

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

Oppn. No.4 of 2024

IN THE MATTER OF: PV-5 filed by the Opponent (Director of Research, Kerala Agricultural University) for seeking one month extension of time for filing of Final Opposition, against the registration of farmers variety with denomination BLACK GLUMED NAVARA-UNF-1 filed by Sh. P. Narayanan Unny.

IN THE MATTER OF: -

The Director of Research, Kerala Agricultural University

... Opponent

-Versus-

P. Narayanan Unny

... Applicant

For the Opponent: Dr. Raji Vasudevan Namboodiri, Assistant Professor, KAU.

For Applicant: Dr. Gayatri Bhasin, and Ms. Deepika Dahiya, Attorneys, Subramaniam & Associates.

ORDER

By this order I shall dispose of the PV-5 application filed by the Opponent to extend one month time for filing of final opposition/ evidence in the instant opposition.

PV-1 filed on 17.02.2025 by Opponent is taken on record in accordance with the order dated 11.02.2025 in the instant matter.



FACTS OF THE CASE: -

On 12th December, 2013, the Applicant filed the application for registration of rice variety denominated as BLACK GLUMED NAVARA-UNF-1 under Farmers' Variety Category. The said variety was advertised in PVJ Vol.17 No. 7 dated 1st July, 2023 which was published/ uploaded in the website of the Authority on 1st August, 2023. The Opponent filed the instant notice of Opposition on 27th October, 2023 well within the three months' time limit for filing of notice of opposition. The said notice of opposition was forwarded to the Applicant vide this office letter No. PPVFRA/Legal/14/2024/1802 dated 8th July, 2024 for filing of counter-statement by the Applicant within two months from the date of its receipt. The same was dispatched by this Registry on 10th July, 2024 vide Speed Post Article No. ED373790210IN. The said notice of opposition with intimation to file counter statement under Section 21(4) of PPVFR Act, 2001 was received by the Applicant on 15th July, 2024. The Applicant filed the counter-statement on 5th September, 2024 within the prescribed time limit of two months from the date of receipt of notice of opposition on 15th July, 2024. The said counter-statement filed by the Applicant was forwarded to the Opponent vide Letter No. PPVFRA/Legal/14/2024/4244 dated 10th December, 2024 for filing of final opposition under rule 31(6) within thirty days of receipt of the counter statement and as well for filing of evidence under Rule 33(1) for filing of evidence within one month from the date of receipt of counter statement. The said counter statement was served on the Opponent on 17th December, 2024. Hence, the Opponent has to file final opposition by 16th



January, 2025 and evidence also by 17th January, 2025 in accordance with Rule 31(6) and Rule 33(1) respectively. However, the Opponent filed the instant PV-5 on 13th January, 2025 with part payment of fees of Rs.1500/- only. This Registry vide letter dated 15/16th January, 2025 informed the Opponent to deposit the remaining fee and under Rule 8(4) the same stands summarily rejected till the payment of entire fee. Consequently, the Opponent vide letter dated 27th January, 2025 paid the remaining fees which was received on 3rd February, 2025. The Opponent vide their letter dated 31st January, 2025 forwarded their final opposition with supporting evidence in the form of affidavit which was received by this Registry on 6th February, 2025. In the affidavit mention is made of evidence under Rule 33(1) only. Hence, the PV-5 was taken on record and hearing was fixed on 11th February, 2025. Parties were directed to file their written submissions. Applicant has filed their written submissions.

CASE OF THE OPPONENT: -

The reason provided by Opponent for time extension is for assimilating additional facts and evidence to substantiate their objection to the registration of the variety BLACK GLUMED NAVARA-UNF-1 which is the subject matter of opposition.

CASE OF THE APPLICANT: -

1. The counter-statement filed by the Applicant was served to the Opponent on 17th December, 2024. Accordingly, as per Rule 31(6) and Rule 33(1) of the PPV&FR Rules, 2003 (the deadline for filing final opposition by the Opponent is 16th



January, 2025 [under Rule 31(6)]. Further, the deadline for filing any evidence by way of affidavit by the Opponent is 17th January, 2025 [under Rule 33(1)].

