

Dr. Kalyan B. Goswami
Executive Director



Ref.: NSAI/2016/073

Date: 07.06.2016

To
The Chairperson,
Protection of Plant Varieties &
Farmers Rights' Authority,
Govt. of India, NASC Complex,
DPS Marg, Opp- Todapur Village,
New Delhi-110 012

*Ref
07/06/16
[Signature]*

Dear Sir,

Sub: Justification to the request not to insist for NOC from the technology developer in case of applications filed for registration of transgenic varieties / hybrids

- Ref:**
1. Our letter No. NSAI/2016/039 dated 04.04.2016
 2. Draft Guidelines issued by the Govt. of India
 3. Provisions of Patent Act and PPVFR Act
 4. Our letter dated 01.06.2016
 5. Deliberations in Roundtable Discussion on 'IPR, Access to Technology and Policy Interventions' by RIS on 04.06.2016

We draw your kind attention to the references above and submit as below.

One of the participants in the round table discussions organized by RIS, the reference 5 above, has asked you why PPVFR Authority stipulated for NOC from technology provider without any basis in PPVFR Act. You have replied stating that it is as per the provisions of Section 18(h). We have already clarified through reference (4) above, that Section 18 prescribes the form of application while Section 18(h) relates to a declaration by the applicant and the declaration only need to mention that the genetic material or parental material has been lawfully acquired.

The legal position of the IPR in India was explained by NSAI in the round table discussion. A copy of the legal position is enclosed with this letter. To the questions raised by the member, you have stated that the NOC stipulation will be removed but the applicant has to state that

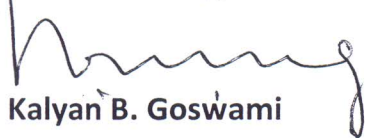
he has signed a technology license agreement with the trait developer. We take a serious objection to such a stipulation by the PPVFRA. This is not required under the PPVFR Act. This amounts to PPVFRA forcing the applicant to sign a license agreement with a trait developer though it is not mandated by PPVFRA law. This practice in the past has led to a monopoly and unfair trade practice in the cotton seed industry. The PPVFRA should disband such system which is against the interest of the farmers and the seed industry. As explained in our letter, the civil courts have jurisdiction to punish if somebody infringes rights conferred to anybody under the Patent Act or the PPVFR Act.


We therefore once again request you to remove the NOC stipulation and limit to declaration from the applicant that the genetic material or the parental material has been lawfully acquired as prescribed in Section 18(h).

We shall be grateful for an early response in this matter.

Thanking you,

Yours sincerely,


Kalyan B. Goswami


Office of JS (SEED/TMOP)
Govt. of India
Ministry of Agriculture
(Deptt. of Agri. & Coopn.)
Krishi Bhawan, New Delhi

C.C: Shri Rajesh Kumar Singh, Joint Secretary (Seeds), Dept. of Agriculture, Cooperation and Farmers Welfare, Govt. of India, New Delhi.