

Govt withdraws compulsory licensing rules

Centre's May 18 notification had come under attack from biotech firms & crop research majors

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THE CENTRE has effectively rolled back a notification issued last week, requiring genetic modification crop technology developers to license their proprietary traits on demand and not charge any royalty exceeding 10 per cent of the maximum sale price of seeds.

"We have decided to withdraw the notification and put it as a draft on our ministry's website for inviting public feedback before finalisation," Union agriculture minister, Radha Mohan Singh told *The Indian Express*.

A ministry statement said that the notification, dated May 18, will be put in the public domain "in the same form" for a period of 90 days, "for comments and suggestions of all stakeholders." The notification had said that the licensor of an approved GM technology — for instance, Monsanto's Bollgard-II Bt cotton — "shall not refuse grant on a licence" to any eligible seed company wanting to incorporate it into its own hybrids or varieties.

The notification, titled Licensing and Formats for GM Technology Agreement Guidelines, further mandated the technology developer to award the licence for its trait "within 30 days of receipt of a request from [the] licensee". In the event of not meeting the obligation, "the licensee is deemed to have obtained the licence ... as per FRAND (fair, reasonable and non-discriminative) mechanism".

The guidelines also had provisions for fixing of royalty ("trait fee") payable by licensees. In the case of GM cotton, the trait fee for any newly commercialised trait — that could include Monsanto's next-generation Bollgard-III Bt technology — was capped at 10 per cent of maximum sale price. The latter is already now being fixed by the Centre under a separate Cotton Seeds Price (Control) Order that was issued by the agriculture ministry on December 7.

Both the December 7 order and the May 18 notification have come under attack from

'NOT A ROLL-BACK'

■ "This is not a roll-back. It's just that the earlier notification is now being put in public domain to receive wider suggestions," agriculture minister said

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the Association of Biotechnology Led Enterprises-Agriculture Focus Group, which represents crop research majors like Monsanto, Mahyco, Syngenta, DuPont Pioneer, Bayer BioScience, BASF and Advanta. The executive director of the lobby arm, Shivendra Bajaj, said that the latest guidelines were tantamount to unrestricted compulsory licensing, "as the innovator has no choice but to part with his technology, without even having a say on whom to give the licence".

Syngenta's chief operating officer Davor Pisk told *NDTV* in an interview that the new licensing guidelines would hinder new farming technology coming into India. "We need an operating environment that provides the right incentives for science-based innovators to develop new technologies to help farmers improve their productivity and profitability," he said. Share prices of Monsanto India, on Monday, closed 8.6 per cent lower than its corresponding level for Friday.

The Indian Express learnt that the decision to put the notification on hold came after intervention at the "highest level". The timing and the wrong signals being sent to investors — more so, especially after the unveiling of a National Intellectual Property Rights policy barely 10 days back — apparently played a part in what is effectively a roll-back.