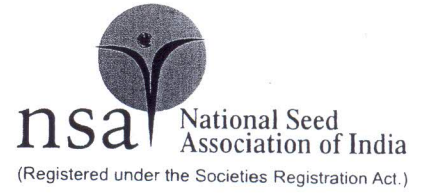


Dr. Kalyan B. Goswami
Executive Director



Date: 07- 11-2014

To

1. The Secretary
Ministry of Agriculture
Department of Agriculture & Cooperation
Govt. of India, Krishi Bhavan
New Delhi – 110001
2. The Chairperson
Protection of Plant Varieties &
Farmers' Rights Authority
NASC Complex, DPS Marg
Opp. Todapur Village
New Delhi – 110012

Dear Sir (s),

Sub: Notification on Annual Fee to be paid on the Registered Variety under section 35 of the PPV & FR Act – Reg.

This has reference to Gazette Notification vide S.O.2182 (E) dated 26-08-2009, issued by Government of India, Ministry of Agriculture under sub-section(1) of section 35 of the Protection of Plant Varieties and Farmers Rights Act, 2001, specifying the Annual Fee to be paid on the registered variety by the breeder, agent or licensee. The annual fee specified is as follows:

- Any variety other than extant varieties and farmers' varieties : Rs.2,000/- plus 0.2 percent of the **sales value of the seeds** plus 1 percent of royalty, if any, received during the previous year from the **sale proceeds of seeds** of registered variety.
- Extant variety notified under section 5 of the Seeds Act, 1966 : Rs.2,000/-
- Other Extant varieties: : Rs.2000/- plus 0.1 percent of the **sales value of the seeds** plus 0.5 percent of royalty, if any, received during the previous year from the **sale proceeds of seeds** of registered variety.

Contd.....2

::2::

In this connection, it is submitted that, as per section 35(1) of the PPV & FR Act, the Annual Fee should be specified **on the basis of benefit or royalty** gained on the registered variety **and not on the basis of sale value or sale proceeds** of the registered variety.

Sub-section (1) of section 35 of the PPV & FR Act is reproduced hereunder:

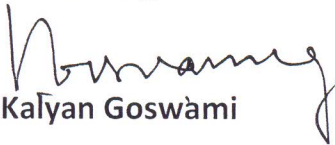
35. Payment of annual fee and forfeiture of registration in default thereof.—(1)
*The Authority may, with the prior approval of the Central Government, by notification in the Official Gazette, impose a fee to be paid annually, by every breeder of a variety, agent and licensee thereof registered under this Act determined **on the basis of benefit or royalty gained** by such breeder, agent or licensee, as the case may be, in respect of the variety, for the retention of their registration under this Act. (emphasis added)*

We submit that, therefore, the annual fee notified vide Gazette Notification No.S.O.2182(E) dated 26-08-2009 is unfair, arbitrary and against the provisions of sub-section (1) of section 35 of the PPV & FR Act and is, hence, liable to be struck down by any competent court of law, if challenged.

In view of the above, we request to issue amendment to the above notification to bring in tune with the sub-section (1) of section 35 of the PPV & FR Act and to refund the extra annual fee, paid by the registered breeder/seed company.

Thanking you,

Yours truly,


Kalyan Goswami