2. The Opponent, instead of filing final opposition and/or evidence, has filed a Form PV-5 on 08 January 2025 under rule 3j(6) and rule 33. In the Form PV-5, the Opponent has mentioned reason for making request for extension as “*For assimilating additional facts and evidence to substantiate our objection to the registration of farmers’ variety*”.
3. In the counter-statement filed by the Applicant, **no new grounds or facts regarding registration of has been relied upon or introduced.**
4. In the counter-statement filed by the Applicant, **no amendments have been made** to the application for along with the counter-statement filed by the Applicant.
5. The counter statement has been **filed purely on the basis of facts and documents of the present application which are already on record with the Hon’ble Authority.**
6. Therefore, at least for the reasons specified in points 3 to 5 above, the Opponent shall not be provided with additional time for filing final opposition and/or evidence.
7. The provision relating to filing of PV-5 is contained in Rule 32 of the PPV&FR Rules, 2003 which is reproduced herein below for ready reference:

“32. Compliance with time schedule.— The time schedule provided under these rules for notice of opposition, final opposition, evidence, intervention, written statement and reply **shall not ordinarily be extended except by special**



order of the Authority or Registrar given on an application filed by the person seeking extension of time and on payment of the fee specified in the Second Schedule and such an application for extension shall be in Form PV-5 of the First Schedule.”.”

8. Rule 32 clearly shows that PV-5 is to be allowed by the special order. Though it is not expressly mentioned in Rule 32 it is well settled by the Hon'ble Authority at several instances that **special order extending the time limit can be passed only when sufficient cause is shown by the person seeking extension of time.**
9. The reasoning given by the Opponent for filing the Form PV-5 viz. “.... *for assimilating additional facts and evidence...*” cannot be considered as a sufficient cause for seeking extension of time. The Opponent's reasoning for assimilation of additional facts and evidence at this stage suggests that the Opposition's initial submission was lacking in specificity and thoroughness and was merely delay tactic.
10. If the Oppositions' grounds were well-founded and prepared it would be expected that sufficient evidence should have already been collected or readily available with the Opponent. Accordingly, the Form PV-5 should be dismissed for at least this reason.
11. Additionally, in case the Opponent is allowed to file a final opposition and/or evidence based on its **assimilated additional facts**, there is no provision under the PPV&FR Act and the PPV&FR Rules that allows the Applicant to file a counter statement to such additional facts.



12. Rule 33(2) of the PPV&FR Rules allows the Applicant to file evidence within thirty days from date of receipt of Opponent's evidence. Thus, the Applicant will be left with an opportunity to only file evidence in reply of the Opponent's evidence. The rights of the Applicant will be severely prejudiced in case the Opponent is allowed to file a final opposition based on additional facts.
13. By filing Form PV-5 under wrong rule and comprising irrelevant reasons, the Opponent is simply protracting the litigation of present application.
14. Further, Rule 32 clearly states that “.....The time schedule provided under these rules for notice of opposition, **final opposition, evidence**, intervention, written statement and reply shall not ordinarily be extended”
15. In view of the provision under Rule 32, time limit for filing the final opposition and evidence by the Opponent shall not be extended beyond the prescribed time under Rule 31(6) and Rule 33(1).
16. The Applicant relies on the following legal precedence in support of arguments provided above:
17. The decision of the Hon'ble Supreme Court of India in Union of India & Ors. Versus A.K. Pandey (CIVIL APPEAL NO. 6181 OF 2002) states that the principle seems to be fairly well settled that prohibitive or negative words are ordinarily indicative of mandatory nature of the provision; although not conclusive.



18. Rule 32 clearly states that “...*The time schedule provided under these rules for notice of opposition, final opposition, evidence, intervention, written statement and reply shall not ordinarily be extended....*” The term ‘not’ has been placed after ‘shall’ which makes the provision under Rule 32 for **not extending time limit** for filing final opposition and/or evidence **clearly and loudly absolute, peremptory and imperative.**
19. In this regard, the Applicant relies on the following Judgement of Hon’ble Apex Court in Jugalkishore Saraf Versus Raw Cotton Co., Ltd., (1955 AIR 376), wherein it was held that the cardinal rule of construction of statutes is to read the statute literally, that is by giving to the words used by the legislature their ordinary, natural and grammatical meaning.
20. Further, in Commissioner of Income Tax Versus Ram Mohan Kabra (12 January, 1999) <http://indiankanoon.org/doc/1535460>) para 3, it was held that the provisions relating to prescription of limitation in every statute must not be construed so liberally that it would have the effect of taking away the benefit accruing to the other party in a mechanical manner. Now it is a settled principle of law that the provisions relating to specified period of limitation must be applied with their rigour and effective consequences”.
21. It is clear from the above legal precedence that the statute is to be read literally by giving the words of the statute their ordinary, natural, and grammatical meaning. Further, provisions relating to the prescription of limitation in statutes



must not be construed liberally. The intent of legislature for compliance with the time scheduled under Rules for filing of final opposition and evidence is mandatory in nature.

