

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
WEDNESDAY, THE FIRST DAY OF JULY,
TWO THOUSAND AND FIFTEEN
:PRESENT:**

THE HON'BLE SRI JUSTICE: VILAS V.AFZULPURKAR

WP .NO:17956 of 2015

Between:

M.A. HAMEED, Son of Mohd. Zainulabedin

..... Petitioner

AND

1. The Union Of India Represented By It Secretary Ministry Of Commerce And Industry Department Of Industrial Policy And Promotion Udyog Bhawan, New Delhi
2. The Controller General of Patents, Designs & Trademarks, Boudhik Sampada Bhavan, Antop Hill, S.M. Road, Mumbai-400037, Email: CGoffice-Mh@Nic.In
3. The Deputy Registrar Of Trade Marks, Trade Mark Registry Chennai Boudhik Sampada Bhawan, G.S.T. Road, Guindy, Chennai-600032 Email: Tmrchennai@Nic.In
4. The State of Telanagna, Rep. By Its Principal Secretary, Ministry of Home Affairs Secretariat Building, Hyderabad, Telangana State
5. Station House Officer, P.S. Rajendranagar, Hyderabad, Telanagana
6. Rajender Gupta, Son of Ramesh Gupta, D.No. 5-5-57/11, Darussalam, R/o. Sivarampally, Rajenderanagar, Hyderabad, Telangana, India.

.....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to Issue a writ, order or direction more particularly in the nature of writ of mandamus, declaring the action of the Respondent No.1 to 3 in not issuing the Registration certificate for his application No.1879905 in class 30 for the Trademark "HEERA" has been in complete violation of the provisions of the Trademark Act, 1999 and has being arbitrary and illegal and violative of Article 19(1)(g) of the Constitution and consequently direct the Respondents No.1 to 3 to issue the Certificate forthwith.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein, and upon hearing the arguments of Sri Ashok Ram Kumar, Advocate for the Petitioners, and of Sri B. Narayana Reddy, Asst. Solicitor General for Respondent Nos 1 to 3, and of GP for Home (TG) for Respondent Nos 4 & 5, the Court made the following.

ORDER:

The main grievance of the petitioner is that the trademark supplied for by him i.e. application No.1879905 in class 30 for trademark 'HEERA', has not yet been disposed of by the trademark registry and is pending with the third respondent.

Instructions received by the learned Assistant Solicitor General from respondents 1 to 3 show that opposition was filed by an opponent, which was processed and counter statement has been filed on Form TM-6 by the

petitioner on 26.06.2013 and in terms of Rule 50 of the Trade Marks Rules, 2002, evidence was called for from the opponent on 02.09.2013. However, no such evidence is filed by the opponent.

..2..

Learned counsel for the petitioner states that under Rule 50 read with Section 23 of the Trade Marks Act, 1999, since the application is not opposed and time for submitting objections is already over, the registry is required to register the trademark.

It is evident from the above and particularly, the instructions received by the learned Assistant Solicitor General, that no evidence has been produced by the opponent, in terms of Rule 50 of the Rules, it is appropriate that the third respondent considers the application of the petitioner for trade mark and passes appropriate orders thereon at the earliest.

Accordingly, for the present, there shall be a direction to respondents 1 to 3 to process the application of the petitioner and pass appropriate orders thereon expeditiously.

List after four (4) weeks.

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ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The Secretary, Ministry Of Commerce And Industry Department Of Industrial Policy And Promotion, Udyog Bhawan, Union of India, New Delhi
2. The Controller General of Patents, Designs & Trademarks, Boudhik Sampada Bhavan, Antop Hill, S.M. Road, Mumbai-400037,
3. The Deputy Registrar Of Trade Marks, Trade Mark Registry Chennai Boudhik Sampada Bhawan, G.S.T. Road, Guindy, Chennai-600032
4. The Principal Secretary, Ministry of Home Affairs, State of Telangana, Secretariat Building, Hyderabad, Telangana State
5. Station House Officer, P.S. Rajendranagar, Hyderabad, Telanagana
6. Rajender Gupta, Son of Ramesh Gupta, D.No. 5-5-57/11, Darussalam, R/o. Sivarampally, Rajenderanagar, Hyderabad, Telangana, India.
7. Two CCs to Sri B. Narayana Reddy, Asst.Solicitor General (TG), High Court, Hyderabad
8. Two CCs to GP for Home (TG), High Court, Hyderabad (OUT)
9. One CC to Sri Ashok Ram Kumar, Advocate (OPUC)
10. One spare copy

Skm

HIGH COURT

VVA,J

**Drafted by: skm
Drafted on: 07-07-2015**

DATE: 01-07-2015

NOTE: LIST AFTER FOUR WEEKS

ORDER

WP. No. 17956 of 2015

DIRECTION

