

Ministry of Agriculture
(Department of Agriculture and Cooperation)
Notification

New Delhi, the 7th December, 2006

G.S.R. (E)-In exercise of the powers conferred by sub-section (1) of section 95 of the Protection of Plant Varieties and Farmers' Rights Act, 2001 (53 of 2001), the Protection of Plant Varieties and Farmers' Rights Authority hereby makes, with the approval of the Central Government, the following regulations, namely:-

CHAPTER – I

1. Short title and commencement: (1) These regulations may be called the Protection of Plant Varieties and Farmers' Rights Regulations, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions: (1) In these regulations, unless the context otherwise requires-

- (a) “**Act**” means the Protection of Plant Varieties and Farmers' Rights Act, 2001;
- (b) “**Agreement Country**” means the country which makes an agreement with the Republic of India on Intellectual Property Rights or Plant Variety Protection;
- (c) “**Applicant**” means the person who applies to the Authority for registration of plant varieties;
- (d) “**Form**” means a form annexed to the regulations;
- (e) “**Journal**” means the Plant Variety Journal of India;
- (f) “**Parental Line**” means the inbred line of immediate parents or ‘A’ line ‘B’ line and ‘R’ line of hybrids;
- (g) “**Rules**” means Protection of Plant Varieties and Farmers' Rights Rules, 2003; and
- (h) “**section**” means a section of the Act.

(2) All other words and expressions used in these rules and not defined, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

CHAPTER – II

Duties and Jurisdiction of the Registrar

3. Duties of the Registrar -

- (1) The Registrar shall discharge the functions under the superintendence and directions of the Registrar General.
- (2) The Registrar, on receipt of an application under section 14 for the registration of any variety, shall examine the same under section 20 and decide whether the application is to be accepted or to be refused or to be accepted subject to requirement of amendment(s) or limitations.
- (3) The Registrar shall give the applicant an opportunity to amend the application and the right to be heard before refusing the application.
- (4) The Registrar shall have powers to register a variety, the denomination of which comprises of its geographical name under special circumstances.
- (5) The Registrar, in consultation with and with the approval of the Authority, shall facilitate, subject to meeting the pre-requisites for registration, registration of essentially derived variety.
- (6) The Registrar shall issue certificate of Registration on registration of a variety under the Act.
- (7) The Registrar shall, on being satisfied, allow alterations in denominations, names and addresses of the applicants, assignees, authorized agents, legal representatives and successor and may permit clerical corrections in the Register or certificates of registration or applications on receipt of written request to this effect.
- (8) The Registrar shall consider oppositions filed in deciding applications for registration.
- (9) The Registrar shall maintain National Registry of Plant Varieties, Register of Agents and licensees along with entitlement and conditions and update the same from time to time.
- (10) The Registrar shall cancel or vary, the Certificate of Registration on obtaining proper evidence; terms of registration by giving a reasonable opportunity to the person concerned of being heard and consult the Authority whenever required, before giving a final decision.
- (11) The Registrar shall have powers to issue copies of certificates of registration or any part or whole of Register of Plant Varieties, on receipt of written application to this

effect, apart from allowing inspections of the Register of Plant Varieties on written request.

- (12) The Registrar may allow a party to a proceeding before it on written request and on satisfactory proof that the interest of the person, who were a party to it and who had expired, should transmit to the person or party impleaded.
- (13) The Registrar shall advertise in the Gazette or Journal changes made to the Certificate of Registration.

4. Jurisdiction: The Registrar shall have jurisdiction of All India basis with respect to crops and areas, as per the order of the Authority from time to time. He shall be assisted by the Joint Registrar, Deputy Registrar and other technical and administrative staff.

5. The term of office and the conditions of service of the Registrars

- (1) A person having adequate practical knowledge of Plant Variety Protection System and Post-graduation in Agricultural Science (with specialization in Plant Breeding and Genetics, Biotechnology, Agriculture Botany etc.) or Forestry or allied subject shall be eligible to hold the Office of Registrar in the Authority. The Registrar can be taken on deputation and absorption basis from other Departments or Organization.
- (2) The Authority shall follow Fundamental Rules, Central Civil Services (Leave) Rules, 1972 and Central Civil Services (Pension) Rules, 1972 while fixing salary and other allowances including pension, leave, traveling and daily allowances of the Registrar. The Authority shall have the flexibility to make the special policy or rules or regulations or guidelines for career advancement or promotion of Registrar and other staff of the Authority.
- (3) A person holding the office of the Registrar may relinquish the office by giving in writing to the Authority notice of not less than three months.
- (4) The other conditions of the Registrar shall be regulated by orders made in that behalf by the Authority from time to time

CHAPTER III

Registration of Plant Varieties and essentially derived variety

6. Criteria for registration of extant variety.

The suitability for registration of extant varieties which have been notified under section 5 of the Seeds Act, 1966 (54 of 1966) shall be examined by the Extant Variety

Recommendation Committee to be constituted by the Authority. The Extant Variety Recommendation Committee will be comprised of seven persons including one Farmers' Representative and one Seed Industry Representative and other subject matter specialists who shall be nominated by the Authority. The Extant Variety Recommendation Committee shall have three years tenure and Registrar of the Authority shall be the *Ex-officio* Member Secretary of the Committee. On the basis of the recommendations of the Extant Variety Recommendation Committee, the extant variety of notified variety under the Seeds Act, 1966 shall be registered as per the provisions of the section 28 of the Protection of Plant Varieties and Farmers' Rights Act, 2001. The Criteria of distinctiveness, uniformity and stability for registration of extant variety differ from species to species and they shall be notified by the Protection of Plant Varieties and Farmers' Rights Authority in the Gazette of India.

