



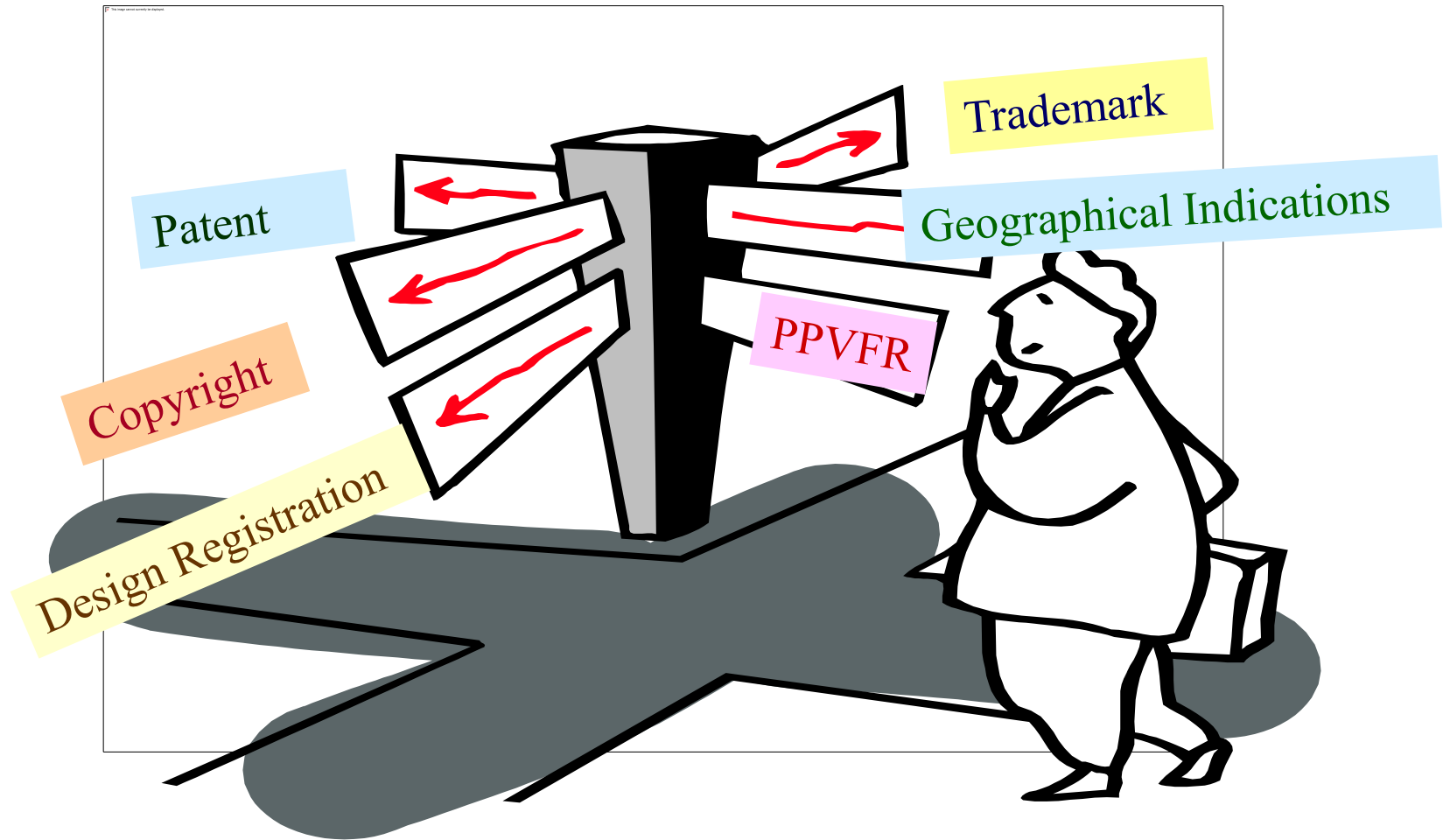
# **Protection of Plant Varieties and Farmers' Rights Act (PPVFRA)**



# Intellectual Property

- Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.
- Any new idea, invention, or scholarly work,
- if expressed in tangible form, can be protected legally

**I have an innovation .... How do I protect it in the market ???**



# **National Support System for Safeguarding IPs**

**Copy Right ACT 1957 : Amended in 2000**

**Patent Act 1970 amended in 2004-05**

**Trademark Act 1999**

**GI Act 1999**

**Design Act 2000**

**PPV&FR Act 2001**

**Biological Diversity Act 2002**

**They provide protection from unfair trade practices**

# **PLANT VARIETY PROTECTION AND THE PURPOSE**

- Plant variety protection provides legal protection of a plant variety to a breeder in the form of Plant breeder's rights.
- Plant Breeder's Rights are intellectual property rights that provide exclusive rights to a breeder of the registered variety.

