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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11519/2017**

**THE FEDERATION OF HOTEL AND
RESTURANT ASSOCIATIONS OF INDIA** Petitioner

Through: Mr Rajiv Nayar, Senior Advocate
with Mr Vikas Dutta, Mr Siddharth
Silwal and Mr Shiva Sambyal,
Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr Rajesh Gogna, CGSC with Mr
Sushil Kumar Pandey, Ms Vipra
Bhardwaj and Ms Sugandha,
Advocates for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
21.12.2017

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VIBHU BAKHRU, J

CM No. 46956/2017

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 11519/2017 and CM No. 46955/2017

3. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a) Issue an appropriate writ, order or direction including a writ, order or direction in the nature of mandamus, certiorari or any other appropriate writ for quashing and setting aside the Certificate of Registration bearing F. No. 12-22/2017-IPR-VII dated 28.11.2017 and Registration No. CS/02/MUSICAL WORK/17 issued by Respondent No.2 in favour of Respondent No.3;

- (b) An order restraining the Respondent No.3, its principal officers, servants, agents, dealers, distributors and/ or anyone claiming through or under them from claiming themselves to be the absolute owner and/ or administrator of copyright, as they are presently claiming;”

4. Mr Nayar, learned Senior Counsel appearing for the petitioner has sought to assail the registration granted to the Indian Performing Rights Society (respondent no.3) by the Copyright Office (respondent no.2) on the solitary ground that the same is conditional. Mr Nayar has drawn the attention of the Court to the impugned certificate dated 28.11.2017, which reads as under:-

F. No. 12-22/2017-IPR-VII
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF INDUSTRIAL POLICY AND
PROMOTION
(COPYRIGHT OFFICE)
FORM X
(See rule 49)

**CERTIFICATE OF REGISTRATION UNDER SECTION
33(3) OF THE COPYRIGHT ACT, 1957**

It is certified that the INDIAN PERFORMING RIGHTS
SOCIETY LIMITED, 208, Golden Chambers, 2nd Floor, New
Andheri (W), Mumbai - 400053 has been registered by the
Central Government, vide Registration No. CS/02/MUSICAL
WORK/17 as a Copyright Society under Sub-Section (3) of
Section 33 of the Copyright Act, 1957 (14 of 1957) are
permitted to commence and carry on the copyright business in

MUSICAL WORK AS DEFINED IN SECTION 2(p) OF THE
COPYRIGHT ACT, 1957 AND LITERARY WORK
ASSOCIATED WITH MUSICAL WORK.

The registration and the permission hereby granted are subject to the following conditions and liable to be cancelled on non-compliance with or contravention of any of them, namely,-

- i That the particulars furnished in the application are true and correct and not misleading in any manner; and
- ii That the Copyright Society shall duly comply with all the obligations imposed on it by or under the Copyright Act, 1957 (14 of 1957) and the Copyright Rules, 2013.
- iii That the Copyright Society takes appropriate remedial action with regards to the observations as detailed in letter No. F.No. 07-01/2017-CO dated 28.11.2017 in the time bound manner and submit a report within 60 days.

Sd/-

Dy. Registrar of Copyrights

New Delhi

Date: 28.11.2017”

5. He, thereafter, referred to Rule 49 of the Copyright Rules, 2013(hereafter 'the said Rules') and Form X which prescribes the Form of the Certificate under Section 33(3) of the Copyright Act, 1957. Rule 49 of the said Rules is set out below:-

“49. Conditions for registration of a copyright society. —

(1) When an application for registration is submitted to the Central Government through the Registrar of Copyrights, that Government may, within a period of sixty days from the date of its receipt by the Registrar of Copyrights either register the applicant as a copyright society or, if—

- (i) the applicant has no professional competence to carry on its business or has no sufficient funds to manage its affairs; or

- (ii) there exists another copyright society registered under the Act for administering the same right or set of rights in the specific categories of works and it is well functioning ; or
- (iii) the Central Government has reason to believe that the members of the applicant are not bona fide copyright authors or other owners or they have not voluntarily signed the instrument setting up the applicant and the application for registration ; or
- (iv) the application is found to be incomplete in any respect, reject the application:

Provided that no such application shall be rejected without giving an opportunity of being heard to the applicant.