7. Assignment of Denomination to a Plant Variety.

- (1) A mark may only be approved as a denomination for a variety if the applicant concerned submits documentary proof that the holder of the mark concerned renounces his or her right to such mark as from the date on which a Plant Breeder's Right to the variety is granted; and
- (2) The denomination approved by the Registrar for a variety in respect of which protection has been granted by, or an application for protection has been lodged with the designated authority in a convention country or an agreement country in accordance with the laws in force in that country shall the same as the denomination thus protected or thus applied for in such country, on condition however that the provision of sub-section (1) are complied with and that a priority claim on such denomination is not proved by another person.

8. The manner in which a single and distinct denomination shall be assigned by the Applicant.

- (1) The denomination that is proposed for a variety in terms of section 18 of the Act shall-
 - (a) be suitable to identify the variety;
 - (b) be expressed by means of letters or combination of letters and figures in Hindi or English;
 - (c) not to be such as to be mislead or to lead to confusion concerning the characteristics, value or identity of the variety in question or the identity of the breeder thereof;

- (d) be different from each denomination which designates existing varieties of the same or a closely related species registered under this Act, in a convention country or an agreement country, or not likely to create confusion in the public regarding identity of the variety;
 - (e) not be identical with or similar to or liable to lead to confusion with a mark which enjoys the protection accorded thereto by the Trade Marks Act, 1999 (47 of 1999) and which applies to propagating material or the use in connection there with or in connection with a product thereof;
 - (f) not be inimical to public order or contrary to morality;
 - (g) be the same in all convention countries or agreement countries;
 - (h) not generally comprise of solely or partly of geographical name;
 - (i) be not prohibited for use as a name or emblem for any purpose mentioned in section 3 of the Emblems and Names (Protection of Improper Use) Act, 1950 (52 of 1950).
- (2) Notwithstanding anything to the contrary contained in these regulations
- (a) when a variety is advertised, offered for sale or marketed, it shall be permitted to associate a trademark, trade name or other similar indication with a registered variety denomination after informing the Registrar in writing;
 - (b) a trademark, trade name or other similar indication referred to in clause (a) of section 4 above shall not be used alone without the registered variety denomination and also without the prior information to the Registrar.

9. Time within which the Registrar may require an applicant to propose another denomination.

If the Registrar considers a denomination proposed for a variety as unsuitable, the applicant concerned shall submit some other denomination acceptable to the Registrar within two months from the date of receipt of such direction.

10. Form of Application.

Every application for registration under section 14 and section 23 may be made in the Form I and Form II.

11. Standards for evaluating seeds or variety during tests.

The test to be conducted for evaluation of a variety to be referred under the Act shall conform to the criteria of distinctness, uniformity and stability test guidelines published by the Authority in the Journal of Protection of Plant Varieties and Farmers' Rights Authority

and shall be revised and updated from time to time with the prior information to the Central Government. The Standards for evaluating seeds during tests under sub-section (1) of section 19 shall be such as notified under Seeds Act, 1966 or further amendments to that effect.

CHAPTER IV

Deposit of Seeds and Authorization

12. Quantity of seeds or propagating materials required to be deposited, by the Breeder, in the National Gene Bank.

The quantities of seeds or propagating materials including parental line seeds of registered varieties including the varieties under distinctness, uniformity and stability testing required to be deposited under sub-section (1) of section 27 of the Act shall be as per the quantities specified in the distinctness, uniformity and stability test guidelines under regulation 11 that would be published in the Journal of the Protection of Plant Varieties and Farmers' Rights Authority which will be treated equivalent to the Gazette of the Government of India.

13. Limitations and conditions for authorization

- (1) Subject to the provision of section 28, any authorization conferred under sub-section (3) of section 28 by a registered breeder shall be made in Form 1A.
- (2) The Form mentioned under sub-rule (1) shall be executed on a non judicial stamp paper and shall conform to the requirement of the Indian Stamp Act, 1899 (2 of 1899)
- (3) The Form shall be duly attested by the registered breeder or any person authorized on his behalf in the presence of two witnesses.
- (4) The Form shall be duly registered in accordance with the rules.
- (5) An authorization under sub-section (2) of section 28 shall be valid subject to the following conditions, namely:-
 - (i) the right(s) conferred by the registered breeder shall be clearly identified and checked in the Form mentioned under sub-rule (1);
 - (ii) the term of the authorization is clearly specified in the Form mentioned under sub-rule (1); and
 - (iii) the territories are clearly identified specified in the Form and do not violate rights granted to any licensee under the Act.