# **THE PLANT VARIETY PROTECTION AND FARMERS RIGHTS ACT 2001**

- a sui generis system, is an attempt by the Indian Government to recognize and protect the rights of both commercial plant breeders and farmers in respect of their contribution made in conserving, improving and making available plant genetic resources for development of new plant varieties and to encourage the development of new plants varieties.
- Protection of the plant varieties under the Act accelerates agricultural development and stimulates investment for research and development for the development of new plant varieties which in turn facilitates the growth of the seed industry and ensures the availability of high quality seeds and plant in material to the farmers.

# Significance of IPR

## IPR Gives the inventors/authors

- **Exclusive right and monopoly** over the invention/ technology developed
- **Right to exclude** others from exploiting the same for **commercial benefits**

## The purpose of Safeguarding IPR

- Make money out of new ideas. It gives the inventor **monopoly** on its commercial use
- Better return on investment on R&D

# India and the TRIPs



- India a country of long standing membership and signatory to the WTO related agreements being outcome of protracted negotiations and is to comply with the **Trade Related Intellectual Property Rights (TRIPs)**.
- Protection of Plant Varieties under the *Sui generis* **System** meets India's needs and fulfils the obligations.

**The Presidential ordinance, 1995  
and the PPV&FRA, 2001,  
are meant to meet some of the essentials.**



# ***What Should Be Protected ?***

**Article 27(3)(b) of TRIPS *excludes***

**“..... Plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and micro-biological processes and plant varieties ....”**

**• TRIPS says that:**

- New plant varieties have to be protected by an effective “sui-generis” system or by patents or a combination thereof.**
- Plant varieties produced by traditional methods of breeding and screening techniques of mutation, cross-fertilisation, recombinant techniques will become subject matter of Protection of sui-generis system**

# DEVELOPMENT OF VARIOUS INTELLECTUAL AND OTHER RIGHTS RELATED TO AGRICULTURE.

Forum	Framework	Approaches
FAO 1983	Common Heritage of Mankind	Genetic resources are to be freely used and shared
UPOV 1991	Breeders' Rights	Everything and anything can be owned if it meets certain criterion
CBD 1992	Sovereign Rights of Nation	Genetic resources are no longer viewed as a free resource
TRIPS 1995	<i>Sui Generis System</i>	<b>Constituting a class of its own kind</b>
PPV&FRA 2001 (India)	Breeders Rights and Farmers' Rights	Access and benefit sharing

# What is Variety?

The BDA, 2002 defines:

- ▣ “Cultivar” means a variety of plant that has originated and persisted under cultivation or was specially bred for the purpose of cultivation.
- ▣ “Folk Variety” means a cultivated variety of plant that was developed, grown and exchanged informally among farmers.
- ▣ “Land race” means primitive cultivar that was grown by ancient farmers and their successors.

# Meaning of 'VARIETY'

As per the PPV&FR Act sec. 2(za) “variety” means a plant grouping **except microorganism** within a single botanical taxon of the lowest known rank, which can be -

- i. **defined** by the expression of the characteristics resulting from a given genotype of that plant grouping;
- ii. **distinguished** from any other plant grouping by expression of at least one of the said characteristics; and
- iii. **considered** as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation, **and includes propagating material of such variety**, **extant variety**, **transgenic variety**, **farmers' variety** and **essentially derived variety**.