22. Additionally, use of expression “ordinarily” in Rule 32 cannot be interpreted to change the intention of said provision. In this regard we place our reliance for instance, on the decision of the Hon’ble Supreme Court of India in Union of India & Ors Vs Vipinchandra Hiralal Shah (1996 SC 1259), that the insertion of the word "ordinarily" does not, in our opinion, alter the intendment underlying the provision.

23. In year 2015, several amendments were made in the PPV&FR Rules. Rule 32 with heading “*Compliance with time schedule*” has been amended *inter alia* by incorporating expression “...*final opposition, evidence, intervention, written statement and reply...*” The provision of Rule 32 prior to amendment did not relate to time schedule for final opposition, evidence, intervention, written statement and/or reply. The expression “*evidence and time limit for filing notice of opposition, counter-statement*” was previously present in marginal heading of Rule 33 from where said expression has been deleted. The nature of amendments carried out in Rules 32 and Rule 33 clearly show that **compliance with the prescribed time limits for filing final opposition and evidence is of mandatory nature and shall not be extended.**

24. The proposition that the **legal right which has accrued to a party by lapse of time should not be light heartedly disturbed** was held by the Apex Court in Ramlal Motialal and



Chhotelal -Vs- Rewa Coal Fields Ltd., (1962 AIR 361) wherein it was held that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree holder to treat the decree as binding between the parties has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree holder by lapse of time should not be light heartedly disturbed. **In present case the final opposition and/or evidence are not submitted by the Opponent within stipulated time limits therefore legal right has accrued to the Applicant by lapse of time should not be light heartedly disturbed. Section 21 of the Act and Rule 33(2) are mandatory provisions and should be read strictly and not be usurped.**

25. The Opponent has conspicuously neither stated nor provided any sufficient cause for prayer on PV-5 and is therefore bound to submit the final opposition and/or evidence if any within limitation period (that is within thirty days and one month from 17 December 2024, respectively). The last date of filing final opposition and evidence has already been expired. Thus, the Opponent shall no longer be allowed to file final opposition and/or evidence.
26. The Opponent has not supported Form PV-5 for condoning delay and time extension with sufficient cause with cogent and proper evidence as the Opponent has not supported the PV-5 with any document. In this regard, the Applicant would like to draw attention of Hon'ble Authority to various landmark



judgements of the Apex Court on condonation of delay for instance, in Ramlal, Motilal and Chhotelal Versus Rewa Coalfields Ltd., (1962 AIR 361) wherein it was held that it is however, necessary to emphasize that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of sufficient cause is a condition precedent for the exercise of discretionary jurisdiction vested in the Court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground. If sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is necessary at this stage that diligence of the party or its bona fides may fall for consideration but the scope of enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the court may regard as relevant.

27. In Brijesh Kumar & Ors., Versus State of Haryana & Ors., (dated 24, 2014 para No.8, page 3 41333.pdf (sci.gov.in) it has been held that if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the judge cannot on applicable grounds, enlarge the time allowed by the law, postpone its operation or introduce exceptions not recognized by law.

28. The Apex court in Esha Bhattacharjee Versus Raghunathpur Nafar Academy & Ors., (2013 12 SCC 649, Brijesh Kumar &



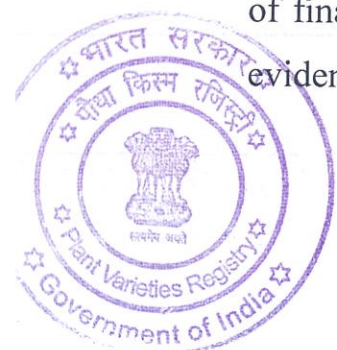
Ors., Versus State of Haryana & Ors., (Dated 24, 2014) para No.15 page 6 it was held that lack of bonafides imputable to a party seeking condonation of delay is a significant and relevant fact. **The concept of liberal approach has to be encapsulating the conception of reasonableness and it cannot be allowed to totally unfetter free play.** The conduct, behaviors and attitude of a party relating to its inaction or consideration. The courts are required to weigh the scale of balance of justice in respect of both the parties and the said principle cannot be given a total go in the name of liberal approach. The increasing tendency to perceive delay as a non-serious matter and hence lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course within legal parameters.