- (6) An authorization by a registered Breeder under sub-section (2) of section 28 of the Act shall be subject to the following conditions, namely: -
- (i) all authorizations under sub-section (2) of section 28 shall be in **Form 1A**.
 - (ii) no authorization under sub-section (2) of section 28 shall be valid unless the following conditions are fulfilled, namely:-
 - (a) authorization should be executed on a non-judicial stamp paper;
 - (b) authorization Instrument should be duly signed by the registered Breeder or by his duly authorized agent;
 - (c) authorization Instrument should be duly registered; and
 - (d) authorization Instrument should also be signed by two independent witnesses.
 - (iii) All authorizations shall identify the specific right(s) conferred thereunder and shall clearly mention the duration and territorial extent of such authorizations.

[F. No. 1-2/2003/SD-V]

S.L. BHAT, JOINT SECRETARY (SEEDS)

FORM 1

[See regulation 10]

APPLICATION FOR REGISTRATION OF NEW VARIETY, EXTANT VARIETY AND FARMER'S VARIETY UNDER PROTECTION OF PLANT VARIETY AND FARMERS' RIGHTS ACT, 2001.

[See section 18, other than essentially derived variety.]

(Instruction to applicant: Wherever a box item appears against queries, please tick the relevant box and provide legibly written/typed response in other queries.)

-
- 1. Identity of the Applicant(s):**
- | | |
|--------------------------|---------------------------------------|
| <input type="checkbox"/> | INDIVIDUAL BREEDER |
| <input type="checkbox"/> | SUCCESSOR OF BREEDER |
| <input type="checkbox"/> | INSTITUTIONAL APPLICANT |
| <input type="checkbox"/> | FARMER ¹ |
| <input type="checkbox"/> | COMMUNITY OF FARMERS ¹ |
| <input type="checkbox"/> | GROUP OF FARMERS ¹ |
| <input type="checkbox"/> | ASSIGNEE OF ANY OF ABOVE ² |
| <input type="checkbox"/> | CONVENTION COUNTRY ³ |
| <input type="checkbox"/> | ANY OTHER ⁴ |

1. Application on farmers' variety by farmers or community of farmers or group of farmers as contained in the Protection of Plant Varieties and Farmers' Rights Act, 2001 shall be submitted only with an endorsement in Annexure 1 either by the concerned Panchayat Biodiversity Management Committee, or District Agricultural Officer, or Director of Research of concerned State Agricultural University or District Tribal Development Officer.
2. An assignee or legal representative applicant shall submit required proof of the right of making the application in accordance with rule 27.
3. The Gazette Notification of Government of India should cover the country of the applicant and that India enjoys such mutual privileges (see rule 31 of the Act)
4. For material developed by participatory plant breeding, attach documents to explicitly show the deal struck between the farmer and the plant breeder.

2. Name(s) and Nationality of Applicant(s)**(a.) (If natural person): [Insert additional rows, if required]**

1. Serial Number.
2. Name³
3. Complete Address
4. Nationality

³If the applicant is the authorised representative of a group of farmers/community of farmers an authorisation in Form PV-1 signed by all members of the group, or by the Head/office bearer of the community witnessed by the two people, if the identity of the applicant is "community of farmers" shall be attached.

(b.) (If a legal person; for example a firm or company or institution)

Name: _____

Address of its seat or establishment _____

(Registered office): _____

Year of Incorporation: _____

State whether the applicant legal person has non-Indian participation in capital or management:

Yes

No

If yes, identify the nationality

- (c.) **Indicate the name and address of the natural person, being an employee of the legal person, who is duly authorized to represent the legal person (example a director of a company or a partner of a firm):**

Name: _____

Designation: _____

Address: _____

Telephone: _____

Fax: _____

E-mail: _____

3. **Name and Address of the Person to whom Correspondence related to this application is to be sent: (Attach authorisation in Form-PV-1, if required)**

Name _____

Address _____

Pin _____

Telephone: _____

Fax: _____

E-mail: _____

4. **General Information of the Candidate Variety:**

Common name of the Crop: _____

Botanical name ⁴: _____

Family: _____

Denomination (in block letters): _____

⁴ Botanical names mean the scientific name approved by the International Code for Nomenclature of Cultivated Plants, 2004.

5. **Type of Variety (see chapter III of the Protection of Plant Varieties and Farmers' Rights Authority, 2003)**

NEW VARIETY

EXTANT VARIETY

FARMERS' VARIETY

6.(a.) Classification of the Candidate Variety:

TYPICAL VARIETY⁵

HYBRID VARIETY*

TRANSGENIC

OTHER (SPECIFY)

5. Typical variety means a variety, which is not a hybrid or an essentially derived variety and normally propagated by using propagules saved from previous crop production cycles (Example: pure lines including parental lines/composite varieties or vegetative propagated varieties).

* The hybrid and not a transgenic hybrid. In case of transgenic attach copy of the Genetic Engineering Approval Committee clearances for cultivation and seed productions

(b.) What is (are) the Distinctness Uniformity Stability feature on the basis of which registration is sought. Explain in detail the group characters (see specific guidelines for details). Attach 'Technical Questionnaire' sheet with all needed details duly signed with seal.

(c.) If new variety is a transgenic attach clearance on Bio-safety from Ministry of Environment and Forests.

