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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of decision: 12<sup>th</sup> May, 2023*

+ **W.P.(C) 4079/2022**  
**HAMDARD NATIONAL FOUNDATION**  
**INDIA & ANR.**

..... Petitioners

Through: Mr. Shivendra Pratap Singh and Mr.  
Navdeep Suhag, Advocates (M:  
8826906894).

versus

**GOVERNMENT OF NCT DELHI & ORS.** ..... Respondents

Through: Mr. Karn Bhardwaj, ASC for R-1 and 3.  
Mr. Jivesh Tiwari, Sr P.C.with Ms.  
Samiksha, Advocate (M: 9968944861).

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. This is a petition filed by the Petitioners seeking directions that Ayurvedic manufacturers ought not to be permitted to use the expression 'ROGAN BADAM SHIRIN/ ROUGHAN BADAM SHIREEN' for BADAM TAIL/ ALMOND OIL which, as per them, is meant only for Unani medicine/ drugs.
3. A perusal of the counter affidavit dated 17th October 2022 filed by Respondent No.2- Ministry of Ayush showed that there were two letters addressed by it in respect of use of the terminology 'ROGAN BADAM SHIRIN/ ROUGHAN BADAM SHIREEN'. The first letter dated 7th June, 2022 referred to in paragraph 6 of the counter affidavit is addressed to the Deputy Registrar of Trade Marks which was annexed as Annexure R-1.
4. Paragraph 7 of the counter affidavit also referred to another letter also dated 7th June, 2022 written to the Drug Controller (Ayush) and licensing

authorities of all States and Union Territories.

5. At the last hearing on 5th January 2023, a copy of the said letter was claimed to be attached with the counter, however, a perusal of the Annexure shows that it is the letter written to the Deputy Registrar of Trademarks and not to the Drug Controller (Ayush)/ licensing authorities.

6. Vide the said order, this Court directed that the correct letter be placed on record by the Ministry.

7. Today, the letter written to the Licensing Authority/Drug Controller (Ayush) has been placed on record vide compliance affidavit dated 3rd March 2023.

8. Ld. Counsel for the Petitioner relies upon the letter which is annexed with the email dated 7th June, 2022, which is undated which reads as under:-

*“To,*

*Licensing Authority/Drug Controller (Ayush), All States/UTs*

***Subject: Advisory for Raughan-e-Badam Shireen and Badam taila (बादाम तैल)-reg.***

*Sir/Madam,*

*Ministry of Ayush has noticed that many Ayurveda, Siddha and Unani drug manufacturers are not adhering to provisions for labelling and naming of the products in accordance with the drug license obtained.*

*2. In this direction, it is to clarify that Raughan-E-Badam Shireen/ Badam Shireen is mentioned as Unani Medicine and Vatama (वाताम)/ Vadama (वादाम)/ Vatada (वाताद)/ Vatada taila (वातद तैल) is mentioned as Ayurveda Medicine in their respective authoritative books in the First Schedule of Drugs and Cosmetics Act, 1940 (References enclosed at Annexure 1).*

*3. In this regard, all State Licensing Authority are requested to ensure that Ayurvedic drug license should be issued for Vatada taila (वाताद तैल) / Badam taila*

*(बादाम तैल) and Unani drug license should be issued for Raughan-E-Badam Shireen/ Badam Shireen as defined under section 3 (a) of Drugs & Cosmetics Act, 1940 and in accordance with Rule 157 (1B) of Drug & Cosmetics Rules 1945.”*

9. In view of the fact that the Respondent has now communicated to the State licensing authorities that the use of the name *Raughan-E-Badam Shireen* and *Badam Shireen* would require a Unani Drug License, the relief sought for in this petition according to the Petitioner stands satisfied and no further orders would be required.

10. A letter has been written to the Deputy Registrar of Trade Marks and GI, Head- Trade Marks Registry on 7th June, 2022 which is also reproduced below:-

***“Subject: Trademark of “HAMDARD ROCHAN  
BADAM SHIRIN” - reg.***

*Sir,*

*Ministry of Ayush has been informed that "HAMDARD ROGHAN BADAM SHIRIN" is registered in classes 3 and 5 under the Trade Mark Act, 1999 (Annexure I).*

*2. In this regard, it is to mention that —*

*i. As defined under section 3 (a) of Drugs & Cosmetics Act, 1940, Raughan-E-Badam Shireen/ Badani Shireen is mentioned as Unani Medicine in the authoritative book of First Schedule of Drugs and Cosmetics Act, 1940.*

*ii. As per Rule 157 (1B) of Drugs and Cosmetics Rules, 1945 - no manufacturer shall use any prefix or suffix with the name of any Ayurvedic. Siddha or Unani Tibb drug falling under clause (a) of section 3 of the Act, except as described in the authoritative books specified in the First Schedule to the Act (Annexure II).*

*3. In this regard, Controller General of Patents, Designs & Trademarks (CGPDTM) is requested to review trade mark "HAMDARD ROGHAN BADAM*

*SHIRIN" for using of descriptive term of classical medicine "ROGHAN BADAM SHIRIN" and prefix "HAMDARD" as it is a contravention of Rule 157 (1B) of Drugs and Cosmetics Rules, 1945.*

*4. This issues with the approval of the Competent Authority."*

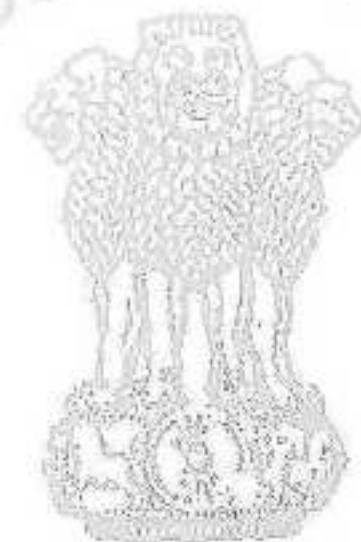
11. In respect of the above communication, let the CGPDTM/Trade Marks Registry proceed in accordance with law.

12. In view of the above, no further orders are called for in this matter. Accordingly, the petition is disposed of with all pending applications, if any.

**MAY 12, 2023**

*mr/dn*

**PRATHIBA M. SINGH  
JUDGE**



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