

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL MISCELLANEOUS PETITION NO. 26 OF 2024

Indian Institute of Technology, Gandhinagar

...Applicant /
Petitioner

Versus

The Assistant Controller of Patents and
Designs & Anr.

...Respondents

Mr. Prashant Shetty with Mr. Aditya Chitale and Mr. Om Singhania
i/b. RK Dewan Legal Services for the Petitioner.

Mr. Mainak Adhikary i/by Ms. Ananmika Malhotra for the
Respondents.

CORAM : R.I. CHAGLA J.

DATE : 10 December 2024

ORDER :

1. The learned Counsel appearing for the Petitioner has
tendered final status of RTI Online application made by the
Petitioner, which is tendered taken on record and marked "X" for
identification.

2. As per the said RTI Online Application, the Petitioner had

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sought response to query viz. whether the hearing notice was given to the Petitioner or his Attorney by the Controller of Patents through any means of communications. The response received is that the hearing notice was not delivered to the Petitioner and/or his agent.

3. The learned Counsel appearing for the Petitioner has referred to Rule 28(4) of the Patent Rules, 2003, which provides that the Applicant being the Petitioner herein shall be given ten days' notice of any such hearing or such shorter notice as appears to the Controller to be reasonable in the circumstances of the case and the Petitioner shall, as soon as possible, notify the Controller whether he can attend the hearing. He has accordingly, submitted that the said Rule requires for notice of hearing. In the facts of the present case, no notice of hearing had been given as borne out from the response to the RTI Application. He has accordingly, sought for the matter to be remanded back to the Controller of Patent for *de novo* hearing of the Petitioner, by setting aside the impugned order.

4. Considering the submissions as well as RTI Online Application and the response thereto as well as the relevant Rule 28(4) of the Patents Rules, 2003, the Respondents-Assistant

Controller of Patents and Designs shall provide instructions to the arguing Counsel as to whether they are agreeable for remand of the matter back and for *de novo* hearing of the Petitioner after giving the notice of hearing as stipulated under the said Rule.

5. The Commercial Miscellaneous Petition shall be placed First on Board on 12th December 2024.

[R.I. CHAGLA J.]