

**GOVERNMENT OF INDIA
AGRICULTURE
LOK SABHA**

UNSTARRED QUESTION NO:2340

ANSWERED ON:13.03.2006

PATENT CLAIMS

McLeod Smt. Ingrid;Paraste Shri Dalpat Singh

Will the Minister of AGRICULTURE be pleased to state:

- (a) whether the Hon`ble Supreme Court of India has recently expressed grave concern over the Government`s failure to press for patent claims in international forum;
- (b) if so, details thereof;
- (c) the steps taken/proposed to be taken by the Government to file patent claims of neem, basmati rice, turmeric, etc.;
- (d) whether direction has been issued to revoke the patent granted on the `Nap Hal` variety of wheat; and
- (e) if so, the details thereof?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE (SHRI KANTI LAL BHURIA)

(a) & (b): During the hearing of Writ Petition (Civil) No.64 of 2004 praying to direct the Government of India to facilitate revocation of a patent granted by European Patent Office on a soft-milling wheat, the Hon`ble Supreme Court had directed for the appointment of a Committee to examine the matter. Accordingly, a Committee was appointed under the chairmanship of Secretary, Department of Agricultural Research & Education (DARE) and Director General, Indian Council of Agricultural Research (ICAR). The report of the Committee has since been submitted to the Hon`ble Supreme Court. The patent in question was revoked on 3.10.2004 as per the European Patent rules.

(c) Patents are sought and obtained by applicants/inventors, both Indian and foreign, in different countries to safeguard and promote their commercial and other interests. Such patents are granted under the sovereign prerogative of countries according to their respective patent laws, and have territorial effect i.e. they are effective only in the country of grant.

As patents are essentially private rights, they are normally challenged, in accordance with the patent laws of the country concerned by the person(s) whose interests are affected/jeopardized.

As and when information is received about patents being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patent can be challenged under the patent laws of the country concerned. Earlier, a patent granted in the United States of America on the use of turmeric in wound healing was successfully challenged and was also cancelled by the Patent Office of the country concerned. Similarly, a patent on the fungicidal property of Neem, granted in Europe, was successfully challenged. The claims of the patent on Basmati Ricelines and grains granted in the United States of America which had the potential of affecting India`s commercial interest were also challenged. The said claims were subsequently cancelled by the United States Patent and Trade Mark Office and the title of the patent was also amended.

(d) & (e): The petition is now listed for hearing on July 7, 2006 in the Supreme Court of India.