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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13510/2019 & CM 54718/2019**

GILEAD SCIENCES IRELAND INC Petitioner
Through: Mr.Pravin Anand, Ms.Vaishali Mittal,
Ms.Devyani Nath, Mr.Siddhant Chamola,
Mr.Rohin Koolwal, Advs.

versus

UNION OF INDIA & ORS. Respondents
Through: Mr.Harish Vaidyanathan Shankar, Adv.

(7) **W.P.(C) 13546/2019 & CM 54850/2019**

GILEAD SCIENCES IRELAND INC. Petitioner
Through: Mr.Pravin Anand, Ms.Vaishali Mittal,
Ms.Devyani Nath, Mr.Siddhant Chamola,
Mr.Rohin Koolwal, Advs.

versus

UNION OF INDIA & ORS. Respondents
Through: Mr.Harish Vaidyanathan Shankar, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **06.03.2020**

These petitions have been filed by the petitioner challenging the order dated 15.10.2019 (in WP(C) No.13510/2019) and 23.10.2019 (in WP(C) No.13546/2019).

The limited ground of challenge of the learned counsel for the petitioner is that the orders passed by the respondent no.3 are not reasoned and therefore, in violation of Section 18(5) of the Trade Marks Act, 1999 (hereinafter referred to as the 'Act').

On the other hand, the learned counsel for the respondents submits that the remedy of the petitioner lies in an appeal under

Section 91 of the Act.

I have perused the Impugned Orders and find merit in the submissions made by the learned counsel for the petitioner that the Impugned Orders do not give any reason for refusing the registration of the Trademark applied by the petitioner.

Section 18(5) of the Act read as under:

“18(5). In the case of a refusal or conditional acceptance of an application, the Registrar shall record in writing the grounds for such refusal or conditional acceptance and the materials used by him in arriving at his decision.”

Section 18(5) of the Act clearly requires the Registrar of Trade Marks to record grounds for refusing to register a trade mark. Mere quotation of the provisions of the Act cannot substitute the requirement of giving reasons /grounds for refusal to accept the application of the petitioner for registration of a trademark.

Availability of an alternate remedy is not a complete bar on the Court to exercise its jurisdiction under Article 226 of the Constitution of India. In the present case, as the impugned orders are in clear violation of the Act, the present petitions are maintainable.

In view of the above, the Impugned Orders are set aside, directing the respondent no.3 to consider the application(s) of the petitioner afresh in accordance with law.

The petitions are allowed in the above terms.

NAVIN CHAWLA, J

MARCH 06, 2020

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