

OD-54

IN THE HIGH COURT AT CALCUTTA  
Special Jurisdiction  
ORIGINAL SIDE

AID/17/2022

TOYO ENGINEERING CORPORATION  
VS  
THE CONTROLLER GENERAL OF PATENTS  
DESIGNS AND TRADE MARK (GPDTM) AND ANR

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 19<sup>th</sup> December, 2022.

*Appearance:*

*Mr. Adarsh Ramanujam, Adv.*

*Mr. S. Mishra, Adv.*

*Mr. M. Aryan, Adv.*

*Mr. S. Das, Adv.*

*Mr. A. Mondal, Adv.*

*...for the petitioner*

*Mr. Indrajeet Dasgupta, Adv.*

*...for the respondents*

The Court:- This appeal is directed against an order dated 27<sup>th</sup> July, 2021 rejecting the application for grant of patent being 1310/KOL/2011, titled "PIPING SYSTEM" filed by the appellant.

It is submitted on behalf of the appellant that the impugned order rejecting the application of the appellant has been passed on the ground lack of innovation and that the order is bereft of any reasons whatsoever.

I find from the impugned order that the conclusion arrived at by the Controller does not contain any reasons whatsoever. The impugned order takes

into consideration certain documents but does so in a cursory and casual manner.

The respondent authorities are represented and fairly submit that the impugned order does not contain any reasons.

Orders of such nature need to meet the twin tests of “why” and “what”. It is the “why” which sustains the “what”. Reasons are the safeguard against the *ipsi dixit* of the decision-making process. They discuss how the mind has been applied to the matter in issue and convey the nexus between the matters which have been considered and the conclusion based thereon. The justification and the reasonableness of a conclusion can only depend on the reasons given in support thereof. The order impugned has no element of “why” for the “what” therein to stand on (*Uniworth Resorts Limited and Ajay Prakash Lohia Versus Ashok Mittal & Ors. reported in (2008) 1 CalLT 1*).

In view of the aforesaid, the impugned order is set aside.

The matter is remanded back to the Controller for consideration. The Controller is requested to re-hear the matter preferably within a period of three months from the date of communication of this order and pass a reasoned order after granting a right of hearing to the appellant.

To the aforesaid extent, AID/17/2022 stands allowed.

(RAVI KRISHAN KAPUR, J.)