggery and Junagadh University has registered the 'Gir Kesar Mango' as a GI. Another university of Gujarat called Anand Agricultural University has got GI registration for 'Bhalia Wheat'. However, there are also instances when registration of GI is granted jointly to a University and an association of producers/ artisans/ farmers. For example, Kerala Agricultural University and the Wayanad Jilla Sugandha Nellulpadaka Karshaka Samithi filed for 'Wayanad Jeerakasala Rice'. Similarly, NIFT, Ministry of Textile and the TangaliyaHastkala Association filed for joint registration and became proprietor of Tangaliya Shawl.

The question was when other agricultural universities were given sole proprietorship in some cases, then why the same was denied to Assam Agricultural University? The Consultative Group meeting was held to ascertain the correctness of particulars furnished in the statement of the application under Rule 32(1) of Geographical Indications of Goods (Registration and protection) Rules 2002 for GI. For the application for Joha Rice, meeting was held on 27 May, 2015 at New Delhi. The decisions taken in the meeting was that Assam Agricultural University should act as a facilitator and the main applicant should be the Association of Joha rice.<sup>29</sup> As a result, the university was constrained to facilitate an NGO 'Seuj Satirtha',<sup>30</sup> for registration of Joha rice as GI. Finally, Joha Rice was registered as a GI from the state of Assam and the proprietorship was given jointly to Assam Agricultural University and Seuj Satirtha. Later, for two other registered GIs (Kaji Nemu and Chokuwa Rice), AAU acted only as facilitator as they were aware about the previous problem that they had faced when they applied for the GI registration.

This denial raised another question. In some cases, some Universities were granted sole proprietorship and in some cases, they were asked to facilitate a

producer group. So, has the Registry formulated any objective criteria to determine when they will give sole proprietorship and in what situation they won't grant sole proprietorship. In the absence of such criteria, such decisions become arbitrary and hence questionable. If we closely look at the minutes of the meetings<sup>31</sup> during the process of GI Registration of Joha Rice it seems that the GI Registry wanted to change the trend and not give Universities proprietorship of GI. Then why did it give co-proprietorship to AAU? The important question that remains unaddressed is whether Universities are equipped to be proprietors of GI in the first place. GI management entails huge funds especially when it comes to brand building including advertisements. Brand building requires a lot of funds and other resources and the larger question is whether universities will be able to accomplish this task within their limited infrastructure.

#### **Associations of Producers and the Role of Organization or Authority**

It can be observed that the ideal situation with regard to GI proprietorship will be when producers come together and file for GI registration; however, it cannot be denied that in India in case of many products, there is no association of producers or inactive association. In Assam, even after more than a decade of GI registration of Muga silk, there is no active association of Muga producers. This may be the case of many other potential or registered GI products. In such circumstances, the role that can be played by organisation or authority established by or under any law (governmental or semi government body) cannot be denied.

#### **Involvement of Governmental or Quasi-Governmental Body: Pros and Cons**

The GI Act of India provides that any association of persons or producers or any organization or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods can file for the GI registration of the good.<sup>32</sup> The Act do not mandate that organisation or authority established by or under any law has to file for registration but only mention them as one of the parties who can file for registration. But the trend that is observed in India mostly is that it is an organization or authority established by or under any law in force who file for

GI registration.<sup>33</sup> Hence, it becomes imperative to understand the viability of such a procedure.

Dwijen Rangrekar<sup>34</sup> in his article mentions that quasi-public institutions which can represent the interests of all of the firms in the supply chain can be instrumental in resolving the collective action problems. These institutions can be the connection between interest groups and they can aid in building relationships of trust. The structure of collective action problem in GI is different as they exist as club goods.<sup>35</sup> Each producer producing identical products has to co-operate and compete as well. Competition occurs at two levels: it firstly occurs between firms at similar stages of the supply chain and secondly, it also occurs at contiguous stages of the supply chain. There are also other problems of collective action; such as free-riding and non-availability of information. If one firm adopts opportunistic behaviour (Prisoner's dilemma),<sup>36</sup> it can endanger the collective reputation of the GI. Many scholars have suggested that quasi-governmental bodies which represent the interest of firms at different levels of supply chain can be seen as a solution to this problem of collectiveness.<sup>37</sup> Other advantages of governmental or quasi-governmental body filing for GI registration can be following:

***Providing Platform for Interaction and Trust Building***

It is not a surprise that GI product's supply chain needs encouragement for the stakeholders to change their present commercial relationships and distribution channels.<sup>38</sup> It includes defining the product; have common codes of practice; quality control and certification; method of governing; contracts to transfer intermediate goods within supply chain; measures for promotion and protection of the GI product. For all these purposes, the intervention of a governmental and quasi-governmental body may be fruitful. The case of Teruel Ham<sup>39</sup> reflects at the role of intermediaries in creating an efficient working condition. Teruel Ham is produced from pigs who are reared and raised in Teruel, Aragon. For good quality, it has to be cured for a period of eighteen months. In spite of the market demand, the producers were not too keen to produce it under the GI. The main reason was the high production cost and the fact that the return was not predictable in the trade. For better price, the trade demanded that the pigs be fatter and older. However, if the pigs could not be sold for the ham purpose, the substitute market was less as the fat was too much for the meat market.

In 1996, Consejo Regulador<sup>40</sup> which is a semi-autonomous governing body in Spain for food product took note of the situation and took action to change the condition. They started regular meetings amongst different stakeholders and tried to create contract amongst them. It was mainly aimed to build a trust factor further promoting coordination in distribution. Certain strategies were adopted in the process which included annual meetings amongst stakeholders where misunderstandings could be cleared up and to pass on information. Also, a contract sample was developed that could somewhere make pigs available for slaughter. Price, delivery time and minimum quantity were certain things which were laid down. The government took responsibility of indemnifying credit in certain situations. This is how the organization acting as an intermediary could bring trust factor among different firms/individuals involved in the supply chain. This shows the importance of co-operation and co-ordination amongst units of manufacture both horizontally and vertically in the product's supply chain to achieve the desired result. There is a need accordingly for a body to mediate between the different players.<sup>41</sup>

Trust is an important factor for economists. It needs time and overcoming opportunistic behavior of individuals. It is something that cannot be bought or traded. It is difficult to trust anyone especially in markets and it is hence believed that involvement of governmental or semi-governmental bodies can somewhat ease out the trust factor in trade. The reason is people generally trust the government as it is widely believed that government is not about individual concern or interest.<sup>42</sup> Since trust building takes a lot of time and involves costs, the governance structures tend to become enduring.

***Re-Organization at the Supply Chain: Why is it Required and Role of Governmental and Quasi - Governmental Body***

Quality is the most important concept of GIs. Many researchers have indicated that consumers want to pay a premium price for a GI-product entirely due to its quality.<sup>43</sup> In other words, consumers want to continue paying a premium price for a GI product due to the delivery of quality promised. The importance of consistent quality and its maintenance of quality is the background behind successful GI. For maintenance of quality, there is need for a body to inspect the working of various stakeholders in the supply chain and to ensure that they do not divert from the

specifications needed for ensuring the uniform quality of the GI product. The GI proprietors can engage internal and external experts for the same. Public inspection bodies can also be really helpful for the purpose. Hence to meet the quality parameter, the parties while applying for GI has to provide unique/distinguishing features of the GI product; process of production; linking the product and the inherent quality of the product to the geographical origin. The aforementioned criteria need re-organization at the product's supply chain. It is important to understand that all producers are not on equal playing level. Some may be huge and some may be small producers. So the percolation of benefit may not be uniform. Thus, the re-organization may be profitable to some and may not be profitable to others. Hence, it can be well assumed that re-organization may lead to many contentious issues which without the intervention of quasi-governmental body will be difficult to tackle.

*Role of Governmental and Quasi -Governmental Body as Proprietor of GIs*

Socio-economic development of the people who have been producing the GI goods is one of the main goals of the GI law. It is important to evaluate if the GI registration is able to achieve that end. For example, to assess the success of the GI registration of Darjeeling tea, which is the first registered GI of India, it is necessary to evaluate if the GI registration has been able to improve the life and livelihood of not only the tea garden owners but also the labourers who are working there. Only when both owners and labourers benefit from the GI registration of Darjeeling Tea, can it be called a true success. It is important to note here that the tea industry in Darjeeling generates the maximum employment in the area as tea cultivation requires a lot of labourers. The labourers get their daily remuneration in the form of cash called 'hajira'.<sup>44</sup> During the plucking season (when tea leaves are plucked), seasonal labourers are recruited and they are paid on the basis of the amount of leaves they have plucked. Since there is no established regulation, the wage rates of such workers can vary from one tea garden to another. Most tea gardens have labour unions and thus wages are determined by collective bargaining. What can be observed from the process is that fetching of premium prices through GI registration may not necessarily percolate down to the labourers which mean profit due to GI registration may not necessarily lead to socio-economic development of these labourers.

