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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th January, 2020

+ W.P.(C) 4676/2014 and CM No.3813/2020

SHAMNAD BASHEER Petitioner

Through: Ms. Anu Bagai, Adv.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Amit Mahajan, Central Govt.
Standing Counsel for R-1/UOI with
Mr. Olson Nair, Adv. and Mr. Dr. S.S.
Singh, Deputy Controller of Patents &
Design

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **30.01.2020**

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM No. 3813/2020

1. By way of this application, filed under Order I Rule 10 of CPC, the applicants seek their impleadment in these proceedings as petitioners, stating that the original sole petitioner has expired on 8th August, 2019. It is also stated in the application that the applicants are public spirited citizens.

2. Having heard counsel for the applicants and looking to the reasons mentioned in this application, there are reasonable reasons in this application for impleading the applicants. We, therefore, allow this application. Applicants in this application are impleaded as petitioners .

Application is disposed of.

W.P.(C) 4676/2014

1. This so-called Public Interest Litigation has been preferred with the following prayers:

- i. *Issue a writ of Mandamus, or any other appropriate writ, order or direction directing Respondent No. 2 and Respondent No. 3 to provide information to the Petitioner in relation application dated 10.12.2013 filed under the Right to Information Act, 2005 before the IPO at New Delhi;*
- ii. *Issue a Writ of Mandamus, or any other appropriate writ, order or direction quashing the reply of Respondent No. 3 dated 23.12.2013, rejecting the Petitioner's application dated 10.12.2013 filed under the Right to Information Act, 2005 due to the pre existing mechanism under the Patents Act, 1970;*
- iii. *Issue a Writ of Mandamus, or any other appropriate writ, order or direction quashing the undated the Public Notice titled 'Information under Public Domain' issued by Respondent No. 2 as illegal, arbitrary and ultra vires the Right to Information Act, 2005;*
- iv. *Issue a writ of Mandamus, or any other appropriate writ, order or direction directing Respondent No. 2 to entertain all applications for access to information under the RTI Act and provide the information sought under the terms of the RTI Act and not as per the Patent Act and Rules;*
- v. *Hold and declare that the mechanism under the Right to Information Act, 2005 overrides all other mechanisms under any other statute or rule for discharge of information from public authorities to the extent of inconsistencies therein;*
- vi. *Hold and declare that Section 144 of the Patents Act, 1970 is ultra vires the Constitution of India;*
- vii. *Pass any other further order/direction as this Hon'ble Court may deem fit.*

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that the petitioner had preferred four applications under the Right to Information Act, 2005 against which no informations were supplied. Thereafter, detailed orders were passed on different dates, and one such order dated 23rd December, 2013 was passed by the respondent no.3(Annexure A-4).

3. It appears that petitioner was claiming this petition as a Public Interest Litigation and the order which is under challenge herein is an appealable order under Section 19(1) of the Right to Information Act, 2005. Even second appeal is also provided under Section 19(3) of the Act, 2005.

4. Thus, we see no reason to entertain this writ petition because efficacious alternative remedy is already available with the petitioner.

5. Liberty is reserved with the petitioner to prefer first appeal in accordance with law under the Act, 2005.

6. The issue raised in the appeal about the information to be supplied is kept open as the efficacious alternative remedy is available against an order passed by the respondent no.3.

7. We are not entertaining this writ petition at this stage and the same is disposed of.

8. As and when the first appeal will be preferred, the same will be decided on its own merits and in accordance with law, rules, regulations and Government policy applicable to the facts of the case.

CHIEF JUSTICE

C.HARI SHANKAR, J.

JANUARY 30, 2020/kr