

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(Intellectual Property Rights Division)

IPDPTA/62/2023

ASHA NUTRITION SCIENCES INC(OA/15/2019/PT/KOL)
VS
THE ASST. CONTROLLER OF PATENTS AND DESIGNS

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 21st August, 2025.

Appearance:

Ms. Sikha Singh, Adv.

Ms. Swati Mittal, Adv.

Mr. Abhirup Chakraborty, Av.

Mr. Tuhin Ganguly, Adv.

...for the appellant

Mr. Swatarup Banerjee, Adv.

Mr. Tapan Bhanja, Adv.

...for the respondent authority

The Court: This appeal is directed against an order dated 5 March, 2019 rejecting an application for patent bearing no. 4206/KOLNP/2010.

The main grievance of the appellant is that the impugned order has been passed in violation of principles of natural justice. It is contended on behalf of the appellant that the objections which weighed with the Controller had been raised for the first time in the impugned order and no opportunity of any kind whatsoever was granted to the appellant to deal with the same. There was no Second Examination Report nor hearing notice on the amended set of claims. In such circumstances, the right of the appellant in getting a fair hearing had been clearly violated. In support of such contention, the appellant relies on the decision in *Guangdong Oppo Mobile Telecommunication Corp. Ltd. vs. Controller of Patents and Designs (2023) SCC OnLine Cal 6650 at para14*.

On behalf of the respondent Controller, it is fairly submitted that the Controller has relied on additional objections without granting an opportunity to the appellant.

It appears from the admitted records before the Controller that, no opportunity was granted to the appellant to deal with the additional materials relied on by the Controller in passing the impugned order. The impugned order is based on grounds and additional material which were not in the First Examination Report. This procedure is in violation of the principles of natural justice. In view of the above, the impugned order is unsustainable and is set aside.

The matter is remanded back to the Controller to hear the subject application afresh in accordance with law and within a period of four months from the date of communication of the order. It is made clear that there has been no adjudication on the merits of the case and all questions are left open to be decided by the Controller.

Insofar as the submissions on behalf of the Controller that no fee has been paid for the 34 extra claims made by the appellant, the same would be adjudicated upon by the Controller in accordance with law and after hearing the appellant. It is made clear that there has been no waiver of any kind whatsoever to the appellant in respect of the extra claims.

With the above directions, IPDPTA/62/2023 stands disposed of.

(RAVI KRISHAN KAPUR, J.)