

Dr. Kalyan B. Goswami
Executive Director



Date: 23-02-201

To
Dr.R.R.Hanchinal,
Chairperson,
Protection of Plant Varieties &
Farmers Rights' Authority,
Govt. of India, NASC Complex,
DPS Marg, Opp- Todapur Village,
NEW DELHI-110 012

Sir,

Sub: Delay in Issue of Certificate of Registration – Reg.

* * *

As per section 24(1) of the PPV & FR Act, when an application for registration of a variety (other than an essentially derived variety), has been accepted and when the application has not been opposed or if the opposition has been rejected, the Registrar shall register the variety and issue Certificate of Registration under section 24(2).

Section 24(1) and section 24(2) are reproduced hereunder:

“24. Issue of Certificate of registration:-- (1) When an application for registration of a variety (other than an essentially derived variety), has been accepted and either—

- (a) The application has not been opposed and the time of notice of opposition has expired; or*
- (b) The application has been opposed and the opposition has been rejected,*

the Registrar shall register the variety.

(2) On the registration of the variety (other than an essentially derived variety), the Registrar shall issue to the applicant a certificate of registration in the prescribed form and sealed with the seal of the Registry and send a copy to the Authority for determination of benefit sharing and to such other authority, as may be prescribed, for information. The maximum time required by the Registrar for issuing the certificate of registration from the date of filing of the application for registration of a variety shall be such as may be prescribed.”

When the registration requirement under section 24 is as given above, registration process of essentially derived variety is still very simple and does not require advertisement.. Section 23(4) states that, when the Authority is satisfied that the essentially derived variety has been derived from the initial variety, it may direct the Registrar to register such essentially derived variety and the Registrar shall comply with the direction of the Authority. In this connection, we reproduce hereunder sub-sections 1 to 4 of section 23 of the PPV & FR Act:

“23. Registration of essentially derived variety:-- (1) An application for the registration of an essentially derived variety of the genera or species specified under sub-section (2) of section 29 by the Central Government shall be made to the Registrar by or on behalf of any person referred to in section 14 and in the manner specified in,

section 18 as if for the word "variety" the words "essentially derived variety" have been substituted therein and shall be accompanied by such documents and fee as may be prescribed.

(2) When the Registrar is satisfied that the requirements of sub-section (1) have been complied with to his satisfaction, he shall forward the application with his report and all the relevant documents to the Authority.

(3) On receipt of an application under sub-section (2), the Authority shall get examined such essentially derived variety to determine as to whether the essentially derived variety is a variety derived from the initial variety by conducting such tests and following such procedure as may be prescribed.

(4) When the Authority is satisfied on the report of the test referred to in sub-section (3) that the essentially derived variety has been derived from the initial variety, it may direct the Registrar to register such essentially derived variety and the Registrar shall comply with the direction of the Authority.

However, issuing of certificates of registration is inordinately getting delayed, despite fulfilling of requirements of section 24(1) i.e., DUS has been completed, the variety is accepted, advertised and there is no opposition.

Similarly, registration of EDVs is also getting unnecessarily and inordinately delayed though the procedure laid down under section 23 is very simple and there is no requirement of advertisement calling objections. As already submitted, if the Authority is satisfied that the said EDV has been derived from the initial variety by conducting such tests and following such procedures, it will direct the Registrar to register such EDV.

Registration of a variety under PPV & FR Act provides valuable right to the breeder and, in case of unnecessary delay, the registered breeder can not initiate action against infringement of his rights in the variety.

In view of the above, we request the Chairperson, PPV & FR Authority to issue instructions to the Registrar to issue Certificates of Registration where all formalities like DUS test, advertisement have been completed.

Thanking you,

Yours truly,
For National Seed Association of India,



Kalyan Goswami