7. Names and Addresses of Breeder(s) who has/have bred the Candidate Variety⁶:

Name: _____

Address: _____

Telephone: _____

Fax: _____

E-mail: _____

Nationality: _____

⁶In case of more than one breeder, mention all names as (ii), (iii) and so on in the above format. If required insert extra page. In the case the variety is evolved and conserved 'by group or community of farmers', it shall be endorsed in Annexure I.

8.(a.) Details of all other earlier applications made on the candidate variety in convention countries or other countries (if applicable):

Variety denomination: _____

Nature of right applied for: Plant Breeder's Rights Patent

Filing Date
(Attach evidence): _____
 Name of Country: _____
 Name of Authority: _____
 Application Number: _____

Status of Application: Under process Approved Rejected
 (If required, repeat the above for each applicable country and attach separate sheet)

(b.) Priority is now claimed in respect of the earliest application for a candidate variety of said denomination (if applicable):

In (country): _____
 On (date of application): _____

9. Has the candidate variety been commercialised or otherwise exploited?

Yes No

If yes, please indicate the following:

Date of the first sale of the variety: _____
 Country (ies) where Protection is made: _____
 Denomination used _____
 Trademark used, if any: _____
 Variation in important trait with Respect to first filing: **(attach sheet)**

10.(a.) If the candidate variety is a hybrid, state whether all the parental lines required for the repeated propagation of the hybrid are bred exclusively by the applicant(s):

Yes No⁷

⁷If no, mention which of the parental line is outsourced, whether letter of agreement is obtained for each of the outsourced protected parental lines in compliance with Section 30 of the Protection of the Plant Varieties and Farmers' Rights Act and also provide following information on each of them:

Parental line (S):

Denomination⁸:

Source:

Authorisation letter obtained: Attached Not attached

⁸Denomination should not be altered from what was used at the source. Information on source may include name of breeder or institution or farmer or farming community who had bred and maintained the parental line. Repeat above information for additional applicable parental line.

- (b.) State if any Farmers' Variety or Variety of Common Knowledge or variety in public domain is used as parental line for the repeated propagation of the hybrid:

Yes

No

If yes, give following details:

Denomination:

Geographical Source:

Details of Attribution (origin):

Details of owner farmer /village community/ Institution/ Organisation:

- (c.) The Protection of Plant Varieties and Farmers' Rights Act,2001 provides access to benefit sharing to farmers who have conserved the genetic resource that has contributed towards variety development. In this particular case what sort of farmer/community recognition the Applicant has planned?

- II. In case exotic germplasm was used in the derivation of the variety or hybrid, give details:

12. Details on the payment of application fee and Distinctness Uniformity Stability testing fee⁹:

Amount of fee: Rupees (Rupees.....only)

Demand Draft Number and date:

Name of Bank and branch in which the Demand Draft is drawn:

⁹ Applications from farmers, group of farmers and community of farmers submitted in accordance with the authentication specified under column 1 of this application are exempted from payment of Distinctness Uniformity Stability testing fee.

(Signature of the Applicant)

DECLARATIONS

I/We hereby apply for the grant of registration of the candidate variety with the above said denomination and I/we am are conversant with the Protection of Plant Varieties and Farmers' Rights Act, 2001 and Rules thereof related to this application.

I/We hereby declare that no person other than the person or persons mentioned in this application has been involved in the breeding, or discovery or development of the candidate variety.

I/We hereby declare that the candidate variety complies with the sub- section (3) of section 29 of Protection of Plant Varieties and Farmers Rights Act, 2001.

I/We hereby declare that I/we have not applied for or received a trademark for the said denomination of the variety.

I/We hereby attach an affidavit in compliance with clause (C) of sub- section (1) of section 18 of Protection of Plant Varieties and Farmers' Rights Act, 2001.

I/We hereby declare that the information given in this application for the registration of the above said candidate variety, including annexure and all supporting documents are complete, true and correct to the best of my/our knowledge, information and belief and no information has been wilfully concealed.

I/We hereby declare that I/We shall abide by all the provisions and guidelines of Protection of Plant Varieties and Farmers' Rights Act, 2001.

Place: _____

Date: _____

Signature of Applicants¹⁰
Seal

¹⁰Wherever the applicants are more than one person each applicant has to sign. In the case of authorised application or application by assignees, such person(s) authorised or assigned shall sign

Following are the attachments (duly signed/seal) submitted along with of the application (note that wherever signature is affixed in the application or attachments, all such signatures shall be in the original):

- (a) complete application ;
- (b) endorsement in Annexure 1 in the case of farmers' variety (vide column 1, if applicable);
- (c) document of authorisation in Form PV-1 (if applicable) ;
- (d) document of assignment in Form PV-2 (if applicable);
- (e) documents in support of (b) and (d) as given above. (If applicable);
- (f) affidavit that the Terminator Technology and the Genetic Use Restriction Technology is not involved;
- (g) copy of document on filing date (vide column 8A, if applicable);
- (h) copy of letter of agreement (vide column 10A, if applicable);
- (i) technical Questionnaire for the Candidate variety (attached);
- (j) if the applicants by virtue of succession or an assignment of the right to apply for registration attach a proof to show the right to application as stipulated in sub -section (3) of section 18 of the Protection of Plant Varieties and Farmers' Rights Authority, 2001;
- (k) in case of Convention Country applicant attach complete details on the variation in the important trait with respect to first filing as enclosure;
- (l) in case of Convention Country applicant provide information whether the variety has been sold or otherwise disposed of within or outside the convention Country with details thereof;
- (m) in case of transgenic relevant Genetic Engineering Approval Committee clearances and approvals; and
- (n) Fees as applicable;

If felt necessary attach colour pictures of specific characteristics used for establishing distinctness. Please sign each page of the application and other document on the left margin.