**The PPV&FRA 2001, covers all plants including spices, trees and variety of plants.**





# The PPV&FR Act, 2001 (53 of 2001)

THE GAZETTE OF INDIA EXTRAORDINARY

1

REGISTERED NO. DL-33004/2001

*The Gazette of India*

EXTRAORDINARY  
PART II – Section 1

PUBLISHED BY AUTHORITY

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No. 64] New Delhi, TUESDAY, OCTOBER 30, 2001/KARTIKA 8, 1923

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Separate paging is given to this Part in order that it may be filed as a separate compilation

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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

*New Delhi, the 30<sup>th</sup> October, 2001/Kartika 8, 1923 (Saka)*

The following Act of Parliament received the assent of the President on the 30<sup>th</sup> October, 2001, and is hereby published for general information :-

THE PROTECTION OF PLANT VARIETIES AND FARMERS'  
RIGHTS ACT, 2001

No. 53 OF 2001

[30<sup>th</sup> October, 2001]

**Act – 2001**

**11 Chapters**

**97 clauses**

**Rules – 2003**

**Regulations  
– 2006**

**Notifications  
– from time to time**

**Case Laws  
– as and when these will  
appear**

**Official Publication:** Plant Variety Journal of India 2007  
**Official Website:** <http://plantaauthority.gov.in/>

# Web Page of PPV&FR Authority

Visit: <<http://www.plantauthority.gov.in>> Or Contact: [plantauthority@gmail.com](mailto:plantauthority@gmail.com)



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**PROTECTION OF PLANT VARIETIES & FARMERS' RIGHTS AUTHORITY, INDIA**

[Authority](#) [DUS](#) [Center](#) [Publications](#) [Tenders](#) [Vacancy](#) [Application](#) [FAQ's](#) [Draft-Guidelines](#) [\(New Crops\)](#) [RTI](#)

## PPV&FR Authority

In order to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants it has been considered necessary to recognize and protect the rights of the farmers.

[Location Map](#)  
[Google Location Map](#)  
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## Members of Authority

[Members of the PPV & FR AUTHORITY](#)  
[Present Members of the AUTHORITY](#)

## NEWS / Forth Coming Activities

National Workshop on Outscaling Farm Innovation held on  
Date: 4 September 2013 at AP Shinde Symposium Hall, NASC Complex, New Delhi.  
[Click to View Details](#) NEW

## Application Details Announcements


- [Status of the Total Applications recieved Crop Wise upto dated: 25.11.13](#)
- [Status of the Total Applications recieved upto dated: 25.11.2013](#)
- [List of Registered Varieties Certificate issued upto dated: 28.11.2013](#) NEW
- [Details of Registration fees, DUS Test Fees and Annual fees](#) NEW



- [Terms & Conditions for Online Payment](#)

## DUS Test Guidelines

[more »](#)

 [Registration open for 57 Crops](#)

 [Citizen's Charter](#)

 [Important Orders/Decisions](#)

 [Annual Reports](#)

 [Minutes of The Authority Meeting](#)

 [Newsletter](#)

## Registration open for 57 Crops

- [Tender related to hiring of vehicles. Last date: 30th December, 2013](#) NEW
- [Disclosure of All Official Tours details\[Under Sec. 4 of the RTI Act 2005\] from 01st July 2013 to 30th Sept. 2013.](#) NEW
- [Disclosure of All Official Tours details\[Under Sec. 4 of the RTI Act 2005\] from 01st April 2013 to 30th June 2013.](#) NEW
- [Inviting Comments on Proposed Amendment In Second Schedule of PPV&FR Rules, 2003](#) NEW
- [RTI Manual/Disclosure \[Under Sec. 4 of RTI Act 2005\]](#)
- [The judgement on issue of Parental Lines.](#)



**भारत की राजपत्र**  
The Gazette of India

# **Milestones in Indian Seed Sector**

- 1957 - First All India Coordinated Research Project**
- 1963 - National Seed Corporation (NSC) established**
- 1965 - Import of 250 tons dwarf wheat seed from CIMMYT**
- 1966 - Seed Act passed**
- 1968 - Seed Act became operational**
- 1969 - State Farms Corporation of India (SFCI) created**
- 1971 - Indian Minimum Seed Certification Standards adopted**
- 1979-80 - All India Coordinated 'National Seed Project' launched**
- 1988 - New Policy on Seed Development (NPSD) implemented**
- 1993 - ICAR gave First Draft on PPVFR Bill**
- 1994 - Marrakesh Agreement signed; WTO emerged on 1.1.1995**
- 2001 - PPVFR Act 2001 passed**
- 2007 - Beginning of receipt of Applications under PPVFR Act**



