

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

A No.1 of 2021

IN THE MATTER OF: - Application filed by Respondent under section 11 of the PPVFR Act, 2001 r/w Rule 33 of the PPVFR Rules, 2003 to take on record the supplementary affidavit of evidence along with the documents annexed thereto as exhibits RW1/6 and RW1/7 in Petition against Nuziveedu Seeds Ltd., under Section 24(5) of PPV&FR Act, 2001 filed by Advanta Enterprises Limited (Successor/Assignee of UPL) Ltd., in respect of application filed by them for registration of Okra Variety RAADHIKA (REG/2018/164).

IN THE MATTER OF: -

**Advanta Enterprises Limited.,APPLICANT
(Successor/Assignee of UPL Ltd.)**

-Versus-

Nuziveedu Seeds Ltd.,RESPONDENT

For the Applicant: - Sh. Adarsh Ramanujan, Advocates.

For the Respondent: - Sh. K. V. Girish Chowdhary, Sh. D Satya Sai Sumanth, Advocates.

ORDER

The Respondent has filed an application to take on record the supplementary affidavit of evidence dated 03.07.2025 filed



by Respondent to take on record Exhibits RW1/6 and RW1/7. The Applicant has filed the reply to the instant application.

Heard the parties.

RW1/6 deals with copy of order dated 17.06.2025 passed by this Registry in Opposition No.2 of 2024 rejecting the Opposition filed by the Respondent herein against the registration of Applicant's variety denominated as V130014(Raadhika) which is the subject matter of the instant proceeding also.

RW1/7 relates to copy of the DUS characteristics contained in the embedded link published in Plant Variety Journal of India (PVJ) Vol. No.17 No.12.

The justification provided by the Respondent for marking RW1/6 is that RW1/6 records certain categorical findings that the Respondent's Okra varieties "Bindu" and "NBH-45" cannot be treated as identical or similar to the Applicant's variety "V130014(Raadhika)". The said findings go to the very root of the controversy raised in the present proceedings.

The justification provided by the Respondent for marking in evidence RW1/7 is that it provides the DUS profile of Applicant's variety as tested and certified by the DUS testing centre, IIVR Varanasi. The publication reflects the findings regarding the morphological characteristics of the Applicant's variety. The inclusion of this document is necessary, as it highlights the discrepancies between the Official DUS data and internal report 22.02.2021 relied upon by the Applicant in the instant application.



The Counsel for Respondent cited Ramesh Kumar -Vs- Kesho Ram [1992 Supp (2) SCC 623] to drive the point that Court can mould relief taking cautious cognizance of subsequent changes.

The case of the Applicant is that the present application is not maintainable, because Rule 33 of the PPVFR Rules, 2003 is in respect of the filing of evidence for Opposition proceedings under Section 21 of the PPVFR Act, 2001. Hence, the instant application must be dismissed on this ground alone. The present application also suffers from inordinate and unexplained delay and laches as it seeks to bring on record the DUS characteristics of the Applicant's hybrid variety "V130014(Raadhika)". Exhibit RW1/6 cannot be allowed to be marked as the findings in the order relied on by the Respondent are in a different context and passed in a separate legal proceeding. Further allowing this application would be in contravention of the settled law that no party can be permitted to travel beyond its pleadings and evidence as such, this supplementary affidavit seeks to better the case of the Respondent by introducing a completely new ground of defence at such a belated stage. The Counsel for Applicant cited College of Applied Education and Health Science -Vs- National Council of Teacher Education 2022 SCC Online Delhi 3810 to support the point that an authority created by the statute is bound by it and accordingly since Rule 33 provides for extension of time for filing evidence in opposition proceedings. It cannot be extended for a proceeding under Section 24(5) of the Act. Further he also relied on Maharashtra Hybrid Seeds Co., Ltd., -Vs- Union of India & Ors., [2013 SCC Online Delhi 1201]



to prove his point that Rule 33 is applicable only for evidence in Opposition proceedings.

My view is that irrespective of applicability of Rule 33 of PPVFR Rules, 2003 in the instant proceedings, an application to file further evidence is still maintainable in a proceeding under Section 24(5) though no explicit provisions are available for the same it is a principle of natural justice. Hence, I do not agree with the argument of the Applicant that the instant application is not maintainable.

My firm view is that both Exhibit RW1/6 and Exhibit RW1/7 are public documents as one is the copy of the order dated 17.06.2025 passed by this Registry in the Opposition No.2 of 2024 between the same parties with regard to the Opposition filed by the Respondent opposing the registration of Applicant's variety "V130014(Raadhika)" and other relates to the copy of DUS characteristics contained in the embedded link published in Plant Variety Journal of India (PVJ) Vol-17 No.12. Both the said documents are open for public inspection under Section 84 of the PPVFR Act, 2001 and any person may obtain certified copies of the same on payment of requisite fees (farmers are exempted) accordingly are public documents. Further both Exhibit RW1/6 and Exhibit RW1/7 are public documents within the meaning of Section 74 and 75 of Bharatiya Sakshya Adhiniyam, 2023.

Exhibit RW1/6, is the order passed by the Registry in another proceeding between the same parties and with regard to the same variety which is the subject matter of this proceeding also. Again, as reiterated earlier this is also a public document. It is an admitted fact that Exhibit RW1/6 which is the order passed by the Registry between the same parties and with regard



to the same variety in another proceeding under Section 21 and the same parties and variety are again subject matter of this proceeding also. There is no dispute about it and it is an admitted fact. Under Section 53 of Bharatiya Sakshya Adhiniyam, 2023 an admitted fact need not be proved. Of course, the relevancy of the citation in the instant proceedings will be decided during the course of the final hearing.

Exhibit RW1/7 is an extract from Plant Variety Journal of India (PVJ) Vol-17 No.12 and the said Journal is equivalent to Gazette of India by virtue of Regulation 12 of PPVFR Regulations, 2006 and accordingly this Registry is bound to take judicial notice of the same. The Hon'ble Supreme Court of India in Union of India –Vs- Nihar Kanta Sen and Ors., [MANU/SC/0573/1987] has held that courts are bound to take judicial notice of gazette notifications. The relevant portion is extracted hereunder: -

“The High Court refused to consider this question on the ground that copies of relevant notifications issued under Section 4 were not on record. The State had filed copies of relevant notifications before the High Court as Additional evidence but the High Court refused to accept the same. The notifications issued are published in the Gazette, the High Court should have taken judicial notice of the same.”

A statutory authority is bound to take notice of its own proceedings and publications and they need not be marked separately in evidence.

Accordingly, since, this Registry is bound to take judicial notice of Exhibit RW1/6 & RW1/7, it need not be separately marked in evidence.




No prejudice is going to be caused to the Respondent by rejecting this instant application as this Registry is bound to take judicial notice of the records before it. No separate application is required for marking the same as evidence.

Accordingly, the instant application filed by the Respondent to take on record Exhibit RW1/6 and RW1/7 is dismissed. There shall be no order as to costs.

Final hearing will be continued on 20th August, 2025 at 15:00 Hrs.

Given under my hand and seal on this 21st day of July, 2025.




(D K AGARWAL)
REGISTRAR GENERAL