ANNEXURE 1

Endorsement of application for registration of farmers' variety under Protection of Plant Varieties and Farmers' Rights Act, 2001

1. Name(s) of applicant farmer/ Group of farmers/Community of farmers

Serial Number	Name with surname/Name of Group/Name of Community	Permanent Address

2. Denomination of the candidate variety: _____

3a. (Applicable to individual farmer applicant)

I hereby declare that I have been a permanent cultivator since last many years in the village falling under the local body/Panchayat in the District of State and that I and my family are the initial and exclusive developers and conservers of the candidate variety denominated as, under the kind..... (Common name of crop) to the botanical species

3b. (Applicable to group/community of farmers applicant)

We hereby declare that we have been the permanent cultivators since last many years in the village(s) falling under the local body/ Panchayat(s) in theDistrict(s) ofState(s) and that we are the initial and exclusive developers and continuous conservers of the candidate variety denominated as under the kind. (Common name of crop) belonging to the botanical species..... We on behalf of our group/community hereby authorise..... s/o..... (Name), who is a member of our group/community and permanent resident of (Complete postal address) to do the needful and be the signatory on our behalf for the limited purpose of securing registration of the candidate variety in our favour under Protection of Plant Varieties & Farmers' Rights Act, 2001.

Dated.....

Place.....

Signature and Name of the Farmer or
Authorised person of Group/Community
(To be signed before the endorsing official)

It is hereby certified that the above said candidate variety is bred / developed and continuously conserved and cultivated only by the applicant farmer / group of farmers / community of farmers who is / are permanent residents of above said village(s) and I am fully conversant with the applicant farmer / group or community of farmers and that the candidate variety is due to their efforts *(strike out unwanted words given as options)*.

Signature

Date

Name

Place

(Chairperson / Secretary of the Concerned Panchayat Biodiversity Management Committee OR Concerned District Agricultural Officer OR Director of Research concerned State Agricultural Universities OR Concerned District Tribal Development Office.

(With Official Rubber Stamp)

FORM II

[See regulation 10]

APPLICATION FOR REGISTRATION OF ESSENTIALLY DERIVED VARIETY (EDV) UNDER PROTECTION OF PLANT VARIETY AND FARMERS' RIGHTS ACT, 2001.

[See section 28 of the Act.]

(Instruction to applicant: Wherever a box item appears against queries, please tick the relevant box and provide legibly written/typed response in other queries.)

-
- 1. Identity of the Applicant(s):**
- INDIVIDUAL BREEDER
- SUCCESSOR OF BREEDER
- INSTITUTIONAL APPLICANT
- FARMER
- OTHERS¹

¹ For material developed by participatory plant breeding, attach documents to explicitly show the deal struck between farmer and plant breeder.

2. Name(s) and Nationality of Applicant(s)**(a.) (If natural person): [Insert additional rows, if required]**

1. Serial Number. _____
2. Name² _____
3. Complete Address _____
4. Nationality _____

² If the applicant is the authorised representative of a group of farmers, an authorisation in Form PV-1 signed by all members of the group, or by the Head/office bearer of the community witnessed by the two people, if the identity of the applicant is Community of farmers' shall be attached.

(b.) (if a legal person; for example a firm or company or institution)

Name: _____

Address of its seat or establishment: _____

(Registered Office)

Year of Incorporation: _____

State whether the applicant legal person has non-Indian participation in capital or management:

 Yes No

If yes, identify the nationality (ies): _____

- (c.) Indicate the name and address of the natural person, being an employee of the legal person, who is duly authorized to represent the legal person (example a director of a company or a partner of a firm):

Name: _____
 Designation: _____
 Address: _____
 Telephone: _____
 Fax: _____
 E-mail: _____

3. Name and Address of the Person to whom Correspondence related to this application is to be sent (Attach authorisation in Form-PV-1, if required)

Name _____
 Address _____
 Pin _____
 Telephone: _____
 Fax: _____
 E-mail: _____

4. General Information of the Essentially Derived Variety:

Common name of the Crop: _____
 Botanical name ³: _____
 Family: _____
 Denomination (in block letters): _____

³ Botanical names mean the scientific name approved by the International Code for nomenclature of cultivated plants, 2004.

- 5.(a.) Type of Essentially Derived Variety

- TRANSGENIC
 MUTANT
 TISSUE CULTURE DERIVED
 BACK CROSS DERIVATIVE
 ANY OTHER (Ploidy Change etc)

□

- (b.) If transgenic attach copy of Genetic Engineering Approval Committee clearance and If the Essentially Derived Variety is a transgenic attach clearance on Bio-safety angle and Environment Department (GEAC) and related seed production permission (Give details)

6.(a.) Classification of the Candidate Variety:

- TYPICAL VARIETY⁴
 □ HYBRID VARIETY
 □ OTHERS (SPECIFY)

⁴ Typical variety means a variety, which is not a hybrid or an essentially derived variety and normally propagated by using propagules saved from previous crop production cycles (Example: pure lines including parental lines, synthetic/composite varieties or vegetative propagated varieties).