(2) Upon the registration of a copyright society by the Central Government, the Registrar of Copyrights shall issue a certificate of registration in Form-X under his hand and seal.

(3) On and from the date of its registration as specified in the certificate of registration, the copyright society shall be entitled to commence and carry on the permitted copyright business in the name by which it has been so registered and the applicant shall —

- (a) maintain its own website giving all information pertaining to its activities; and
- (b) have proper infrastructure such as office building and necessary officials for management such as Chief Executive Officer, licensing officers, legal officers and accountants and other required staff appointed at the time of applying for registration.

(4) The Copyright Society shall carry on business of issuing or granting licences only in respect of the right or the set of rights in the specific categories of works for which it is registered and shall not issue or grant licence in respect of any other right or set of rights in those or other categories of works for which it is not registered.”

6. On the strength of the Rule 49 of the said Rules, Mr Nayar contended that the Registrar could either register the copyright society or reject the same but he had no power to prescribe any condition for performance in the future. He urged that the registration could not be conditional.

7. He also referred to Form X (the prescribed Form of the Certificate of Registration under the said Rules, which is set out below:-

FORM X
(See rule 49)
CERTIFICATE OF REGISTRATION UNDER SECTION
33(3)
OF THE COPYRIGHT ACT, 1957

It is certified that.....(name of the society and address) has been registered by the Central Government, *vide* Registration No.....as a copyright society under sub-section (3) of section 33 of the Copyright Act, 1957 (14 of 1957) and permitted to commence and carry on the copyright business in.....(here indicate the name of the particular class of works).

The registration and the permission hereby granted are subject to the following conditions and liable to be cancelled on non-compliance with, or contravention of, any of them, namely:-

- (i) that the particulars furnished in the application are true and correct and not misleading in any manner; and
- (ii) that the copyright society shall duly comply with all the obligations imposed on it by or under the Copyright Act, 1957 (14 of 1957) and the Copyright Rules, 1958.

New Delhi

Date.....

(Seal)

.....
Registrar of Copyrights”

8. Mr Nayar contended that the Certificate was required to be issued in the Form X and the said form prescribed only two conditions and, therefore, the Registrar had no jurisdiction to add any other condition. He submitted that since the certificate furnished included another condition requiring respondent no.3 to take appropriate remedial action with regard to the observations as detailed in a letter dated 28.11.2017, the certificate was contrary to the Form and the said Rules and, therefore, was liable to be struck down.

9. This Court is not persuaded to accept the aforesaid contention principally for the reason that Section 33(3) of the Copyright Act, 1957 expressly provides that the registration may be granted to the copyright society subject to such conditions as may be prescribed. Sub-section (3) of Section 33 of the said Act is set out below:-

“33. Registration of copyright society.-

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XXXX

XXXX

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(3). The Central Government may, having regard to the interests of the authors and other owners of rights under this Act, the interest and convenience of the public and in particular of the groups of persons who are most likely to seek licences in respect of the applicants, register such association of persons as a copyright society subject to such conditions as may be prescribed:

Provided that the Central Government shall not ordinarily register more than one copyright society to do business in respect of the same class of works.”

10. In view of the express language of Section 33(3) of the Copyright

Act, 1957, the contention that the Registrar of Copyrights could not impose any conditions for performance of any conditions in future is, plainly, unmerited.

11. Form X - the prescribed form in which the certificate is to be issued - has to be read in the meaningful manner. Merely because the form does not prescribe any condition other than the two conditions specifically stated therein, does not mean that the Registrar is precluded from adding further conditions. The form of a certificate only indicates the basic form and it expressly indicates that registration is granted subject to the conditions specified therein. Clearly, the conditions mentioned in the form are not exhaustive and the Registrar would have the jurisdiction to prescribe such conditions as may be warranted as is expressly provided under Section 33(3) of the Copyright Act, 1957.

12. Lastly, Mr Nayar submitted that the fact that conditions, which are to be complied with in future, have been imposed indicates that the process of registration is not complete. The said contention is also wholly bereft of any merit. The certificate has been granted and in terms of the provisions of the Act, the registration can be granted subject to conditions and in the present case certain conditions have been imposed. This Court finds no infirmity in granting of the said certificate.

13. In view of the above, the petition and the pending application are dismissed.

VIBHU BAKHRU, J

DECEMBER 21, 2017/RK