



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL MISCELLANEOUS PETITION NO. 954 OF 2022

UPL Limited

...Petitioner

Versus

Haryana Pesticides Manufactures

Association And Ors.

...Respondents

Mr. Rohan Kadam a/w. Rucha Vaidya, D. Aivares a/w. Vilas Shetty a/w. Ritik Gupta i/b. Suvarna Joshi for Petitioner.

Mr. Ashish Mehta a/w. Raj Dani i/b. Ethos Legal for Respondent Nos. 2 & 3.

CORAM : ARIF S. DOCTOR, J.

DATE : 10th FEBRUARY, 2026

P.C.

1. The present Petition impugns an Order dated 8th February 2018 (“the Impugned Order”) passed by Respondent No. 3, i.e. the Deputy Controller of Patents, whereby the Petitioner’s Patent Application bearing No. 1001-MUM-2007, titled “*Improved Storage Stable Compositions of Mutually*



Incompatible Insecticides and a Process for its Preparation”, came to be rejected.

2. I have heard Mr. Kadam, learned counsel for the Petitioner, and Mr. Mehta, learned counsel for Respondent Nos. 2 and 3, at considerable length. I have also perused the Impugned Order, the pleadings on record, and the case law upon which reliance has been placed.
3. The principal contention of Mr. Kadam is that the Impugned Order stands vitiated on account of the failure of Respondent No. 3 to consider the Affidavit of the Petitioner’s expert while rejecting the patent application.
4. Mr. Kadam, at the outset, invited my attention to Section 79 of the Patents Act, 1970 (“Patents Act”), and Rule 55(5) of the Patents Rules, 2003 (“Patents Rules”). He pointed out that Section 79 of the Patents Act provides that evidence may be given by affidavit, unless the Controller directs otherwise. He also then pointed out that Rule 55(5) of the Patents Rules requires the Controller to consider the statements and evidence adduced by both parties before arriving at a decision. He thus submitted that the Controller was under a statutory obligation to consider the evidence of the Petitioners Expert and deal with the same in the Impugned Order.



5. Mr. Kadam then pointed out that the Petitioner had placed reliance upon the Affidavit of one Dr. Rajan Ramakant Arema K.N.T. Shirsat (“the Petitioner’s Expert”) to show the inventive step and novelty of the Petitioner’s invention. He submitted that, despite this, the Impugned Order made absolutely no reference whatsoever to the evidence of the Petitioner’s Expert.
6. He then pointed out that Respondent Nos. 2 and 3 in the Affidavit in Reply in paragraph 16 thereof acknowledged that the evidence of the Petitioner’s Expert was not dealt with. Furthermore, he pointed out that Respondent Nos. 2 and 3 had, in the same paragraph of the Affidavit in Reply, sought to justify the omission by supplying the reason why the evidence was disregarded. He then submitted that it was well settled that an order must stand or fall on the reasons contained therein and cannot be supplemented or improved upon by subsequent affidavits. In support of his contention, he placed reliance upon the following decisions: ***Mohinder Singh Gill v. Chief Election Commissioner***¹, ***Chandra Singh v. State of Rajasthan***², and ***Best Agro Life Ltd. v. Deputy Controller of Patents***³. He also placed reliance upon the decision in the case of ***Regents of the University of California v.***

¹ (1978) 1 SCC 405

² (2003) 6 SCC 545

³ [Delhi High Court] Order dated 7th July 2022 in WP(C) IPD 11 of 2022



Union of India⁴ to contend that failure to consider expert evidence placed on record vitiates the decision-making process.

7. In response, Mr. Mehta submitted that the Impugned Order was detailed and reasoned, and that paragraph 9(g) thereof records that all written submissions and amended claims were considered. According to him, the Controller, having analysed and compared the submissions, had thus passed a reasoned order. He further submitted that the Affidavit in Reply was not intended to improve the reasoning of the Controller but merely to contest the allegations made in the Petition. As regards the Expert Affidavit, he contended that it was not material to the issues arising in the application and that the Impugned Order sufficiently dealt with the relevant specifications of the invention. The omission to specifically refer to the Expert Affidavit he submitted does not render the Order unsustainable.

8. The contention of Mr. Mehta that Respondent No. 3 has, in paragraph 9(g) of the Impugned Order, noted that all written submissions and amended claims were considered constitutes sufficient compliance in my view, needs only to be stated to be rejected. A bald assertion that submissions have been considered cannot substitute for reasoned analysis. A reasoned order must

⁴ [Delhi High Court] Order dated 16th May 2019 in WP(C) 1163 of 2017



demonstrate application of mind to the material evidence on record. It must reflect a substantive and independent evaluation of the evidence and not merely record that it has been perused.

9. In the present case, the Impugned Order makes no reference whatsoever to the Affidavit of the Petitioner's Expert. There is no discussion, no analysis, and no indication that the expert evidence was considered at all. The Respondents, in their Affidavit in Reply, have in fact sought to explain and justify this omission and have not denied the same. This itself makes apparent the infirmity in the decision-making process since the Controller was duty-bound to either accept or reject the expert evidence by recording reasons in the Impugned Order itself. Even if the Controller ultimately found the Expert's evidence to be unpersuasive or liable to be disregarded, such a conclusion had to be expressly reflected in the Order, supported by cogent reasons. The complete absence of any such consideration renders the Impugned Order unsustainable and liable to be set aside on this ground alone.

10. To accept the contention of Mr. Mehta would effectively mean that the Controller, while considering the grant of a patent, would be entitled to cast as under the statutory mandate of the Patents Act and the Patents Rules.



Such an approach cannot be countenanced. Thus, the Impugned Order would have to be set aside.

11.Hence, I pass the following order:

- i. The Impugned Order dated 8th February 2018 is set aside.
- ii. The Petitioner's Patent Application No. 1001-MUM-2007 is remanded back for fresh consideration before a different Controller who shall adjudicate the application in accordance with law.
- iii. There shall be no order as to costs.

[ARIF S. DOCTOR, J.]