- (b.) What is (are) the Distinctness Uniformity Stability feature on the basis of which registration is sought. Explain in detail the group characters (see specific guidelines for details). Attach 'Technical Questionnaire' sheet with all needed details duly signed with seal.
- (c.) Whether the authorisation of the breeder of initial variety has been taken

□ Yes

□ No

- (d.) If yes please attach the copy of Authorisation:

7. Names and Addresses of Breeder(s) who has/have bred the candidate Essentially Derived Variety:

Name: _____

Address: _____

Telephone: _____

Fax: _____

E-mail: _____

Nationality: _____

⁵ In case of more than one breeder, mention all names as (ii), (iii) and so on in the above format. If required insert extra page. In the case the variety is evolved and conserved by group or community of farmers, it shall be endorsed in Annexure I.

- 8.(a.) Details of all other earlier applications made on the candidate Essentially Derived Variety in convention countries or other countries (if applicable):

EDV denomination: _____

Nature of right applied for: Plant Breeder's Rights Patent
 Filing Date (Attach evidence): _____
 Name of Country: _____
 Name of Authority: _____
 Application Number: _____
 Status of Application: Under process Approved Rejected

(If required, repeat the above for each applicable country and attach separate sheet)

(b.) Priority is now claimed in respect of the earliest application for an Essentially Derived Variety of said denomination (if applicable):

In (country): _____
 On (date of application): _____

9. Has the Essentially Derived Variety been commercialised or otherwise exploited?

Yes No

If yes, please indicate the following:

Date of the first sale of the Essentially Derived Variety: _____

Country of first sale of the Essentially Derived Variety: _____

Denomination used _____

Trademark used, if any: _____

10.(a.) If the candidate Essentially Derived Variety is a hybrid, state whether all the parental lines required for the repeated propagation of the hybrid are bred exclusively by the applicant(s):

Yes No⁶

⁶ If no, mention which of the parental lines are outsourced, whether letter of agreement is obtained for each of the outsourced protected parental lines in compliance with Section 30 of the Protection of Plant Varieties and Farmers' Rights Act and also provide following information on each of them:

Parental line (S):

Denomination⁷:

Source:

Authorisation letter obtained: Attached Not attached

⁷ Denomination should not be altered from what was used at the source. Information on source may include name of breeder or institution or farmer or farming community who had bred and maintained the parental line. Repeat above information for additional applicable parental line.

- (b.) If the candidate Essentially Derived Variety is a hybrid, state any Farmers' variety of common knowledge or in public domain is used as parental line for the repeated propagation of the hybrid:

Yes No

If yes, give following details:

Denomination:

Geographical Source:

Details of Attribution (Origin):

Details of owner farmer/village community/Institution/Organisation:

- (c.) If the candidate is an Essentially Derived Variety, state whether a variety registered under the Protection of Plant Varieties and Farmers' Rights, Act 2001 and notified in the Plant Variety of Journal of India has been used as the initial variety:

Yes No

If yes provide

Denomination:

Geographical Source:

Details of owner farmer/village community/Institution/Organisation:

11. In case exotic germplasm was used in the derivation of the Essentially Derived Variety or hybrid give details:

12. Details on the payment of application fee and Distinctness Uniformity Stability testing fee⁸:

Amount of fee: Rupees (Rupees.....only)

Demand Draft Number and date:

Name of Bank and branch in which the Demand Draft is drawn:

⁸ The Distinctness Uniformity Stability testing fee for Essentially Derived Variety will be fixed based on the tests to be conducted but will not be less for what has been fixed for varieties under application-I.

(Signature of the Applicant)

DECLARATIONS

I/We hereby apply for the grant of registration of the candidate Essentially Derived Variety with the above said denomination and I am/we are conversant with the Protection of Plant Varieties and Farmers' Rights Act, 2001 and Rules thereof related to this application.

I/We hereby declare that no person other than the person or persons mentioned in this application has been involved in the breeding, or discovery or development of this Essentially Derived Variety denomination.

I/We hereby declare that the candidate Essentially Derived Variety complies with the sub - section (3) of section 29 of Protection of Plant Varieties and Farmers' Rights Act, 2001.

I/We hereby declare that I/we have not applied for or received a trademark for the said denomination of the Essentially Derived Variety.

I/We hereby declare an affidavit in compliance with clause (c) of sub -section (1) of Protection of Plant Varieties and Farmers' Rights Act, 2001 is attached.

I/We hereby declare that the information given in this application for the registration of the above said candidate Essentially Derived Variety, including annexure and all supporting documents are complete, true and correct to the best of my/our knowledge, information and belief and no information has been wilfully concealed.

I/We hereby declare that terminator technology (TT) or Genetic Usage Restrictive Technologies (GURTS) or such ones are not there in this material submitted for registration.

