

**:: Order Below Ex – 9 ::**

- (1) Present Application is moved by the Accused through his Advocate Under Section–16(2) of Seeds Act–1966 for Seeking re–analysis of Sample in custody of complaint Through the **“ICAR– National Bureau of Plant Genetic Resources (NBPGR) Pusa Campus, New Delhi.”**
- (2) The main Contentions and Arguments of Accused Side is complainant has filed the present case against the Accused on the alleged ground that the sample of Cotton seeds allegedly bearing code–60 and lot No. 1318800050 was allegedly found positive in **Herbicide Tolerant Gene (CP4 EPSPS)** by **Seed Testing Laboratory at Gandhinagar** vide its alleged **report dated 25/01/2014**.
- (3) Further, he argues that, Without prejudice to the rights and contentions of the applicant accused on merits as well as with regard to the identity of seeds it is stated and submitted that the alleged sample was not drawn in presence of the Applicant – Accused. Further to this, the sample is admittedly drawn from the permission of Accused No. 1 that too at the time of processing i.e. at a stage where there is no involvement of Applicant – Accused.
- (4) Further, he argues that, Accused – Company i.e. Seedworks International Pvt. Ltd. are meticulously adhered to strict and stringent quality control tests and accordingly only those seeds which are found to be confirming to the standards prescribed under law are sold/put in the market. Further more, the Applicant – Accused Company never utilizes Herbicide Tolerant Gene (CP4 EPSPS) in any of their

seeds. Hence there is no possibility for presence of Herbicide Tolerant Gene in the seeds produced and marketed by the Applicant – Accused Company. Therefore, in the instant case, it prima facie, seems that some error might have crept into at the time of drawing a sample or during the course of analyzing the same or in the findings of an analyst.

- (5) Further, his submission that, present application may kindly be allowed and the complainant – Agriculture Officer may Kindly be directed to produce the sample of Cotton Seeds bearing Code – 60 and lot No. 1318800050 and the same may kindly be sent to one of the National Referral Laboratories at the address mentioned herein below or any other address as may be declared/informed by the Complainant – Agriculture Officer for carrying out appropriate test for determining presence / absence of Herbicide Tolerant Gene (CP4 EPSPS) in accordance with law; also They are ready and willing to bear fees as well as all other expenses that may be incurred for getting the sample re-analyzed. **S.O.3604(E)**. – In exercise of the power conferred by sub – section (1) of Section 4 of the seeds Act, 1966 (54)
- (6) Further, he relied on NOTIFICATION Dt. 15th November, 2017 Issued By MINISTRY OF AGRICULTURE AND FARMERS WELFARE NEW DELHI. Also relied on Judgement of **Hon’ble High Court of Gujarat Dt. 05, August 2013. Shree Mahalaxmi Seeds & 3 Ors. V/s. State of Gujarat Criminal Miscellaneous Application No. 2948 of 2012. Citation : 2013 LawSuit (Guj) 2167.**
- (7) On the Other Side Ld. App has filed written Objection

through, Complainant Seeds Inspector that, We, the petitioners, are notified Seed Inspectors under Section 13(1) of the Seeds Act, 1966 and Section 12 of the Seeds (Control) Order, 1983. In exercise of the powers conferred by Section 23 of the Environment (Protection) Act, 1986, vide Notification G.S.R. 588 (E), dated 01/09/2006 of the Ministry of Environment and Forests, Government of India, the Central Government has empowered the Notified Seed Inspectors under Section 13(1) of the Seeds Act, 1966 and Section 12 of the Seeds (Control) Order, 1983 to take samples of Genetically Modified Crops for the purpose of analysis and to control their quality under Sections 10 and 11 of the Environment (Protection) Act, 1986. We have taken a sample of the said cotton seed, sample no. 90/23-24, seed variety code-60, lot no. 1318800050, sample for the purpose of analysis for the presence of **Herbicide Tolerant Gene (CP4 EPSPS)** under Section 10 and 11 of the Environment (Protection) Act, 1986, in the presence of the person in charge of the said cotton seed, Shri Mahadev Ginning and Processing Plant, Nandoj. According to him, the said seed belongs to Seed Works International Pvt. Ltd., Telangana, which is kept here for processing. Seed Works International Pvt. Ltd., Telangana, as per the reply, does not use the third Herbicide Tolerant Gene (CPA EPSPS) in any of its seeds. However, as per the analysis report of Seed Testing Laboratory, Gandhinagar, the presence of Herbicide Tolerant Gene (CPA EPSPS) in the said cotton seeds is recorded at 57%. Further, the method of sampling does not affect the genetic/DNA structure of the said seeds and hence the result stated in the analysis report is also not affected. As per Section-14 of the Environment (Protection) Act, 1986, "A report signed by a Government analyst is deemed to be for