Economic gain depends entirely on bargaining power of the labour unions. If GI registration results in improvement and fetching of premium prices for the product, then at least the unions can bargain for more benefits and higher wages. Additionally, the governmental and quasi-government bodies can support and help the labourers in getting better wages thereby improving their socio-economic conditions. However, this approach would require a change in the way GI law is perceived. GI Act should be understood as welfare legislation and not strictly as an economic legislation.

In developing countries like India (at least for now), the other advantage of governmental or quasi-governmental body as proprietor of GIs is due to the fact the stakeholders (producers and others) are generally unaware of the existence of GI law and being mostly from the vulnerable section of the society with limited education, they find the process of registration very complicated. Specially, the fact that all the paper work relating to the GI registration is in English is a big concern for them. The Muga producers of Assam raised concern that it is difficult to understand the documents relating to GI and all the official paperwork is in English and not in the local language, that is, Assamese.<sup>45</sup> In such situations, the governmental and quasi-governmental bodies can aid them by registering the product and later provide them help in the management of the GI product.

**Conclusion**

To conclude, it can be observed from the above discussions that the ideal situation for GI registration is when the producers of a potential GI product come together and file for registration but currently there are many hurdles in India. This process mandates formation of a collective body of producers of the product. However, it has been seen that even in case of registered GIs, there are inactive associations and in certain cases there are no associations of producer's. The GI Act allows parties not being producers to file for registration if they can represent the interest of the producers. As discussed above, there are many advantages in the current trend prevalent in India where maximum GIs are registered by organization or authority established by or under any law in force. Specially, in a situation where there are problems such as ignorance of the GI law and other hurdles (like language, lack of legal understanding and procedures) confronting registration of potential

items, this seems to be a good option. However, two situations will be ideal in future, the first one is, if the GI Registry harps that before the registration of the GI, the applicant should initiate forming an association of the producers and only be a co-applicant or facilitator<sup>46</sup> for the GI Registration. The second option is, after the registration of the GI, the proprietors can help in the formation of a strong and effective association of producers and in due course transfer its rights as proprietors to the association. If such measures are taken, the GI registration will move to a desired direction. In case of the second option, the hurdle that lies is that the GI Act prohibits transfer of rights.<sup>47</sup> Given the current state of affairs, an amendment in the law can be deliberated as a mechanism to tackle this unique situation.