# PPVFRA



- **Introduction**

- The Indian Parliament, in November 2001, passed The Protection of Plant Varieties and Farmers' Rights Act (PPVFRA). It is a sui generis law that gives due consideration to farmers rights vis-à-vis plant variety protection.
- In the context of intellectual property rights (IPR) it means a right which is derived from itself, or which is not a part of the patent system.
- The Act introduces interesting approaches to farmers' rights and has adapted some provisions of UPOV to the Indian context.
- The Act proposes to establish an Authority to be known as the Protection of Plant Varieties and Farmers' Rights Authority. It shall, among other things, maintain at its head office a National Register of Plant Varieties.

# REGISTERABLE PLANT VARIETIES IN INDIA

- **New Varieties:** A Variety which is not in public domain in India earlier than one year before the date of filing or outside India, in the case of trees or vines earlier than six years or in any other case earlier than four years.
- **Extant Variety:** A Variety which is notified under Seed Act, 1966 or a variety about which there is common knowledge or a farmer's variety or any other variety which is in public domain is considered as an Extant Variety.

contd...

- **Farmer's Variety:** A Variety which has been traditionally cultivated and evolved by the farmers in their fields or a variety which is a wild relative or land race of a variety about which farmers possess common knowledge.
  - *Examples: Bikaneri Lerma Cotton of Punjab, East Coast Tall Coconut of TN & AP, Nendran Banana of Kerala, Desari Mango of UP, Ganesh Pomegranate of Maharashtra, Ambri Apple of Jammu & Kashmir etc.*
- **Essentially Derived Variety (EDV):**
  - i) Predominantly derived from such initial variety, or from a variety that itself is predominantly derived from such initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety.
  - ii) Is clearly distinguishable from such initial variety; and
  - iii) Conforms to such initial variety in the expression of the essential characteristics

# **NON-REGISTERABLE PLANT VARIETIES IN INDIA**

- All plant varieties cannot get legal protection in India. Certain Plant varieties are excluded from the protection under PPVFR Act 2001.
- Any variety where prevention of commercial exploitation of such variety is necessary to protect public order or public morality or human, animal and plant life and health or to avoid serious prejudice to the environment or any varieties which has terminator technology or any variety belonging to the species or genera which is not listed in the notification issued by the Central Government cannot be registered for the protection under the Act.

# CRITERIA FOR PROTECTING A PLANT VARIETY

The plant variety must be:

**Distinct:** A variety should be clearly distinguishable by at least one essential characteristic from existing or commonly known varieties in any country at the time of filing of the application.

**Uniform:** A Variety must be sufficiently uniform in its essential characteristics.

**Stable:** Essential characteristics of a variety must be stable after repeated propagation or in the case of a particular cycle of propagation at the end of each cycle.

# WHO CAN APPLY FOR THE REGISTRATION OF A PLANT VARIETY?

*Any of the following, claiming to be the breeder of the variety, may make application for PVP to Registrar:-*

**any person (natural person – breeder)**

**successor of the breeder**

**assignee**

**any farmer or group of farmers or community of farmers**

**any authorized person by any of the above person(s)**

**any university or publicly funded agricultural institution**

# WHERE TO FILE THE APPLICATION FOR THE REGISTRATION OF A PLANT VARIETY?

- For the purposes of Protection of Plant Varieties and Farmers Right Act, 2001 Protection of Plant Varieties and Farmers Right Authority was established in October 2005 and its **Head Quarters** is located at **NASC Complex, DPS Marg, Opp-Todapur, New Delhi – 110 012.**
- Any information regarding protection, application, fee structure etc can be obtained from the office or at **<http://www.Plantauthority.gov.in/>**

# Making PVP Application

- **Application Form** (Form I for New or Extant Variety or Form II for EDV -- From Regulations)
- **Technical Questionnaire** (in prescribed Format -- from Regulations)
- **Authorization** (Form PV-1 -- From Rules)
- **Proof of right to make application** (Form PV-2 -- From Rules)
- **Other prescribed particulars/ Fees/ Seed Sample/ etc.**



# **DEPOSITION OF SEED OR PROPAGATING MATERIAL BEFORE REGISTRATION**

- Deposition of seeds is necessary for DUS test conducted by PPV & FR authority. The applicant needs to deposit the fixed amount of seed or propagating material with prescribed germination percentage and physical purity along with the seed quality test report to the authority.

