

**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)24/2018-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 Bhuvanewari seed Centre, Adoni –produced by M/s Western Agri Seeds, Ltd Kurnool- Marketed by M/s Sai Bhavya Seeds, Nellore- DNA lab Analytical report shows Positive to Herbicide tolerant (HT) – Show cause notice issued to M/s Sai Bhavya Seeds, Nellore -Approached the Hon'ble High Court- Three weeks stay granted by High Court- explanation submitted by the firm- personal Hearing conducted- Reasoned Order issued -Reg.

- Ref;** 1. Interim Direction from Court on WP No.25422/2018 dt: 23-07-2018.
2.Reply to show cause notice by the firm M/s Sai Bhavya Seeds,Nellore dt:10-08-2018.
3.Lr.No. Agcs-12027(31)24/2018 dt: 01-11-2018 by Licensing Authority, O/o C & DA, A.P, Guntur.
4. Reply to Personal Hearing by the firm M/s Sai Bhavya Seeds, Nellore.

ORDER

Aggrieved by the order of the undersigned in giving show cause notice the petitioner marketer viz M/s Sai Bhavya Seeds, Nellore filed W.P No.25422/2018 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.

Accordingly the Licensing Authority had also conducted the personal hearing with the petitioner vide reference 3rd cited.

In the reference 2nd & 4th cited the petitioner firm M/s Sai Bhavya Seeds, Nellore 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 –marketer submitted the following aspects...

- a. They are the victims of wrongful acts committed by others, the presence of HT trait is an act of contamination carried out by others, was affecting a small portion of seeds developed/propagated by them on account of various proven scientific factors.
- b. There is no sampling procedure developed and notified by the competent authorities for sampling of leaf or seed. Similarly there is no approved procedure to determine the presence or absence of HT gene in a leaf or seed sample.
- c. The report of ADA, DNA Lab, Guntur was not followed the approved procedure while analyzing the sample drawn under the statue. The said laboratory is bound to adopt the procedure approved by the competent authority under the relevant statutory provisions.
- d. The fact that the sample tested positive for unapproved MON 88913 event is a clear evidence of the fact that it was a case of mere contamination and not a deliberate action of seed production of unapproved HT Cotton.

Before passing 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 firm that the presence of HT trait in cotton hybrid seed Western Nirogi-51 lot no. SB-18-99011 is due to contamination is not correct and not convincing.

The petitioner firm without shouldering the responsibility has simply thrown burden on Environment and Technology developer 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.

In India the label claim of the firm M/s Sai Bhavya Seeds, Nellore for the cotton hybrid Western Nirogi-51 bearing lot no. SB-18-99011 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 Sai Bhavya Seeds, Nellore 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-marketer and the claim of the petitioner namely M/s Sai Bhavya Seeds ,Nellore in WP No 25422 of 2018 on the order of Hon'ble High Court of Andhra Pradesh dt: 23-07-2018 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 25422/2018 & orders are passed accordingly that the license of **M/s Sai Bhavya Seeds, Nellore having its License No.MNR/24/ADDL.DA/CSL/2014/931** 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 Sai Bhavya Seeds, Door no.28-3-11/13, flat no.501, Kisan nagar, vinayaka apartment, Block.281, Nellore.