

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
W.P.No.22204 of 2010
and M.P.Nos.2 and 3 of 2010
(Heard Through VC)

Indo-German Tools

Rep by its Proprietor Mr.A.Nambhi,
SF.No.22/2A2, New 2/551-7,
Durga Nagar, Anumepalli Agraharam,
Zuzuvadi Village,
Hosur - 635 126

... Petitioner

Vs.

1.District Industries Centre,
Rep by its General Manager,
Department of Industries and Commerce,
Krishnagiri.

2. Ministry of Consumer Affairs,
Food and Public Distribution,
Government of India, IT Desk,
Rep by its Deputy Director,
Shastri Bhavan, New Delhi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus (a) calling for the records on the file of the 2nd respondent relating to the impugned order dated 12.06.2009 F.No.23/17/2009-IT and quash the same passed by the second respondent and consequentially to direct the second respondent to permit the petitioner to use the name and style of Indo and German in its name and (b) To direct the first respondent to provide the capital subsidy to the petitioner.

For Petitioner : Mr.R.Prabhakaran

For Respondents: Mr.V.Shanmugasundar,
Special Government Pleader
for R1

Mr.D.Chandar for R2

ORDER

The petitioner has filed this writ petition seeking a writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent relating to the impugned order dated 12.06.2009 F.No.23/17/2009-IT and quash the same and consequentially to direct the second respondent to permit the petitioner to use the name and style of Indo and German in its name and to provide the capital subsidy to the petitioner.

2. The petitioner proprietorship concern was established in the year 1997 in Hosur under the name and style of "Indo-German Tools" and has earned an enormous reputation by establishing itself in the manufacturing of sheet metal components for the automobile industry. It is also registered as Micro, Small and Medium Enterprises Development (in short "MSMED") unit, after the "MSMED" Policy 2008 was introduced.

3. While so, when the Executive Director of the petitioner was making necessary arrangements to register the petitioner's name with the Registrar of Firms to use the words "Indo" and "German" in its name, a communication was received from the Department of Industries and Commerce dated 24.11.2009 stating that the Deputy Director (IT) Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs, Government of India, New Delhi (the second respondent herein) informed that it cannot be allowed to the petitioner's unit for use the name of "Indo German Tools" since the name attracts the provisions of Emblems and Names (PIU) Act, 1950. Hence, the Writ Petition has been filed.

4. A counter affidavit has been filed by the second respondent along with a communication received from the Indian Embassy, Berlin. In the counter, it has been stated that the decision of the Department in not allowing the petitioner to use the name of the firm as "Indo German Tools" under the aforesaid Act was taken in consultation with the Ministry of External Affairs in the Government of India in terms of the provisions contained in the said Act. Along with the counter, a message received from the Embassy of India, Berlin, was also annexed, which states as follows:

"Please refer to your e-message (Dy.No.8345/EW/Pol/09) dated May 25, 2009 regarding Mission's recommendation for permission to a firm in Karnataka to register themselves as "Indo-German Tools".

2. The name is very similar to the name used by another organization called "Indo-German Tool

Rooms" (IGTRs), which are tool production and training centres in India engaged in the production of tools of precision plastic, metal components, etc. The IGTRs are equipped with machinery and imported equipment from Europe and are mainly assisting small scale industries in India by providing quality tools, precision machine facilities and training centres. The equipment is provided by the GTZ (German Technical Agency) under the framework of Indo-German Development Cooperation. The Small Industries Development Organization, which is a part of Ministry of Small Scale Industries, GOI is one of the nodal support agencies.

3. Under the guidelines of the Emblems and Names (Prevention of Improper Use) Act, the usage of the term "Indo-German Tools" by a private firm in Karnataka may wrongly suggest the patronage of the Government Authorities and GTZ to the concerned company. Hence, the mission would not recommend the grant of the name "Indo-German Tools" to the concerned company in Karnataka."

5. A perusal of the the impugned communication would only go to show that it requests the petitioner to change the name as it attracts the provisions of Emblems and Names (PIU) Act, 1950. However, with the change of the name, the petitioner would continue to enjoy all the benefits of "MSMED". In such circumstances, no prejudice would be caused to the petitioner in changing the name without attracting the provisions of the provisions of Emblems and Names (PIU) Act, 1950 .

6. As the change of name would not deprive the petitioner any of the benefits provided under the "MSMED", it is open to the petitioner to change its name to suit their convenience, while continuing to have all eligible benefits of MSMED. In the light of the above, the impugned order cannot be set aside and this writ petition is liable to be dismissed.

7. In the result, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gg/srn

To

1. The General Manager,
District Industries Centre,
Department of Industries and Commerce,
Krishnagiri.
2. The Deputy Director,
Ministry of Consumer Affairs,
Food and Public Distribution,
Government of India, IT Desk,
Shastri Bhavan, New Delhi.

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and M.P.Nos.2 and 3 of 2010

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