# Registration and Term of Protection

- The period of validity of certificate of registration is **nine years** in case of **trees and vines**; and **six years** in case of **other crops**.
- This validity period can **be reviewed and renewed** on payment of the prescribed fees subject to a **maximum period of validity**, which is
  - in case of **tree and vines**, **eighteen years** from the date of registration of the variety;
  - in the case of **extant varieties**, **fifteen years** from the date of notification of that variety by the Central Government under Section 5 of the Seeds Act, 1966; and
  - in **other** cases, **fifteen years** from the date of registration of the variety



# Fee for Application Registration

- The fee for registration has been notified by the Central Government in official gazette of India.
- The fees notified for different category of varieties is as under in the box:

<i>Type of variety</i>	<i>Fees for Registration</i>
Essentially Derived Varieties	Individual Rs. 5000/- Educational Rs. 7000/- Commercial Rs. 10000/-
Extant variety notified under section 5 of Seeds Act, 1966	Rs. 1000/-
New Variety	Individual Rs. 5000/- Educational Rs. 7000/- Commercial Rs. 10000/-
Extant variety about which there is common knowledge	Individual Rs. 2000/- Educational Rs. 3000/- Commercial Rs. 5000/-
Farmers' Variety	No fee

# DUS Test Fee

- The applicant has to submit the DUS test fee for conduct of the DUS test of the candidate variety.
- The DUS test fee has been decided by the Authority for different crops and notified in the PVJI.
- The DUS test fee notified for different crops is as under:

<i>Crop species</i>	<i>DUS test fees</i>
Wheat , rice, maize, sorghum, pearl millet, pigeon pea, chickpea, lentil, mungbean, urd bean, field pea, kidney bean	Rs. 20,000/-
Cotton, jute, sugarcane	Rs. 35,000/-
Oilseed crop species	Rs. 20,000/-
Black pepper, small cardamom, ginger, turmeric	Rs. 45,000/-
Tomato, brinjal, okra, cabbage, cauliflower, onion, garlic	Rs. 40,000/-
Potato	Rs. 48,000/-
Rose, chrysanthemum	Rs. 45,000/-
Mango	Rs. 30,000/-

# Annual Fee

- For maintenance of registration the applicant has to pay annual fee which is specified as under:

<i>Type of variety</i>	<i>Annual Fee</i>
New Variety	Rs. 2000/- plus 0.2 per cent of the sales value of the seeds of the registered variety during the previous year plus 1 percent of royalty, if any, received during the previous year from the sale proceed of seeds of a registered variety.
Extant variety notified under Section 5 of the Seeds Act, 1966 (54 of 1966)	Rs. 2000/- only.
Extant variety other than the category specified above	Rs. 2000/- plus 0.1 per cent of the sales value of the seeds of the registered variety during the previous year plus 0.5 percent of royalty, if any, received during the previous year from the sale proceed of seeds of a registered variety.
Annual fee shall be determined on the basis of declaration given by the registered breeder or agent or licensee regarding the sales value of the seeds of the variety registered under the Act during the previous year and royalty, if any, received during the previous year from the sale proceed of seeds of the registered variety and verified by the Authority.	

# Three Streams That Merge To PPV&FRA, 2001

**Researchers'  
right**

**Breeders'  
right**



**Farmers'  
right**

# Plant Breeders' Rights



- **Produce or reproduce the material.**
- **Offer the material for sale**
- **Market the material**
- **Distribute the material**
- **Import the material**
- **Export the material**
- **Stock the material**
- **Transfer the rights**

# RESEARCHERS' RIGHTS



- Can use any of the variety registered under this Act by any person using such variety for conducting experiment or research.
- The use of a variety by any person as an initial source variety for the purpose of creating other varieties.
- Authorization of the breeder of a registered variety is required where repeated use of such variety as parental line is done for commercial production of other new developed variety.



