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News

Delhi High Court imposes ₹1 lakh costs on 2 registrars from Trade Marks Controller General's office for concealing facts

The Court said that the officers did not disclose complete facts despite appearing before it twice and their conduct appeared to be deliberate.



Justice Prathiba M. Singh

Prashant Jha

Published on : 24 Mar, 2022, 10:03 am · 3 min read

before the Court [*Dr Reddys Laboratories Limited v Controller General of Patents, Designs and Trade Marks*].



Justice **Prathiba M Singh** said that she was dismayed to record that the two officials did not inform the Court about complete facts despite appearing before it twice and that the said conduct is clearly unacceptable and appeared to be deliberate.

The Court was dealing with a batch of petitions challenging the decision of Controller General of Patents, Designs and Trade Marks (CGPDTM) disallowing the petitioners from filing oppositions to the trademark applications, which each of them wished to oppose. Their applications were not entertained on the grounds that they were proposed to be filed beyond the time period of four months as prescribed under Section 21 of Trade Marks Act of 1999.

However, the petitioners said that in view of the Covid-19 pandemic, the Supreme Court had extended the limitation period.

The counsel appearing for the petitioners argued that benefit of the extension has been selectively given to some opponents and not to all.

It was argued that the Trademarks portal did not permit filing of opposition despite the Supreme Court order and when the petitioners tried to file hard copies, they were told that these cannot be accepted.

The Court noted that the Supreme Court order made it very clear that the period between March 15, 2020 to February 28, 2022 has to be fully excluded for the purpose of calculation of limitation under all enactments and statutes.

The public notice issued by the CGPDTM also records that the limitation shall be computed in accordance with the order of the apex court, the Court noted.

It, therefore, directed senior officials from CGPDTM to appear before it. On March 10, 2022 Deputy Registrar Sachin Sharma and Assistant Registrar Juneja appeared before the Court and said that various applications filed within the limitation period were

However, on March 16, some counsel informed that apart from figures already given, various oppositions were permitted to be filed beyond the limitation period. On March 21, Central Government Standing Counsel (CGSC) told the court that according to his instructions, around 6,000-7,000 oppositions had been filed beyond the limitation period and they were entertained as well.

“The fact that 6,000-7,000 oppositions have been entertained beyond the period of limitation ought to have been disclosed on the first day when the writ petitions were filed so that judicial time could have been saved. The non-disclosure of this fact by the officials of the CGPDTM is clearly unacceptable and appears to be deliberate,” Justice Singh said in her order.

Both the officials were also been warned to ensure that such conduct is not repeated in future.

They were directed to deposit costs of ₹1 lakh each with the Delhi High Court Bar Association (DHCBA) Pandemic Relief Fund by April 10.

The petitioners were directed to file their oppositions by March 31 in online or offline mode and the Trademarks Registry was directed to register the same by April 10.

Considering the fact that more than two lakh opposition were pending with the Trademarks Registry due to lack of manpower, the Court directed the officer of CGPDTM to place on record a proposal detailing the manner in which it intends to deal with these oppositions.

The proposal should also have a complete year-wise chart of pending oppositions where pleadings are complete and have matured for hearing. The affidavit should inform about the procedure to cancel or recall the registered trademarks against which oppositions are filed, the Court said.

Advocates Ranjan Narula, Shashi P Ojha, Deeksha Singh, Mohan Vidhani, Ashish Singh and Amarjeet Kumar appeared for the petitioners.

Respondents were represented by Central Government Standing Counsel Harish V Shankar along with advocates S Bushra Kazim, Srish Kumar Mishra, Davesh Vashishtha and Sharabh Srivastava.

