

**BEFORE THE PLANT VARIETIES REGISTRY
AT NEW DELHI**

Oppn. No. 2 of 2025

In the matter of: Hearing in Opposition filed by M/s Namdhari Seeds Pvt Ltd against A. No. N2-CA(C)2-23-37 – Chilli (*Capsicum annuum*)- TOP GUN (FBCHH-1) - filed by Premium Seeds Pvt. Ltd.

In the matter of:

M/s Namdhari Seeds Pvt Ltd.

.....Opponent

-Versus-

M/s Premium Seeds Pvt. Ltd

.....Applicant

For the Opponent: Ms. Deepa K Tiku & Mr. Kapil Kumar, Advocates for Opponent.

For the Applicant: Mr. Uday Kumar, H.R., CEO and Lead (R&D) for Applicant.

ORDER

(Matter heard through hybrid mode)

By this order I shall dispose of the two PV-5 applications filed by Opponent to extend the time for filing final opposition and evidence respectively in the instant matter.

Though the Opponent is the Applicant and the Applicant is the Respondent in the instant matter. For the sake of convenience, the parties are referred to in the nomenclature as in



the Opposition proceedings itself as Opponent for Opponent and Applicant for Applicant.

Heard the Parties.

FACTS: -

The Applicant on 11th April, 2023 has filed application No. N2 CA(C)2 23 37 for registration of New Hybrid Chilli Variety denominated as “**TOP GUN (FBCHH-1)**” with Acknowledgement Receipt No. REG/2023/0037. The same was advertised in Plant Variety Journal Vol.19 No.6, uploaded on 1st July, 2025 in the website of the Authority with digital signature of Registrar for inviting Oppositions under Section 21 of the Act. On 8th September, 2025, the Opponent filed PV-3 (Notice of Opposition) against the registration of said variety. The fee for the said Opposition was paid by the Opponent on 28th August, 2025. As per Rule 8(2)(d) of PPVFR Rules, 2003 the date on which the entire fee is paid is the date of filing of the document. The said Notice of Opposition filed by the Opponent was forwarded to the Applicant by Letter No. PPVFRA/Legal/09/2025/4471 dated 19/20.11.2025 for filing of counter-statement in accordance with Section 21(4) of the PPVFR Act, 2001. The Applicant received the same on 24th November, 2025. Accordingly, the Applicant duly filed the Counter-Statement on 13th January, 2026 which was taken on record. As per Section 21(5) of PPVFR Act, 2001, the Counter-Statement was forwarded to the Opponent vide this Registry Letter No. PPVFRA/Legal/09/2025/6095 dated 09th February, 2026, for filing of Final Opposition and Evidence under Rule 31(6) and Rule 33(1) of PPVFR Rules, 2003 respectively. The same was received by the Opponent on 17th February, 2026 as



per the speed post tracking records on file. Accordingly, as per Rule 31(6), the final opposition has to be filed within a period of thirty days from the receipt of the Counter-Statement and the evidence has to be filed within a period of one month from the date of receipt of Counter-Statement under Rule 33(1). On 3rd March, 2026, the Opponent filed the PV-5 dated 27th February, 2026. In the meanwhile, the Opponent also filed PV-32 and PV-33 for inspecting the file relating to application for registration of the instant variety which is the subject matter of Opposition. On 6th April, 2026 this Registry vide letter No.PPVFRA/Legal/PV-33/1/23(Pt)/32 dated 6th April, 2026 informed the Opponent that they can inspect the file relating to registration of Applicant's variety TOP GUN (FBCHH-1) which is the subject matter of this Opposition on 17th April, 2026 at 03:00 PM. On 7th April, 2026, the Registry vide letter No. PPV&FRA/Legal/09/2025/35 dated 07.04.2026 informed the Opponent that separate PV-5s have to be filed for final opposition and evidence and accordingly separate fees of Rs.15000/- has to be paid for three months. The Opponent vide their e-mail dated 9th April, 2026 informed that M/s. K&S Partners would handle their case and they had filed PV-32 in this regard. On 17th April, 2026 the Opponent inspected the file relating to registration of the Applicant's variety TOP GUN (FBCHH-1) which is the subject matter of this Opposition. The Registry vide e-mail dated 22nd April, 2026 informed the Opponent to file PV-1 in favour of the Attorney and PV-32 is not meant for authorization purposes. In reply to the said mail, the Opponent vide their e-mail dated 28th April, 2026 informed that they have authorized M/s. K&S Partners to represent the Applicant. On 6th May, 2026, the Opponent filed PV-33 requesting for certified copies of the file relating to



registration of the Applicant's variety TOP GUN (FBCHH-1) which is the subject matter of this Opposition.