## References

- 1 Hereinafter Indian GI Act.
- 2 Indian GI Act, Section 11(1).
- 3 Indian GI Act, Section 2(1) k.
- 4 Indian GI Act, Section 11(1).
- 5 [http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Registered\\_GI\\_01\\_04\\_19.pdf](http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Registered_GI_01_04_19.pdf) (accessed on 18 July 2019).
- 6 GI Rules, 2002 (hereinafter Indian GI Rules), Rule 32(1)(6)(a).
- 7 Indian GI Rules, Rule 32(1) (5).
- 8 Indian GI Rules, Rule 32(1)(6)(a).
- 9 Muga silk of Assam is one such example.
- 10 OA/2/2010/GI/CHANDM.P. NOS.1/2010 & 269/2012INOA/2/2010/GI/CH (Decided on 14 January 2012), <https://www.scribd.com/document/113697944/IPAB-Judgement-on-Payyanoor-Ring-GI> (accessed on 21 September 2018).
- 11 <https://spicyip.com/2012/11/ipab-on-payyannur-ring.html> (accessed on 31 July 2019).
- 12 Vivien D M, The Legitimacy of the involvement of the Indian state in Delphine Marie Vivien, *The Protection of GI in India*, (Sage Publications, New Delhi), 2015, 202.
- 13 [https://www.business-standard.com/article/beyond-business/discontent-breeds-over-darjeeling-tea-label-111011200053\\_1.html](https://www.business-standard.com/article/beyond-business/discontent-breeds-over-darjeeling-tea-label-111011200053_1.html) (accessed on 30 July 2019).
- 14 <https://spicyip.com/2013/01/locus-standi-and-public-interest-under.html> (accessed on 31 July 2019).
- 15 Appellation d'origine controlee is the French equivalent of GI term in India.
- 16 (INAO) is the French organization charged with regulating French agricultural products with Protected Designations of Origin (PDOs).
- 17 Vivien D M, The Legitimacy of the involvement of the Indian state in Delphine Marie Vivien, *The Protection of GI in India*, (Sage Publications, New Delhi), 2015, 161.
- 18 Geographical Indications Act (Chapter 117B) (Original Enactment: Act 44 of 1998) Revised Edn.1999 (30 December 1999) (hereinafter Singapore GI Act), <http://www.extwprlegs1.fao.org/docs/pdf/sin46837.pdf> (accessed on 1 March 2019).
- 19 Singapore GI Act., Section 3.
- 20 Singapore GI Act., Section 2.
- 21 Article 5(1). [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=126807](http://www.wipo.int/wipolex/en/text.jsp?file_id=126807) (accessed on 12 April 2019).
- 22 [http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Registered\\_GI\\_01\\_04\\_19.pdf](http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Registered_GI_01_04_19.pdf)(accessed on 12 April 2019).
- 23 The application was filed by the Agricultural & Processed Food Products Export Development Authority (APEDA).
- 24 <https://spicyip.com/2012/02/nationalization-of-geographical.html> (accessed on 31 July 2019).
- 25 G I Application (No. 169).
- 26 <https://spicyip.com/2012/02/nationalization-of-geographical.html> (accessed on 31 July 2019).
- 27 It was filed for registration in September, 2013 and finally got registered in April, 2017, [http://www.ipindiaservices.gov.in/GI\\_DOC/439/439%20-%20Certificate%20of%20Registration%20-%2029-04-2017.pdf](http://www.ipindiaservices.gov.in/GI_DOC/439/439%20-%20Certificate%20of%20Registration%20-%2029-04-2017.pdf) (accessed on 14 July 2019).
- 28 [http://www.ipindiaservices.gov.in/GI\\_DOC/439/439%20-%20GI%20-%20Minutes%20of%20CGM%20-%2027-05-2015.pdf](http://www.ipindiaservices.gov.in/GI_DOC/439/439%20-%20GI%20-%20Minutes%20of%20CGM%20-%2027-05-2015.pdf) (accessed on 15 July 2019).
- 29 Examination Report SUB: "Joha Rice of Assam" G.I. Application No. 439 – “Reg. Sir / Madam, the above numbered application has been examined as per the provisions of Geographical Indications of Goods (Registration & Protection) Act and Rules. I am directed to issue the Examination Report under Rule 33 of the Geographical Indications of Goods (Registration & Protection) Rules, 2002 for compliance with the requirements stated as under within the prescribed time: The following information / documents / forms should be furnished / filed for compliance: 1. The Consultative group committee suggested & recommended that the Assam Agricultural University, to act as a Facilitator and Association of Producers to be the Main Applicant”. [http://www.ipindiaservices.gov.in/GI\\_DOC/439/439%20-%20Examination%20Report%20-%2003-07-2015.pdf](http://www.ipindiaservices.gov.in/GI_DOC/439/439%20-%20Examination%20Report%20-%2003-07-2015.pdf) (accessed on 15 July 2017).
- 30 Letter sent from Registrar, AAU: “To The Registrar of Geographical Indications Geographical Indications Registry Intellectual Property Office Building G.S.T. Road, Guindy, Chennai - 600 032, India Sub: GI Application No. 439 - Regarding Ref: Your office memo No. GIR/App. No. 439IER/201 5-161141 Dated July, 3, 2015 Sir, with reference to the subject above, I am sending herewith the application for registration of Joha Rice of Assam’, applied by a registered society, ‘SeujSatirtha’. As per your letter quoted above, Assam Agricultural University is facilitating the application process. I would like to request you to take into consideration the documents submitted earlier by Assam Agricultural University towards this application”. [http://www.ipindiaservices.gov.in/GI\\_DOC/439/439%20-%20Reply%20to%20Examination%20Report%20-%2006-09-2016.pdf](http://www.ipindiaservices.gov.in/GI_DOC/439/439%20-%20Reply%20to%20Examination%20Report%20-%2006-09-2016.pdf) (15 July 2019).
- 31 <http://ipindiaservices.gov.in/GirPublic/Application/Details/439> (accessed on 25 July 2019).
- 32 Indian GI Act, Section 11(1).
- 33 Refer to GI Registry, <http://www.ipindiaservices.gov.in/GirPublic/DetailsGIR.aspx> (accessed on 30 April 2019).
- 34 Rangrekar D, The Socio-Economics of Geographical Indications: A Review of Empirical Evidence from Europe, [https://unctad.org/en/PublicationsLibrary/ictsd2004ipd8\\_en.pdf](https://unctad.org/en/PublicationsLibrary/ictsd2004ipd8_en.pdf) (accessed on 2 January 2019).



