

Dr. Kalyan B. Goswami
Executive Director



Ref. NSAI/2016/0150

Date: 30.12.16

Shri. Pradeep Kumar Sinha
Cabinet Secretary
Govt. of India
Rashtrapati Bhawan
New Delhi - 110 004

Respected Sir,

Sub: Monsanto's activities in India contrary to the provisions of the law

National Seed Association of India (NSAI) is the apex organization of the Indian Seed Industry, having a member base of 374 seed companies. NSAI actively contributes to seed Industry policy development, with the concerned government, to ensure that the policies and regulation create an enabling environment, including public acceptance.

We would like to bring to your kind notice about the illegal activities of Monsanto in India contrary to the provisions of law which is harming the farmers and the seed industry.

Indian Patent Act, as amended to comply with the TRIPS agreement, does not allow patenting on seeds and plants. The patents No. 232681 and No. 214436 granted to Monsanto for Bt cotton technology by the Indian Patent office in 2006 therefore did not allow any claims to Monsanto on seeds, varieties, plants or parts thereof. The intellectual property rights for all plant varieties including transgenic varieties can be awarded only under PPVFR Act a suiogenesis enactment, as per Article 27(3) of the TRIPS agreement. Despite being aware of the fact that there are no patent rights granted on seeds, varieties, plants or parts thereof, Monsanto made false propaganda among few scientists in Ministry of Agriculture, Dept. of Biotechnology and GEAC under Ministry of Environment & Forests to get certain conditions like "No Objection Certificate" (NOC) stipulated for granting approval for new hybrids by GEAC and registration of such approved new hybrids by PPVFRA. As such, such stipulations are contrary to the provisions of the Environment (Protection) Act or PPVFR Act. Based on the NOC stipulation, the seed companies in India were forced to approach Monsanto for a license agreement so as to procure such NOC. Under the PPVFR Act, there is no need for signing such license agreement as it is the right of the breeder under Section 30 to access any protected variety for developing new varieties. It is pertinent to note that the license agreements do not have any backing of IP rights but are only due to the arbitrary NOC stipulation. Due to such license agreements, Monsanto established a monopoly in cotton seeds and could collect Rs. 6000 Crores on Bt cotton trait without having any patent rights. Effectively they could override the rights of the plant breeders and farmers through this manipulation. The Competition Commission of India based on the complaints of the farmers, seed industry and a reference made by DACFW, MoA ordered for investigation after prima facie conclusion of violation of Section 3 & 4 of the Competition Act by Monsanto. The investigation was supposed to concluded by October, 2016. Monsanto is delaying the investigation by not appearing before the officials of CCI fearing conviction.

After repeated representations by the National Seed Association of India (NSAI) to remove the stipulation of NOC to GEAC and PPVFRA, failed to get any response, one of the member association from Hyderabad, filed writ petitions and obtained directions to both GEAC and PPVFRA by Hon'ble High Court, Hyderabad, to act in accordance with law. The action from GEAC and PPVFRA is awaited. The DACFW, under the Ministry of Agriculture has also confirmed the above facts narrated in this letter, in their submissions before the Hon'ble High Court in a writ petition no. 12069 filed by Monsanto before Hon'ble Delhi High Court.

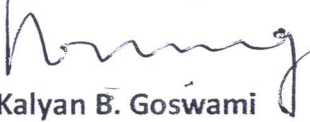
It is pertinent to note that fixing of trait value for the Bt cotton trait is a power vested with PPVFR Authority established under the Act of the Parliament. Instead of protecting the rights of the plant breeders and farmers by implementing the Act and fixing a reasonable trait value after considering the interest of all stakeholders like farmers, seed companies and Monsanto, the Authority had chosen to back only Monsanto by stipulating NOC which led to monopoly and not fixing the trait value which resulted in charging of excessive trait value by Monsanto. The members of the NSAI are prepared to submit any information as required to support the above facts and contentions. Monsanto is making a vicious campaign against NSAI to cover up their unethical practices which are being exposed.

Since the matter involves connivance of some of the officials in the GEAC, DBT and PPVFRA, an investigation may be ordered after obtaining legal opinion so that the facts are thoroughly verified and suitable action taken based on the facts. The investigation of the CCI needs to be concluded as soon as possible to book the anticompetitive practices of Monsanto.

We request the Hon'ble Cabinet Secretary to kindly get the above facts examined and issue suitable directions to the concerned departments. we also request to grant us an appointment to discuss in detail and to stop the illegal activities of Monsanto in the country.

Thanking you,

Yours sincerely,


Kalyan B. Goswami

