

Ref. NSAI/2021/019

May 28, 2021

To  
Dr. K.V. Prabhu,  
Chairperson,  
Protection of Plant Varieties & Farmers' Rights Authority,  
Ministry of Agriculture & Farmers Welfare,  
(Department of Agriculture, Cooperation & Farmers Welfare),  
NASC Complex, DPS Marg, Opposite Todapur,  
New Delhi - 110012.

Sir,

**Sub: Filing of application under section 14 of the Protection of Plant Varieties and Farmers' Rights Act, 2001 for registration of a plant variety – Reg**

Ref: (1) Public Notice (2 of 2019) dated 17.05.2019 issued by the Registrar General, PPV&FR Authority, New Delhi.  
(2) NSAI Letter NSAI/2021/005 Dated 05.03.2021 addressed to Shri.Sanjay Agarwal, Secretary (Agriculture) DAC&FW, New Delhi and copy marked to Dr. K. V. Prabhu, Chairperson, the PPV&FR Authority, New Delhi.  
(3) Public Notice (7 of 2021) dated 07.04.2021 issued by Registrar, PPV&FR Authority, New Delhi.

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This has reference to Public Notice (2 of 2019) dated 17.05.2019 issued by the Registrar General, PPV&FR Authority. The said Public Notice had laid down that the *REG number is allotted at the time of acceptance of application for registration of a plant variety after examining the application for complete application, seed(s) and fee(s) as due. And that date of filing is the date of issuance of REG number to the variety.* **(Copy enclosed for ready reference).**

National Seed Association of India (NSAI), in its letter NSAI/2021/005 dated 05.03.2021 at para No. (3), has pointed out that the said Public Notice (2 of 2019) is contrary to various provisions of the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPV&FR Act). NSAI has pointed out that the date of acceptance of the application shall be as laid down under section 20(1) of the PPV&FR Act and that date of filing of the application for registration of a variety shall be as laid down under section 14 of the PPV&FR Act. **(Copy of NSAI letter dated 05-03-2021 is enclosed for ready reference)**

Apparently on receipt of NSAI representation dated 05.03.2021, the Registrar, PPV&FR Authority, issued soon after Public Notice (7 of 2021) dated 07.04.2021 superseding Public Notice (2 of 2019) dated 17.05.2019 and laid down therein that ***“The date of issuance of the PVP number will be the date of filing of application for all purposes of novelty, distinctiveness, provisional protection, closing time limit for registration of extent varieties etc.”*** It is not clear, what is meant by “etc” and what does it include. **(Copy of Public Notice (7 of 2021) dated 07.04.2021 is enclosed herewith for ready reference)**

It is stated that supersession of Public Notice (2 of 2019) dated 17.05.2019 after lapse of 2 years shows that the said Public Notice had been issued contrary to relevant provisions of the PPV&FR Act and that such Public Notice had been allowed to remain in force for 2 years and has now been superseded, when represented by NSAI to seek expert legal opinion on validity of Public Notice (2 of 2019).

[It is to be noted that even the instant Public Notice (7 of 2021) dated 07.04.2021, now issued, is also contrary to the relevant provisions of the PPV&FR Act, as explained hereunder:

- (i) The date of filing of the application shall be the date on which an application is made to the Registrar under section 14 of the PPV&FR Act for registration of a variety. The Registrar cannot arbitrarily specify the date of filing contrary to the provisions of section 14. Section 14 of the PPV&FR Act is reproduced hereunder for kind reference:

***“14. Application for registration.—Any person specified in section 16 may make an application to the Registrar for registration of any variety—***

***(a) of such genera and species as specified under sub-section (2) of section 29; or***

***(b) which is an extant variety; or***

***(c) which is a farmers’ variety.”***

- (ii) There is no provision under the PP&FR Act, which provides powers to the Registrar General/Registrar or even the PPV&FR Authority to specify the date of filing of application, contrary to the provisions of section 14 of the PPV&FR Act.
- (iii) Therefore, it is clear that the Public Notice (7 of 2021) dated 07.04.2021 has been issued by the Registrar without any authority or power under the PPV&FR Act.
- (iv) Section 20(1) of the PPV&FR Act and rule 8 of the PPV&FR Rules, 2003 have no relevance with regard to date of filing of application. Section 20(1) provides for inquiry with respect to the particulars contained in the application and acceptance of the application. Subsection (1) of section 20 of the PPV&FR Act is reproduced hereunder for ready reference:

***“20. Acceptance of application or amendment thereof.—(1) On receipt of an application under section 14, the Registrar may, after making such inquiry as he thinks fit with respect to the particulars contained in such application, accept the application absolutely or subject to such conditions or limitations as he deems fit.”***

It is clear from a bare reading of the above provision that section 20(1) does not provide any power to the Registrar to issue Public Notice (7 of 2021) dated 07.04.2021 specifying the date of filing of application for registration of a variety contrary to the provisions of section 14 of the PPV&FR Act. Similarly, rule 8 of the PPV&FR Rules, 2003 is also not applicable in respect of specifying the date of filing of application for registration. It is to be noted that as per section 18(1)(g) of the PPV&FR Act, application under section 14 shall be accompanied by such fees, as prescribed. The payment of fee for registration of any genera and species other than extant varieties and farmers’ varieties is governed by section 18(1)(g) of the PPV&FR Act, **read with rule 26 of the PPV&FR Rules, 2003**, and is not governed by rule 8 of the PPV&FR Rules, 2003. Rule 26 of the PPV&FR Rules, 2003 is reproduced for kind reference:

***“26. The fee payable under clause (g) of sub-section (1) of section 18 for making application for registration of plant variety.—The fee for making application for registration of a plant variety under section 14 shall be such as specified in column (3) of the Second Schedule for the purpose.”***


Thereby, the Registrar has grossly erred by issuing Public Notice (7 of 2021) under section 20(1) of the PPV&FR Act and rule 8 of the PPV&FR Rules, 2003. It is stated that the Registrar cannot just refer to any provisions, which have no relevance to the subject, and issue Public Notice. NSAI asserts that Public Notice (7 of 2021) dated 07.04.2021 has no validity in the eyes of law.

In view of the above-referred provisions of the PPV&FR Act, it is stated that the date of filing of application for registration shall be the date on which the said application was made to the Registrar under section 14 of the PPV&FR Act for the purpose of novelty under section 15(3)(a), for the purpose of registration of an extant variety under section 15(2) and also for the purpose of protecting the interests of a breeder against any abusive act by any third party under section 24(5) of the PPV&FR Act. The Registrar is bound by the above mandatory provisions i.e. sections 14, 15(2) and 15(3)(a) of the PPV&FR Act, legislated by the Parliament. It is stated that the Registrar cannot deviate from the provisions of PPV&FR Act and subvert the legislative intent.

We, therefore, request the Chairperson, PPV&FR Authority to instruct the Registrar to withdraw the Public Notice (7 of 2021) dated 07.04.2021 at the earliest.

Thanking you,

Yours sincerely,



**R-K.Trivedi**

**Copy submitted to:**

- 1) Shri Sanjay Agarwal, Secretary (Agriculture), Ministry of Agriculture & Farmers Welfare, (Department of Agriculture, Cooperation & Farmers Welfare), Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi – 110001.
- 2) Shri Ashwani Kumar, Joint Secretary (Seeds), Ministry of Agriculture & Farmers Welfare, (Department of Agriculture, Cooperation & Farmers Welfare), Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi – 110001.