

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, Mr. Narayan Abhishek Singh and Mr. Om Singhania i/b. RK Dewan Legal Services for the Petitioner.

Ms. Avantika Malhotra a/w Mr. Mainak Adhikary for the Respondents.

CORAM : R.I. CHAGLA J.

DATE : 12 December 2024

ORDER :

1. By this Petition, the Petitioner has sought setting aside of the impugned order dated 28th February 2024.

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2. On the previous date, when the matter had come up, this Court had noted the grounds for setting aside of the impugned order

and was *prima facie* satisfied that the matter would require to be remanded back, as the Petitioner herein had not been given 10 days notice of hearing by the Controller of Patents under Rule 28(4) of the Patents Rules, 2003. The learned Counsel appearing for the Respondents on 10th December 2024, was directed to take instructions on the view expressed by this Court.

3. Today, the learned Counsel appearing for the Respondents states on instructions that the impugned order may be set aside and the matter remanded back for *de novo* consideration after giving the Petitioner notice as per Rule 28(4) of the Patents Rules, 2003. Statement is accepted.

4. Hence, the following order is passed.:-

- (i) Impugned order dated 28th February 2024 passed by the Respondent No. 1 is set aside and the matter remanded back to Respondent No. 1 for *de novo* adjudication after giving notice as per Rule 28(4) of the Patents Rules, 2003 and fresh order to be passed after considering the submissions of the Petitioners,

which shall be reflected in the said fresh order to be passed by the Respondent No. 1.

(ii) This exercise shall be carried out preferably within a period of six weeks from the date of this order.

(iii) Commercial Miscellaneous Petition is accordingly, disposed of.

(iv) There shall be no order as to costs.

[R.I. CHAGLA J.]