# FARMERS' RIGHTS

- **Right to register farmer's varieties**
- **Benefit sharing for use of biodiversity conserved by farming community**
- **Right to save, use, sow, re-sow, exchange, share or sell farm produce including seed of registered variety**
- **Right to claim compensation for under-performance from the promised level**
- **Requirement to seek consent of farmer(s) when farmer variety is used to develop an EDV**
- **Protection from legal proceedings of an alleged infringement**
- **Exclusion from paying fee in any legal proceedings in Tribunal and Higher Courts**

# List of Crops specified now under PPV&FR: 57

1. Rice
2. Bread wheat
3. Maize
4. Sorghum
5. Pearl Millet
6. Chickpea
7. Mungbean
8. Urdbean
9. Fieldpea
10. Kidney bean
11. Lentil
12. Pigeon pea
13. Indian mustard
14. Karan rai
15. Rapeseed
16. Gobhi sarson
17. Groundnut
18. Soyabean
19. Sunflower
20. Safflower
21. Castor
22. Sesame
23. Linseed
24. Diploid Cotton
25. Diploid Cotton
26. Tetraploid Cotton
27. Tetraploid Cotton
28. Jute
29. Jute
30. Sugarcane
31. Black pepper
32. Small cardamom
33. Turmeric
34. Ginger
35. Tomato
36. Brinjal
37. Okra
38. Cauliflower
39. Cabbage
40. Potato
41. Onion
42. Garlic
43. Rose
44. Crysanthemum
45. Mango
46. Durum wheat
47. Dicoccum wheat
48. Other Triticum species
49. Isabgol
50. Menthol Mint
51. Damask Rose
52. Periwinkle
53. Brahmi
54. Coconut
55. Bamboo Leaf Orchid or Boat Orchid
56. Spray Orchid or Singapore Orchid
57. Vanda or Blue Orchid

# Crop Wise Applications

Status Crop wise (2007-20.11.2013)

Crop	Public	Private	Farmer
Black gram	24	2	6
Black Pepper	4	0	1
Brinjal	17	207	5
Cabbage	1	8	0
Castor	6	9	1
Cauliflower	3	31	0
Chickpea	56	0	6
Chrysanthemum	4	0	0
Coconut	0	0	4
Diploid Cotton	37	22	4
Dicoccum Wheat	1	0	0
Durum Wheat	1	0	0
Field pea	35	1	2
Garlic	0	0	2
Ginger	3	0	3
Green gram	42	3	4
Groundnut	30	1	3
Indian Mustard (Sarso)	46	20	3

Jute	27	0	1
Indian Mustard (Karan Rai)	2	0	1
Kidney bean	11	1	13
Lentil	14	0	2
Linseed	5	0	1
Maize	110	231	12
Mango	0	0	4
Okra	0	62	3
Onion	1	9	1
Orchid	0	0	3
Pearl Millet	59	156	1
Pigeon pea	32	21	16
Potato	18	12	3

Rapeseed (Toria)	6	0	2
Rapeseed (Gobhi Sarso)	4	1	0
Rice	202	210	1607
Rose	0	3	0
Safflower	8	0	1
Sesame	6	0	5
Small Cardamom	3	0	1
Sorghum	105	85	20
Soybean	9	10	0
Sugarcane	54	0	1
Sunflower	9	88	0
Tetraploid cotton	66	842	0
Tomato	12	166	4
Turmeric	6	0	3
Wheat	123	14	13
Total	1202	2215	1762

# Status

- Total PPV&FR Applications since 2007:
  - Public: 1202
  - Private: 2215
  - Farmer: 1762

- Indian Parliament passed the protection of PPVFRA in November 2001.
- It is sui generis law providing due consideration to farmers' rights vis-à-vis plant variety protection.
- The variety is defined by the expression of the characteristics resulting from a genotype of that plant grouping. It should be distinguished from any other plant grouping by expression of at least one of the said characteristics.
- Farmers' variety is one which is traditionally cultivated and evolved in fields by the farmers.
- The criterion for a variety to be registered under the Act is that it should be novel, distinct, uniform and stable.

- Period of validity of certificate of registration is 9 years (extendable up to 18 years) in case of trees and vines, and 6 years (extendable up to 15 years) in case of other crops.
- The registration affords rights to farmers' breeders, researchers & communities.
- The infringement can occur if a variety is sold, exported, imported or produced without the permission of the breeder of the registered variety; or his agent, or deceptive denomination is applied to the goods.
- The penalty for infringement can be an injunction and damages or share of profit at the option of the plaintiff.