

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

COMMERCIAL MISCELLANEOUS PETITION NO. 32 OF 2024

Epigeneres Botech Pvt. Ltd.	...	Petitioner
Versus		
Registrar of Trade Marks, Trademark Registry	...	Respondent

Mr. Siddharth Samantray (through V.C.) a/w Radhika Pujara,
Abhijit Ranjan, Hema Desai i/by Shivani Shah for the Petitioner.
Mr. Ashutosh Mishra i/by Pranjal Sharma for Respondent.

CORAM: MANISH PITALE, J.
DATE : 22nd APRIL 2025

P.C. :

. Heard learned counsel for the parties.

2. By this petition, the petitioner has challenged order dated 22nd December 2022 passed by the respondent, whereby the application for registration of the applicant's mark "Xtremely Active" under class 5 has been refused. The learned counsel for the petitioner submits that the impugned order is cryptic in nature and although it records that the respondent perused the records and thereupon refused registration, there is no discussion on the merits of the matter. It is submitted that Section 9(1)(b) of the Trade Marks Act, 1999, has been simply referred to, but there is no detailed discussion as to why the mark has been refused

registration on that count.

3. Attention of this Court is also invited to the reply affidavit to the examination report placed before the respondent, whereby detailed submissions were made and reference was also made to various judgments in support of contentions raised on behalf of the petitioner. It is submitted that none of these contentions have been discussed in the impugned order.

4. The learned counsel for the respondent submits that in the light of the nature of the impugned order, if this Court is inclined to remand the matter back to the respondent, the matter can be reconsidered and a detailed order can be passed.

5. A perusal of the order indeed shows that it is cryptic in nature and none of the contentions raised on behalf of the petitioner in the reply to the examination report have been considered in an appropriate manner. It is simply recorded that the respondent went through the records and thereupon, registration has been refused. The respondent is a statutory authority and it is expected to pass well reasoned orders, even if the application is to be refused, so that the aggrieved party is aware as to on what grounds registration has been refused. In the absence of reasoning, it creates a handicap for the aggrieved party to raise detailed grounds of challenge. Such cryptic orders are wholly unsustainable and hence, the impugned order deserves to be set aside.

6. The learned counsel for the petitioner, at this stage, has invited attention of this Court to a specific statement made in the present petition. It is stated that the Registrar ought to have taken into consideration the fact that a device mark of the petitioner “Xtremely Active Resveratrol” has been granted registration by the Trade Marks Registry under class 5. This aspect is certainly relevant and the respondent ought to take into consideration the aforementioned aspect also. In that light, the petitioner will have to be given an opportunity to place the said fact on record before the respondent.

7. In view of the above, the petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded to the respondent for consideration afresh. The petitioner is permitted to place on record supplementary reply to the examination report within three weeks from today.

8. The respondent shall decide the matter afresh, as expeditiously as possible and in any case, within eight weeks of this order being produced before the respondent.

MANISH PITALE, J.