Any such document may be used in any proceedings under this Act as evidence of the facts stated therein." There is no provision in any section of the Environment (Protection) Act, 1986 for re-analysis of samples against the report of government analysts. The laboratory mentioned by the accused, **"ICAR-National Bureau of Plant Genetic Resources (NBPGR), Pusa Campus, New Delhi"**, is not notified as a Central Seed Testing Laboratory. Thus, keeping in view the above details, it is my humble request to your Honorable Court to reject the application for re-analysis of the applicant-accused.

- (8) Having considered the application, submissions made by the parties, material available on record, the Complaint filed against the accused under Section – 19 of The Seeds Act 1966, and Under Section – 15 of The Environment Protection Act – 1986, Further, from the papers produced on record, (1) Notification of Agriculture and Rural Development Department Sachivalaya, Gandhinagar, 17<sup>th</sup> January 1980 No. GHKH/2/90/IST/1787/949/K.6 (2) Central Government Notification No. S.O.3604(E) Ministry of Agriculture and Farmers Welfare (Department of Agriculture, Cooperation and Farmers Welfare) New Delhi, dt. 15<sup>th</sup> November, 2017, (3) Office Order Of "ICAR-National Bureau of Plant Genetic Resources Pusa Campus New Delhi – 110012 F.No.Misc./CDN/report-Part(1) (e-340093) Dt. 28<sup>th</sup> Jan., 2025, it appears that there is no provision for re-analysis of sample testing under Environment Protection act but on the other hand there is Nothings is contravention with both act, if in the intrest of justice if sample send for re-analysis through the National Referral Laboratories as per Notification of Ministry of Agriculture and Farmers welfare New Delhi, 15<sup>th</sup>

November 2017, However, there is nothing on record which would controvert the said oral submission on the part of the petitioner. And hence, having considered the facts of the matter on hand, and keeping in mind the provisions laid down in Seeds Act Section – 4 and Clause (c) of Rule 5 of the Seeds Rules 1986, The Central Government has declared the 4 Laboratories in Said notification as the National Referral Laboratories to detect the presence or absence of Living Modified Organisms and Genetically Modified Organisms under the said Act. At this juncture this Court thinks it appropriate and proper to grant permission for reanalysis of the subject sample–seeds by causing the said sample to be sent to the National Referral Laboratory, New Delhi, while the petitioner has notified its intention to adduce evidence in Contravention of the report of the Seeds act and Environment Protection act. In view of the foregoing discussion, in the interest of justice, the following order is passed:

**:: ORDER ::**

1. The present application is hereby allowed and permission for reanalysis of the subject Sample by the National Referral Laboratory New Delhi is hereby granted.

2. The Agriculture Officer, is hereby directed to submit the subject sample with the Registrar of the Court, forthwith. The Registrar shall send the subject sample to the National Referral Laboratory for reanalysis when Applicant Deposited Rs, 2000/– as Expenses, the sample of following requisite procedure once the applicant/petitioner makes payment of requisite fees for reanalysis of the sample directly to the National Referral Laboratory, New Delhi as per the Provisions

of Seeds Act Section – 4 with Rules (c) of 5 by Notification of Ministry of Agriculture and Farmers welfare New Delhi, 15<sup>th</sup> November 2017 with Office Order Of “ICAR–National Bureau of Plant Genetic Resources Pusa Campus New Delhi – 110012 F.No.Misc./CDN/report–Part(1) (e–340093) Dt. 28<sup>th</sup> Jan., 2025.

3. The expenses incurred in the entire process of reanalysis of the subject sample by the National Referral Laboratory New Delhi shall be borne by the applicant/petitioner herein.

4. The staff concerned to ensure that upon receipt of the reanalysis report from the National Referral Laboratory New Delhi, the same be kept in the record of this application and proceedings to that effect be written in the matter; and further, in event of further proceedings, if any, being initiated against the present applicant / petitioner, the entire record of this application be kept with that matter.

Signed and pronounced in the open Court today i.e. 27 June, 2025.

**Date:** 27/06/2025.

**Place : Bhiloda**

**(Anand. A. Dave)**  
**Judicial Magistrate First Class**  
**@ Bhiloda, Dist. Arvalli.**  
**UIC – GJ01442**