

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

Oppn. No.1 of 2022

IN THE MATTER OF: Application for DUS/ Special Test and cross examination of witnesses filed by Opponent in Opposition filed by PAN Seeds against registration of BANGABANDHU-1 filed by Mali Agri Tech Pvt. Ltd., for registration of rice variety.

IN THE MATTER OF: -

M/S. PAN Seeds Pvt. Ltd.,

..... Opponent

-Versus-

M/S. Mali Agri Tech Pvt. Ltd.,

..... Applicant

For the Opponent: Mr. Abhishek Saket, Advocate for M/s. Infini Juridique.

For Applicant : Dr, Anushri Gupta, Attorney for M/s. Anushri Gupta & Associates

ORDER

(Matter heard through video conferencing)

The matter was posted for hearing on 7th March, 2024 to obtain clarification from the parties whether Rejoinder in the Application for DUS/ Special Test and cross examination of witnesses was served within the time limit mentioned in the order



dated 21st February, 2023 in the instant matter. In the said order the time limit for filing after serving of rejoinder by the Opponent to the Applicant was provided till 21st April, 2023. Accordingly, the Opponent filed the rejoinder on 21st April, 2023 in this Registry within the time limit mentioned in the order dated 21st February, 2023 in the instant matter. The Opponent also served a soft copy of the same to the Applicant through e-mail on 21st April, 2023. But in the order dated 21st February, 2023 it was clearly mentioned that service by email alone will not be entertained. The Opponent served the Applicant with the hard copy of Rejoinder on 22nd April, 2022 by courier with one day delay. The tracking details submitted by the Opponent also clearly evidences that the Rejoinder was served on the Applicant on 22nd April, 2022. There was a day's delay in serving the Rejoinder on the Applicant though there was no delay in filing of the same by the Opponent.

The case of the Applicant is that the delay was deliberate and habitual and hence it must not be condoned. Further service by e-mail alone was not sufficient was clearly mentioned in this Registry's order dated 21st February, 2023. The Applicant also cited Rule 6(9)(b) that in case of transmission by electronic mail, the electronic receipt with recognized digital signature shall be the proof of receipt and in this matter the same was not done and accordingly mail cannot be relied.



The case of the Opponent is that there is no provision in the Act or Rules which provides for not taking on record the rejoinder with one day delay in serving. He stated that the copy was sent by e-mail and was couriered on the same day itself and the Applicant has received it well next day.

The one day delay in serving copy of the rejoinder by the Opponent to the Applicant has to be condoned as no prejudice would be caused by condoning it. The period of one day delay in serving the copy of the rejoinder is also of very minimal and trivial in nature. Principles of Natural Justice demands that the pleading must be taken on record for effective adjudication.

My clear view is that one day delay in serving the copy of the Rejoinder could have well been avoided. Costs cures delay accordingly the one day delay in serving the rejoinder to the Applicant is condoned subject to the payment of a cost of Rs.1000/- (Rupees One Thousand Only) to be paid by Opponent to the National Gene Fund within 10 days from the date of receipt of this order. It is needless to say that if costs are not paid the rejoinder will not be taken on record. No time extension will be granted for payment of costs.

Further, the parties are advised to serve the copies in future in the instant matter within the time mentioned in the order. If such instances are repeated in the instant proceedings costs will be



imposed on the concerned party who was responsible for delay in serving/ filing.


The Application for DUS/Special Test and for cross examination of witnesses is posted for final hearing on 12th April, 2024 at 03:00 PM. No adjournment will be granted in this matter.

Parties are to file written submissions two days before the final hearing after serving to the other side. Service by e-mail is also allowed. However the parties must file the written submissions with proof of service to the other side failing which the same will not be taken on record. No time extension will be provided for filing of written submissions.

There shall be no order as to costs.

Given under my hand and seal on this 12th day of March, 2024.




(D.K. AGARWAL)
REGISTRAR-GENERAL
12.3.2024