Since the Opponent never responded to the query dated 7th April, 2026 of this Registry, again vide letter No.PPVFRA/Legal/09/2025/513 dated 14th May, 2026 this Registry informed the Applicant to file their evidence under Rule 33(2) of PPVFR Rules, 2003 as the PV-5 of the Opponent stood rejected summarily.

On 19th May, 2026, this Registry vide letter No.PPVFRA/Legal/PV-33/1/23/2023(PT)/569 forwarded to the Opponent the certified copies of the Applicant's variety TOP GUN (FBCHH-1) which is the subject matter of this Opposition.

The Opponent on 26th May, 2026 filed the instant fresh PV-5s application seeking time extension for a period of four months for filing of Final Opposition from 20.03.2026 to 19.07.2026 and for filing of Evidence from 18.03.2026 to 17.07.2026.

The Applicant has filed their evidence by way of affidavit on 1st June, 2026.

CASE OF THE APPLICANT:

After the receipt of Applicant's counter statement on 17th February, 2026, they endeavored to identify and gather further material including conducting DUS tests and accredited third party DNA tests. The Opponent vide letter dated 27th February, 2026 forwarded their PV-5 seeking extension of time for filing final opposition and evidence. By letters dated 7th April, 2026 and 14th may, 2026 it was clarified by the Authority that separate PV-5 forms are required. The Opponent respondent vide their



communication dated 9th April, 2026 that they have authorized their Attorneys through PV-32. They misunderstood that PV-1 was required to file application forms and not for oppositions, and had filed PV-32. By subsequent communication dated 22nd April, 2026 the Authority clarified PV-1 was required to be submitted and the same was submitted. On 6th May, 2026 the Opponent submitted PV-33 copies. Further Attorneys were only recently authorized. A separate fresh Form PV-5 with fees was submitted on 26th May, 2026. The Opponent has continuously participated in and diligently prosecuted the proceedings. The Opponent has acted bona fide. If not granted, it would cause irreparable hardship to the Opponent. The present delay is procedural in nature. Accordingly, four months' time extension be allowed for final opposition and evidence.

The main contention of the Applicant is that the present PV-5 filed by the Applicant is an attempt to revive the rejected proceedings. Unless the rejection communication dated 14th May, 2026 is set aside in accordance with law in accordance with law, the present PV-5 applications cannot assume independent existence. The Opponent failed to act with due diligence. The explanation advanced by the Opponent that it was under an understanding that PV-32 was sufficient and that PV-1 was not required cannot constitute sufficient cause. The chronology of events itself demonstrates that the present situation did not arise from lack of opportunity but from continued failure on the part of the Opponent to act with due diligence despite repeated opportunities. The Opponent relied upon an authorization mechanism which was specifically found deficient by the Authority and was directed to cure the defects vide communication dated 7th April, 2026 of the Registry. Despite



such clarification by the Authority the Opponent failed to comply with the requirements within the period granted. Even in fresh PV-5 applications the Opponent continues to assert that the earlier PV-5 filed on 27.02.2026 sufficiently covered the extension sought for final opposition and evidence. The cumulative effect of the above circumstances demonstrates a continuing pattern of procedural non-compliance and lack of diligence rather than a bona fide and unavoidable procedural lapse. The subsequent steps taken by the Opponent such as execution of authorization documents, correspondence regarding procedural requirements and requests for certified copies of documents also do not explain the delay. The communication expressly records rejection under Rule 8(2)(d). The acceptance of such an approach would effectively permit statutory timelines to be extended indefinitely through successive filings. The Applicant further submits that the evidence already placed on record includes scientific and technical material, including DNA fingerprinting data relied upon by the Applicant. The Opponent has now had the benefit of reviewing the entirety of such material pursuant to the service effected. Granting further time after disclosure of the Applicant's complete evidentiary case would therefore create an additional procedural imbalance and further prejudice the Applicant. Accordingly, the instant PV-5 applications stand rejected by virtue of communication dated 14th May, 2026 of the Registry.

ANALYSIS:

The only issue that arises for consideration is as to whether time extension has to be granted to the Opponent for a period of four months for filing of Final Opposition from 20.03.2026 to



19.07.2026 and for filing of Evidence from 18.03.2026 to 17.07.2026.

