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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.2287 of 2020

Auroville Foundation
Rep.by its Secretary – in charge,
Auroville Foundation Bhavan,
Vanur Taluk,
Villupuram District. ... Petitioner

Vs.

1. Union of India,
   Rep. by its Secretary to the Government of India,
   Department of Industrial Policy and Promotion,
   IPR-I, Section – Udyog Bhavan,
   New Delhi – 110 011.

2. The Controller General of Patent,
   Design and Trade Marks & GI,
   Antop Hills, S.M.Road,
   Mumbai – 400 037.

3. Registrar of Copyrights & Inquiry Officer,
   Trade marks Registry,
   Plot No.32, Sector 14, Dwarka,
   Boudhik Sampada Bhavan,
   New Delhi – 110 075. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to add the name and emblem “Auroville” in the list of prohibited marks and consequently

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cancel the trademarks including “Auroville” or colourable variants that have already been registered in the Trade mark Registry, India.

For Petitioner : Mr.M.Rajan

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ORDER

This writ petition has been filed seeking for issuance of a writ of mandamus to direct the the respondents to add the name and emblem “Auroville” in the list of prohibited marks and consequently cancel the trademarks including “Auroville” or colourable variants that have already been registered in the Trade mark Registry, India.

2. It is the case of the petitioner that the petitioner is a body corporate under the Auroville Foundation Act, 1988 and has been functioning under the control of Ministry of Human Resource Development and it is a well known foundation throught the world. The Central Government notified 'AUROVILLE' under the Emblems and Names (Prevention of Improper Use) Act, 1950 vide Notification No.276(E) dated 28.02.2000 and the petitioner has been given the exclusive and prerogative right to use the term 'Auroville'. It is the further case of the petitioner that said word cannot be utilised for any

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mark, name, brand name, patents, license for any commercial purpose. However, various persons have filed applications for registration of trademarks including “Auroville” which is prohibited under Section 9(2) (d) of the Trade Marks Act 1999. Further the third respondent has registered Trademarks under application Nos.1400498 and 2302919 in various offices. It is further the case of the petitioner that it had applied for registering 'AUROVILLE' under the Trademarks Act, 1999 bearing application Nos.3045525 and 3045526 on 02.09.2015 which is pending. The petitioner sent representation on 05.07.2019 requesting the respondents to refuse registration of anymore applications of AUROVILLE. However, no orders have been passed on the same. Hence the above writ petition is filed.

3. Learned counsel for the petitioner submits that though the beneficiary is not the party in this writ petition it would suffice if this Court issues a direction to the respondents to consider the petitioner's representation dated 05.07.2019 and pass appropriate orders within the time frame that may be fixed by this Court.

4. Considering the facts and circumstances of the case, this Court

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without going into the merits of the case directs the respondents to consider the petitioner's representation dated 05.07.2019 on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs.

5. Accordingly, this writ petition is disposed of. No costs.

03.04.2023

Index : Yes / No
Speaking order / Non speaking order
Netrual Citation Case : Yes / No
(rap)

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To

1. The Secretary to the Government of India,
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M.DHANDAPANI, J.

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