Accordingly, the PV-5 form filed by the Opponent seeking one month time extension must be dismissed.

ANALYSIS: -

Heard the parties.

It is well settled that time extension is sought under Rule 32 by filing PV-5 and for each instance of delay in final opposition and evidence separate PV-5 Forms have to be filed. At the outset it is not clear from the PV-5 Form filed by the Opponent whether the same has been filed for extension of time for filing of final opposition under Rule 31(6) or evidence under Rule 33(1), as the Opponent had filed the PV-5 to extend time for one month for filing of final opposition/ evidence. Further the Opponent had also filed evidence on 6th February, 2025 vide their letter dated 31st January,



2025. A specific query was put to the Opponent in this regard as whether the Form PV-5 has to be considered for extension of time for final opposition or evidence. The Opponent categorically stated that it must be considered for extension of time for filing of evidence only as they had filed their evidence vide their letter dated 31st January, 2025. Accordingly, the instant PV-5 is taken in respect of filing of evidence under Rule 33(1) only and not in respect of filing of final opposition. Accordingly, the time limit for filing final opposition ended on 16th January, 2025 without the Opponent filing the same.

Now the only issue that survives for consideration is whether time is to be extended for filing of Opponent's evidence from 17th January, 2025 (date of expiry of time limit for filing of evidence) till 6th February, 2025 (date of filing of evidence).

The mentioning of wrong provision in the PV-5 filed by the Applicant namely Rule 3(j)(6) and Rule 33 does not bar the Opponent from getting the relief. The Form PV-5 as stated by Opponent in pith and substance is for seeking extension of time by one month for filing evidence and Form PV-5 cannot be discredited for the only reason that provisions has been mentioned wrongly.

The cases cited by Counsel for Applicant to the effect that limitation statutes cannot be construed liberally and right accrued to the other party cannot be taken away in a mechanical manner are not applicable to the case on hand. At the outset limitation deals with time limit for initiation of suits and if within the time limit suits are not initiated a right accrues to the other party. This principle is not applicable here. Merely, non-filing of evidence by the Opponent



cannot be the only reason which will entitle the Applicant to register his variety. Accordingly, no right accrues to the applicant by reason of opponent not filing their evidence.

Further the case of the applicant that assimilating additional facts and evidence do not fall under Rule 32 but under Rule 33(3) is also not applicable. The words "assimilating additional facts" stated by opponent could also mean including additional facts which have been left out while obtaining administrative approval and later to be added again with administrative approval. Further the applicability of Rule 33(3) is not applicable here as till this date the Opponent has not filed their evidence and accordingly the question of filing of additional evidence does not arise. The issue involved here is to extend time for filing of evidence already filed and not the case of filing further evidence under Rule 33(3).

It is well settled that delay can be condoned if sufficient cause is shown and sufficient cause has to be construed liberally. The reason provided by Opponent for time extension is for assimilating additional facts and evidence to substantiate their objection to the registration of the variety BLACK GLUMED NAVARA-UNF-1 which is the subject matter of opposition has to be construed liberally.

In my opinion no prejudice would be caused in any way to the Applicant as the Applicant is yet to file their evidence under Rule 33(2) and can very well counter the evidence of the Opponent on its receipt. On the other hand if time extension is not granted the evidence of the Opponent will be wiped away from the records. In



the interest of justice, time extension for filing the evidence of the Opponent ought to be granted.

Accordingly, under Rule 32, I hereby extend the time for filing of evidence from 17th January, 2025 (original time limit for filing of evidence) to 6th February, 2025 (date of filing of evidence by the Opponent). Accordingly, the evidence filed by Opponent on 6th February, 2025 be examined by the registry for taking on record. If in order Registry shall forward the evidence of Opponent to Applicant for filing of their evidence under Rule 33(2).

There shall be no order as to costs.

Given under my hand and seal on this 24th day of February, 2025.




(D.K Agarwal)
Registrar General