I/We hereby declare that I/We shall abide by all the provisions and guidelines of Protection of Plant Varieties and Farmers' Rights Act, 2001.

Place: _____

Date: _____

Signature of Applicants⁹

⁹ Wherever the applicants are more than one person each applicant has to sign. In the case of authorised application or application by assignees, such person(s) authorised or assigned shall sign

Following are the attachments submitted along with each of the three copies of the application (note that wherever signature is affixed in the application or attachments, all such signatures shall be in the original):

- a) complete application;
- b) endorsement in Annexure 1 in the case of farmers' Essentially Derived Variety (vide column 1, if applicable);
- c) document of authorisation in Form PV-1 (if applicable);
- d) document of assignment in Form PV-2 (if applicable);
- e) documents in support of (b) and (d) as given above (if applicable);
- f) affidavit that the Terminator Technology and the Genetic Use Restriction Technology is not involved;
- g) copy of document on filing date (vide column 8A, if applicable);
- h) copy of letter of agreement (vide column 10A, if applicable);
- i) technical Questionnaire for the Candidate variety (attached);
- j) If the applicants by virtue of succession or an assignment of the right to apply for registration attach a proof to show the right to application as stipulated in sub section (3) of section 18 of Protection of Plant Varieties and Farmers' Rights Authority, 2001; and
- k) Fees as applicable.

If felt necessary attach colour pictures on the distinctness and other traits. Please sign each page of the application and other document on the left margin

ANNEXURE 1

Endorsement of application for registration of farmers' Essentially Derived Variety under Protection of Plant Varieties and Farmers' Rights Act, 2001

1. Name(s) of applicant farmer/ Group of farmers/Community of farmers

Serial Number	Name with surname/Name of Group/Name of Community	Permanent Address

2. Denomination of the candidate variety: _____

3A. (Applicable to individual farmer applicant)

I hereby declare that I have been a permanent cultivator since last many years in the..... village falling under the.Local body/Panchayat in the District ofState and that I and my family are the initial and exclusive developers and conservers of the candidate variety denominated as under the kind.....(common name of crop) belonging to the botanical species

3B. (Applicable to group/community of farmers applicant)

We hereby declare that we have been the permanent cultivators since last many years in the village(s) falling under the.Local body/Panchayat(s) in the District(s) of.State(s) and that we are the initial and exclusive developers and continuous conservers of the candidate variety denominated as under the kind(common name of crop) belonging to the botanical species We on behalf of our group/community hereby authorise..... s/o (name),who is a member of our group/community and permanent resident of.....(complete postal address) to do the needful and be the signatory on our behalf for the limited purpose of securing

registration of the candidate variety in our favour under Protection of Plant Varieties and Farmers' Rights Act, 2001.

Dated:

Place.....

Signature and Name of the Farmer

or

Authorised person of Group/Community
(To be signed before the endorsing official)

It is certified that the above said candidate Essentially Derived Variety is bred/developed and continuously conserved and cultivated by the applicant farmer/group of farmers/community of farmers who is/are permanent residents of above said village(s) and I am fully conversant with the applicant farmer/group or community of farmers and the candidate variety (strike out unwanted words given as options).

Date

Signature:

Name :

Place

(Chairperson / Secretary of the Concerned Panchayat Biodiversity Management Committee OR Concerned District Agricultural Officer OR Director of research, Concerned State Agricultural Universities OR Concerned District Tribal Development Officer)
(Official Rubber Stamp)

Technical Questionnaire

1 Name of the Applicant/breeder/company: -

2 Year of Establishment: -

3 If registered company under Company's Act 1956 (Give details): -

4 Location of corporate office and address: -

5 Tel/fax/e-mail: -

6 Name of candidate variety:-

(a) Has it been released in any Convention Country earlier

Yes No

If yes give complete details in column number 13

(b) Pedigree/genealogy: -

(Include schematic diagram giving details of varieties, lines, or clones used in the breeding of candidate variety)

(c) Breeding of Candidate Variety**(i) Origination (Tick the correct one)**

Controlled pollination / open pollination / induced mutation / spontaneous mutation / introduction / selection / seedling selection / any other (specify)

(ii) Parental material (name of the parental material, characteristics of the parental material, distinguishable from the candidate variety). If the variety was developed by selection, then the number of selection cycles completed before fixing it.

(iii) Breeding technique/procedure used

(iv) Selection criteria used

(v) Stage of selection and multiplication

(vi) Location where breeding was conducted

7 Particulars of comparative trial conducted by the applicant, if any.

Information on the location, place, period and year/month of comparative trial conducted method of cultivation such as open field, facilities, planting, potting etc., scale of cultivation, reference varieties used, criteria for choice of the reference varieties, design of experiment, method of analysis of variance experimental error where applicable, and other details.

NOTE: Applicant may, furnish data, tables, copy (ies) of publication(s) related to the details of breeding, comparative trial and comparative data in addition to table of characteristics of candidate and reference varieties. This information

provided under this item will not be published by the Authority but will be used to facilitate examination of candidate variety.