The Opponent has sought time extension by filing PV-5 under Rule 32 of PPVFR Rules, 2003. Rule 32 of PPVFR Rules, 2003 is extracted hereunder:

“Compliance with time schedule.-(1) The time schedule provided for advertisement, opposition, defence, hearing and amendment of specification under these rules shall not be extended and failure in compliance with these time schedules shall forfeit the opportunity granted.”

It is well settled that if sufficient cause is shown time extension ought to be granted. The case of the Opponent shows they filed PV-5 on 3rd March, 2026 itself and on 20th March, 2026 they had requested for inspection of the file relating to Applicant’s variety TOP GUN (FBCHH-1) which is the subject matter of the instant opposition. Then again in response to this Registry’s letter dated 7th April, 2026 to deposit the remaining fees in PV-5, the Opponent sent a mail dated 9th April, 2026 that their Attorneys would handle the matter. The Opponent also inspected the file relating to Applicant’s variety on 17th April, 2026. The Opponent also filed PV-33 on 6th May, 2026 to obtain certified copies of the file relating to Applicant’s variety TOP GUN (FBCHH-1) which is the subject matter of the instant opposition. On 19th May, 2026, the certified copies were forwarded by the Registry to the Opponent. From 3rd March, 2026 till 19th May, 2026 there was a constant endeavor to engage a counsel and obtain certified copies. Both constitute sufficient cause. Sufficient cause has to be construed liberally. The period from 6th May, 2026 (date of filing PV-33) to till the date of receipt of documents which were forwarded to the Opponent on 19th May, 2026 has to be excluded as for the said period



Opponent is at no fault. The Hon'ble Delhi High Court by its order dated 30th November, 2011 in W.P.(C) No.8431/2011 [Maharashtra Hybrid Seeds Co., Ltd., -Vs- UOI & Ors.,] has clearly held that an Opponent is entitled to receive all documents from the Registry for lodging an effective Opposition. The relevant portion is extracted hereunder:

“13. The complete disclosure has to be made by the registration seeker/applicant alongwith the application, and any person wishing to raise an objection is entitled to receive complete information, so that he may raise one or more of the available objections to the registration of the claimed plant variety.

...

.....For this purpose, and to empower the interested person to effectively raise any objection, it is obvious that the complete information is required to be provided by the Registrar. There is no scope for any secrecy or confidentiality in the entire process, and it has to be transparent so as to defeat any false claim of invention or new development of a plant variety.”

Accordingly, the delay in obtaining documents from the Registry is a sufficient cause to condone the delay and extend the time.

In Tarlochan Singh Vs Prern Flour Mills & Others reported in 2009 (41) PTC 559 (IPAB) it was held that an opportunity to file evidence ought to be granted even if delay has not been reasonably explained.

The observations of Hon'ble Supreme Court in Collector, Land Acquisition, Anantnag –Vs- Mst. Katiji (1987) 2 SCC 107 are apt:

“When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.”



"Every day's delay must be explained' does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner."

"There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay'

No prejudice would be caused to Applicant if the PV-5 is allowed on the other hand the Opponent would be put to irreparable loss as their Opposition will lose its value without evidence.

The contention of the Applicant that they would be severely prejudiced as they had disclosed their evidence to opponent and had also filed the same is misnomer as the after the filing of evidence by the Opponent the Applicant can add, alter or modify their evidence to counter the Opponent's evidence and file it fresh in accordance with Rule 33(2) of PPVFR Rules, 2003.

Based on the aforesaid reasonings, I hereby allow both the instant PV-5s filed by the Opponent conditionally on payment of costs of Rs.10,000/- (Rupees Ten Thousand Only) to National Gene Fund (Rs.5000/- for PV-5 in final opposition and Rs.5000 for PV-5 in evidence) on or before 30th June, 2026 . The details of payment to the account of National Gene Fund will be forwarded by the Registry forthwith along with the order. On payment of costs, within the time period, the final opposition and the evidence filed by the opponent will be taken on record. If costs are not paid within the said time the order shall stand vacated and the evidence filed by the Applicant will be taken on record the matter will proceed for final hearing.



Accordingly, the time for filing Final Opposition is extended from 20.03.2026 to 19.07.2026 and the time for filing Evidence is also extended from 18.03.2026 to 17.07.2026 subject to the fulfilment of aforesaid conditions.

Given under my hand and seal on this 12th day of June, 2026.



(D.K. AGARWAL)
REGISTRAR GENERAL