

**PROCEEDINGS OF THE LICENSING AUTHORITY AND ADDITIONAL
DIRECTOR OF AGRICULTURE (SEEDS), O/o C & DA,
ANDHRA PRADESH, GUNTUR.
Present: J.Ravi Kumar B.Sc (Ag)**

Proc No.AGC02-12027(31)26/2018-Seed Sec

Date: -01-2019

Sub: Seed Regulation Cell – Seeds Act, 1966- Seed (Control) Order, 1983- Drawl of Cotton seed sample from the premises of M/s Praveena Enterprises, Nandyal Produced by M/s Nuziveedu Seeds Ltd, Guntur - Lab Analytical report shows Positive to Herbicide tolerant (HT) –Show cause notice issued to M/s Nuziveedu Seeds Ltd, Guntur - Approached the Hon'ble High Court - Three weeks stay granted by High Court - Explanation submitted by the firm- personal Hearing conducted – Explanation submitted by the Firm - Reasoned order issued - Reg.

- Ref:**
1. Interim Direction from Court on WP No.26084/2018 dt: 26-07-2018.
 2. Reply to show cause notice by M/s Nuziveedu Seeds Ltd, Guntur, Dt.24.07.2018 & 10-08-2018.
 3. Lr.No. AGC02-12027(31)26/2018 Dt: 01-11-2018 by Licensing Authority, O/o C & DA, A.P, Guntur.
 4. Lr No. Nil Dt.22.11.2018 of M/s Nuziveedu Seeds Ltd, Guntur.

ORDER

Aggrieved by the order of the undersigned in giving show cause notice the petitioner producer viz M/s Nuziveedu Seeds Ltd, Guntur filed W.P No.26084/2018 on the file of High Court of A.P Telangana and Andhra Pradesh at Hyderabad. The Hon'ble High Court was pleased to direct the petitioner and granted three (3) weeks time to file the explanation to the show cause notice and after considering the same the Licensing Authority was directed to pass a reasoned order in the matter.

The Licensing Authority had also provided personal hearing with the petitioner vide reference 3rd cited.

In the reference 2nd & 4th cited the petitioner firm M/s Nuziveedu Seeds Ltd, Guntur submitted explanation to the show cause notice and to the personal hearing provided by the Licensing Authority.

In their explanation and personal hearing the petitioner –producer submitted the following aspects...

1. They denied contraventions of Section 6, 7, 21 and 23 of the Seeds Act, 1966 as alleged in the Show cause notice. Also denied the contraventions of Clause 3, 8A and 15 of the Seeds(Control) Order, 1983 and further stated that the provisions of the Seeds Act and Seeds(Control) Order shall be applicable only in case the seeds are put for sale and are not applicable when the seed is in bulk form and raw and is yet to undergo ginning, delinting, processing, cleaning, testing, packing and labelling as per Section 6 and 7 of the Seeds Act read with Clause 8A of the Seeds (Control) Order, 1983.
2. The Seed inspectors are mandated under section 14 of the Seeds Act read with clause 13(c) of the Seeds (Control) Order to draw samples from the seed lots, which are being sold or are offered for sale or keeping for sale.
3. The analysis report of DNA Lab clearly shows that HT gene is 10% positive in the two samples which clearly show that it is clear case of contamination.
4. Deny that the samples alleged to have been drawn have positive seeds for the HT trait and tested 10% positive as alleged in the show cause notice.
5. The farmer Sri Shaik Fakruddin of Dornipadu village, Kurnool District under taken the seed production and to make up a certain pollen short fall, he sourced male pollen from the adjacent field without intimating them.
6. Quoted the Parliamentary Standing Committee on Science & technology stating that HT gene may escape through pollen into nearby farms and fields, to another GM or Non – GM cultivars or to wild and weedy relative.
7. There is no sampling procedure for the lint seed samples and there is no approved procedure to determine the presence or absence of HT gene.
8. The Licensing authority under the provisions of clause 11 of the Seeds (Control) Order, 1983 is not a notified authority for purposes of EP Act, 1986 or the rules made there under.
9. They are the victims of wrongful acts committed by others. The presence of HT trait is an act of contamination carried out by others is affecting a small portion of seeds developed/propagated by them.

Before passing an order, as it is to be observed that the GOI has instructed the states to inspect all the sale ,storage ,production and processing plants to curb illegal &

unapproved HT Cotton with presence of CP4EPSPS gene with MON 88913 event in cotton seed at any stage in production , processing , sale & storage.

On the direction of PMO the Central Government has constituted a Field Investigation & Scientific Evaluation Committee (FISEC) to look into the illegal cultivation of HT Cotton in the Country.

The FISEC Committee has submitted its report and it confirmed illegal cultivation of HT cotton in India is not due to natural crossing but due to years of skilled breeding. Presence of HT is deliberate. This cannot be called as contamination. Taking their aspect into consideration the claim of the petitioner-producer that the presence of HT trait in cotton hybrid seed preparing to deliver of cotton Hybrid NC65/B with Lot No. 204112, 204112/A is due to contamination is not correct and not convincing.

- Section 14 of Seed Act 1966 deals with **powers of Seed Inspector**.
- As per 14 (1) a (ii) of the Seed Act, 1966 the Seed Inspector is empowered to draw the samples from any area.