- 35 Rangrekar D, The Socio-Economics of Geographical Indications: A Review of Empirical Evidence from Europe, [https://unctad.org/en/PublicationsLibrary/ictsd2004ipd8\\_en.pdf](https://unctad.org/en/PublicationsLibrary/ictsd2004ipd8_en.pdf) (accessed on 2 January 2019) 4.
- 36 'Prisoner's dilemma describes a situation where lack of information or other factors impedes cooperative action among different agents (prisoners). Consequently, each agent acting on limited information makes decisions that are suboptimal when compared to an outcome based on co-operative action.
- 37 Barjolle D & Sylvander B, PDO and PGI products: Market, supply chains and institutions, Final Report, FAIR 1-CT95-0306, European Commission, Brussels, June (2000), <http://www.origin-food.org/pdf/pdo-pgi.pdf/> (accessed on 14 July 2017). Barjolle D and Sylvander B, Some factors of success for "origin labelled products" in Agro-food supply chains in *Europe: Market, Internal Resources and Institutions, Économies et Sociétés*, June (2000), <http://www.citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.203.613&rep=rep1&type=pdf> (accessed on 14 July 2019).
- 38 Albisu L M, Link between origin labelled products and local production systems, supply chain analysis. Final Report July 2002. Dolphins Concerted Action, European Commission, <http://www.origin-food.org/pdf/wp2/wp2-1.pdf> (accessed on 17 May 2019).
- 39 Rangrekar D, The Socio-Economics of Geographical Indications: A Review of Empirical Evidence from Europe, <https://www.iprsonline.org/resources/docs/Ragnekar%20%20Socio%20Economics%20of%20GIs%20-%20Blue%208.pdf> (accessed on 2 January 2019) 4.
- 40 Consejo Regulador comprises of skilled, impartial members who investigate the quality, ingredients and production process of each product, ensuring they attain specific quality levels.
- 41 Chappuis J M & Sans P, Actors Coordination: Governance Structures and Institutions in Supply Chains of Protected Designation of Origin, in B. Sylvander (eds.) *et.al.*, *The Socio-Economics of Origin Labelled Products in Agro-Food Supply Chains: Spatial, Institutional and Co-ordination Aspects* (Series Actes et Communications, Paris), 2000, 61-62.
- 42 Williamson O E, *The Economics Institutions of Capitalism: Firms, Markets, Relational Contract* (The Free Press, New York), 1985, 12.
- 43 Why do Geographical Indications matter to us? [https://ec.europa.eu/commission/presscorner/detail/en/MEM\\_O\\_03\\_160](https://ec.europa.eu/commission/presscorner/detail/en/MEM_O_03_160) (accessed on 29 July 2020). Peter Slade *et. al.*, Foreign Geographical Indications, Consumer Preferences, and the Domestic Market for Cheese, <https://academic.oup.com/aapp/article/41/3/370/5544729> (accessed on 29 July 2020).
- 44 The 'hazira' is the daily wage paid to each worker on completion of a particular task being allocated for the day.
- 45 The author for her doctoral research work interviewed the Muga producers who raised concern about the paper-works and documents which were only in English. They said that if the same documents were in Assamese, it would have been better for them.
- 46 Currently, the GI Registry in some cases have asked Universities not to register GIs, rather they should facilitate a producer's organization to file for the GI Registration. In case of Joha rice of Assam, which was initially filed by Assam Agricultural University (AAU), the Consultative group committee suggested & recommended that the Assam Agricultural University, to act as a Facilitator and Association of Producers to be the Main Applicant, <http://ipindiaservices.gov.in/GIRPublic/Application/ViewDocument> (accessed on 1 August 2020). Gogoi J, G I Registration of Gamosa: Issues and Concerns, *Assam Tribune*, 2 July 2020, <http://www.assamtribune.com/scripts/at.asp?id=jul0220/Page4> (accessed on 1 August 2020).
- 47 Section 24 provides that notwithstanding anything contained in any law for the time being in force, any right to a registered geographical indication shall not be the subject matter of assignment, transmission, licensing, pledge, mortgage or any such other agreement. Provided that on the death of an authorized user his right in a registered geographical indication shall devolve on his successor in title under the law for the time being in force.