8 Characteristics of the candidate variety

Please describe characteristics of the variety in the subheadings: Plant, Stem, Leaf, Inflorescence, Flower and flower parts, Fruit and fruit parts, Seed etc. Describe characters within subheadings generally in the following order: habit, height, length, width, size, shape, colour (RHS colour chart reference with edition). Refer the specific guideline wherever necessary for clarity of description.

(a) (i) Give group characters.

(a) (ii) Distinguishing characteristics (descriptive or elaborate)

(b) Table of characteristics between candidate denomination and reference variety

Please give replicated values for all of its distinguishing and other description for important characteristics along with the corresponding average values of the references varieties.

(ii) Basis of choice of this variety for comparison

(iii) Distinguishable Characteristics

(b) Other reference variety

(i) Denomination

(ii) Basis of choice of this variety for comparison

(iii) Distinguishable Characteristics

10 Statement of distinctness of candidate variety

Please give a distinctness statement covering a brief summary of the characteristics that distinguish the candidate variety from all varieties of common knowledge. The distinctness statement should include, (i) names of reference variety (ies) that have been observed most similar to the candidate variety, and (ii) salient comparison for major distinguishing characteristics between the candidate variety and the similar/reference variety (ies).

11 Statement on uniformity and stability of candidate variety

Please give a brief statement describing any variation in the variety that may be regarded as part of its normal uniform or stable expression, which is predictable, capable of being described in clear terms and commercially acceptable. This should include description and frequency of any off-types,

variants or mutations. In your opinion what should be the frequency of off-types or any other describable variation beyond which the candidate variety shall be deemed to be non-uniform. Also please point out which are the traits that may be particularly referred to as indicators to determine an unstable expression of the phenotype of candidate variety.

12 Methods for maintaining the candidate variety

Please provide in a brief statement as to how the propagating material will be maintained throughout the duration of the plant breeder's right, and complete address where the variety will be maintained. This should include status of varieties that are not propagated by seeds including place and method of maintenance and storage of their vegetative material.

NOTE: The holder of a plant breeder's right is responsible for ensuring that propagating material representative of the variety is maintained for the duration of the right.

13 Information on variety registered in Convention Countries.

- a. What were the grouping characters in that application for this candidate variety?**

(i) _____

(ii) _____

- (ii) _____
- (iii) _____
- (iv) _____
- (v) _____
- (vi) _____
- (vii) _____
- (viii) _____
- (ix) _____

b. What was the Distinctness Uniformity and Stability parameter on which it was registered?

- (i) _____
- (ii) _____
- (iii) _____
- (iv) _____
- (v) _____
- (vi) _____
- (vii) _____
- (viii) _____
- (ix) _____
- (x) _____

c. What is the variation in important trait with respect to first filing and the present one (Attach photograph)?

d. Has the Variety been withdrawn in the first filed country from cultivation or banned or from any of the subsequently released country?

e. If so, the reasons (supplement with information)?

I/We hereby declare that no person other than the person or persons mentioned in this application has been involved in the breeding, or discovery or development of this denomination.

Date

Signature

Signature of Witness and Address _____

Designation of the Breeder/Company with seal

The breeder/company should sign with date each page of the Technical Questionnaire.

[No. _____]

(_____)

FORM - 1 A

FORM FOR AUTHORISATION

[See regulations 13 (1) and 13 (6) (1)]

TO WHOM IT MAY CONCERN

I/We, the registered breeder of the seeds/propagating material having certificate No., and having denomination no....., do hereby confer the following rights on r/o (Please tick whichever is applicable):-

- a. Right to Produce
- b. Right to Sell
- c. Right to Market
- d. Right to Distribute
- e. Any such right as written below -

.....

The rights being conferred under this Instrument of Authorization under sub-section (2) of section 28 of the Protection of Plant Varieties and Farmers Rights Act, 2001 shall, however, be subject to the following terms and conditions:-

(1) Term

The Term of this Authorization shall be for a period ofonly, subject to renewal at the full discretion of the registered Plant breeder.

(2) Revision

This instrument of Authorization is subject to any modification/revision at any time during the term of authorization mentioned under clause (1) by the registered Breeder mentioned hereinabove.

(3) Territory

The rights and obligations conferred or created by this Instrument of Authorization shall be construed to be operating and valid only within the territory of (specify the geographical area) and not beyond the territories mentioned herein.

(4) Termination

This Instrument of Authorization can be terminated/ cancelled at any time at the sole discretion of the registered breeder. The instrument of Authorization shall be terminated within the term mentioned under clause (1) of this instrument if the person so authorized violates any section of the Protection of Plant Varieties and Farmers' Rights Act, 2001 and the Rules framed therein.

(5) Single Instrument

This Instrument of Authorization shall be considered as the only instrument as far as the rights authorized or created herein by the registered breeder

named herein-above under sub-section (2) of section 28 of the Protection of Plant Varieties and Farmers Rights Act, 2001 are concerned and no other Instrument, if any, shall not prevail over this terms and conditions of this Instrument.

(6) No inheritance

The acts or rights authorized or created by this Instrument of Authorization shall not deemed to be inheritable and hence, in case of death/insolvency/winding up of the person(s) authorized herein, this Instrument of Authorization shall be deemed to have been terminated.

Sd.-

(Name of the Registered Plant Variety Breeder)

Witnesses:

(a)

(b)