14(1) The Seed Inspector may

- a. Take samples of any seed of any notified kind or variety from
 - (i) Any person selling such seed ; or
 - (ii) Any person who is in the course of conveying, delivering or preparing to deliver such seeds to a purchaser or consignee**
 - (iii) A purchaser or a consignee after delivery of such seed to him.
- b. Send such samples for analysis in the Seed Analyst for the area within which such sample has been taken;

It is to inform that the show cause issued by the Licensing Authority as per The Seeds Act, 1966 & The Seeds(Control) Order, 1983 but not as per the Environmental Protection Act, 1986 & E.P Rules 1989 as replied by the firm M/s Nuziveedu Seeds Ltd, Cuntur.

It is pertinent to note that the petitioner cannot dispute the power or jurisdiction of the Licensing Authority under the Seeds (Control) Order, 1983, since the license issued to them is the one under the Seeds (Control) Order, 1983.

Further it is also observed that, the prime responsibility of the firm is to monitor/supervise/inspect the seed production, strictly maintaining the genetic purity and production of quality seed. Simply throwing the blame on the farmers, stating that male pollen used from adjacent field to overcome shortage of pollen is not convincing and cannot be considered and it clearly shows the irresponsibility and lackadaisical approach of the firm which resulted in production of unapproved Bt cotton seed with HT Trait.

The petitioner firm without shouldering the responsibility has simply thrown burden on Environment and escaped from the real facts of the case.

The analysis report obtained from the DNA fingerprinting and Transgenic Crops Monitoring Laboratory (DFTCML), Guntur is authorized and in exercise of the powers conferred by Sub-Section (1) of Section 4 of the Seeds Act, 1966 read with clause (c) of Rule 5 of the Seeds Rules, 1968, the Central Government declared the DNA Finger Printing and Transgenic Crops Monitoring Lab (DFTCML), Guntur (Andhra Pradesh) as the National Referral Laboratory, to detect the presence or absence of Living Modified Organisms and Genetically Modified Organisms, under the said act with effect from 15.11.2017 vide S.O.3604 (E) i.e., the date of publication of the notification in the official gazette.

The functions of the Central seed laboratory under rule 5 of Rules **THE SEEDS RULES, 1968 under Seed Act, 1966 (Act No. 54 of 1966)** are reproduced here under

Functions: - In addition to the functions entrusted to the /central Seed Laboratory by the Act, the Laboratory shall carry out the following functions, namely;

- a. Initiate testing programmes in collaboration with the State Seed Laboratories designed to promote uniformity in test results between all seed laboratories in India;
- b. Collect data continually on the quality of seeds found in the market and make this data available to the Committee; and
- c. **Carry out such other functions as may be assigned to it by the Central Government from time to time.**

The methodology being adopted in case of unapproved Herbicide tolerant Cotton is similar to the testing procedures communicated by Govt of India vide OM No.2-6/2012-SD IV dt: 16-09-2015 of GOI, MoA &FW, New Delhi in case of Bt Cotton (approved transgenic). Dip-stick Strip Test, Elisa test and PCR test are the allowed methods for detecting approved Transgenic Bt Cotton and the same methods are used for testing HT Cotton or any unapproved Transgenic Crop.

The DNA Lab report clearly showed the presence of CP4 EPSPS gene with MON 88913 Herbicide Tolerant trait which is not approved by GEAC for commercial cultivation in India.

The Seed lots preparing to deliver of the firm M/s Nuziveedu Seeds Ltd, Guntur for the cotton Hybrid NC65/B with Lot No. 204112, 204112/A must be positive for Cry1Ac

and Cry2Ab with MON 15985 event only as per GEAC approval. Whereas sample contain CP4EPSPS gene with MON 88913 Herbicide Tolerant Trait (HT) which is not approved by GEAC (Genetic Engineering Approval Committee) for commercial cultivation in India.

So the firm M/s Nuziveedu Seeds Ltd, Guntur has contravened and violated the provisions of Section 6, 7 of Seeds Act, 1966 read with section 21, 23 and Clause 3, 8A of the Seeds (Control) Order, 1983.

Considering the personal hearing of the petitioner-producer and the claim of the petitioner namely M/s Nuziveedu Seeds Ltd, Guntur in WP No 26084 of 2018 on the order of Hon'ble High Court of Andhra Pradesh dt: 26-07-2018 is not convincing and is not acceptable. The Licensing Authority Additional Director of Agriculture (Seeds), O/o Commissioner & Director of Agriculture, Andhra Pradesh, Guntur (3rd Respondent) passed the following order.

In view of the circumstances stated above there are no reasonable grounds to consider the explanation of the petitioner in the WP No 26084/2018 & orders are passed accordingly that the license of **M/s Nuziveedu Seeds Ltd, Guntur having its License No. RRD/O/ADDL.DA/CSL/2014/1** is hereby suspended for a period of one (1) year from the date of this order.

**Additional Director of Agriculture (Seeds)
& Licensing Authority
O/o C & DA, AP, Guntur.**

To

M/s.Nuziveedu Seeds Ltd, 5/97/5, 6th Lane 12th Cross Road, Brodipet, Guntur -522002.