

**BEFORE THE PROTECTION OF PLANT VARIETIES AND  
FARMERS' RIGHTS AUTHORITY  
AT NEW DELHI**

**IN THE MATTER OF: - Revocation filed by Bioseeds  
Research India Limited (Revocation Applicant) against  
Nuziveedu Seeds Limited (Registered Breeder) of Cotton  
variety with denomination MALLIKA-NCS 207.**

**IN THE MATTER OF: -**

**BIOSEEDS RESEARCH INDIA LIMITED**

**.... REVOCATION APPLICANT**

**-Versus-**

**NUZIVEEDU SEEDS LIMITED**

**..... REGISTERED BREEDER**

**For the Revocation Applicant: - Sh. Anil Dutt and Sh.  
Sudarshan Singh Shekhawat, Advocates for M/s.  
Lakshmikumaran & Sridharan**

**For the Registered Breeder: - Sh. Abhishekh Saket,  
Advocate for M/s. Infini Juridique**

**ORDER**

The Registered Breeder has filed an application for recall of the order dated 12.12.2018 in the instant matter. On 12.12.2018, the matter was heard and reserved for judgement. During the said hearing, the counsel for Registered Breeder was not present.

Thereafter the counsel for Registered Breeder has filed the instant application which is the subject matter of this order praying to recall the order dated 12.12.2018 in the instant matter on the ground that he had to travel to Kochi early in morning of 12.12.2018 and the ticket was booked at

08:51 am and the flight was at 10:11 am and further there was confusion in the dates and the non-appearance of counsel for Registered Breeder was unintentional and on account of natural justice an opportunity ought to be granted by recalling the order dated 12.12.2018 in the instant matter.

The counsel for revocation applicant vehemently opposes the same. The petition should not be allowed and the matter must proceed further and judgement be pronounced.

Heard the parties. It is a well settled principle in law that sufficient cause advanced by a party to condone the delay in a delay condonation proceeding must be construed liberally. Accordingly, the cause advanced by counsel for registered breeder has to be liberally construed. No prejudice is going to be caused to any party by recalling the order dated 12.12.2018 in the instant matter and on the other hand if the order is not recalled the counsel for registered breeder would be prejudiced as he would not be able to advance the arguments in final hearing. Costs cure the delay. Accordingly, the order dated 12.12.2018 in the instant matter is recalled subject to the payment of costs of Rs.5,000/- (Rupees Five Thousand Only) by counsel for registered breeder to the National Gene Fund. The costs must be deposited on or before 11<sup>th</sup> April, 2019 failing which the instant order gets automatically cancelled and the order dated 12.12.2018 survives. If costs are paid as directed then in such case the final hearing of the matter would take place on 16<sup>th</sup> May, 2019 at 15:00 hrs. Parties are to adhere to the

time limit strictly and no time extension would be granted under any circumstances.

Given under my hand and seal on this the 4<sup>th</sup> day of April, 2019.

Sd/-  
(K.V.PRABHU)  
CHAIRPERSON