

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

**COMMERCIAL MISCELLANEOUS PETITION NO. 69 OF 2025**

|                                       |     |            |
|---------------------------------------|-----|------------|
| NAFA Capital Advisors Private Limited | ... | Petitioner |
| Versus                                |     |            |
| The Registrar of Trademarks           | ... | Respondent |

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Mr. Rishi Murarka for the Petitioner.  
Ms. Seema Ram Gupta for Respondent.  
Ms. Pranjal Sharma, Examiner of Trade Mark, present.

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**CORAM: MANISH PITALE, J.  
DATE : 26<sup>th</sup> MARCH 2025**

**P.C. :**

- . Heard learned counsel for the parties.
2. This Court is informed that there is change of Advocate representing the petitioner. Hence, the Advocate now engaged by the petitioner is permitted to place on record *Vakalatnama* within one week from today.
3. The present petition has been filed challenging order dated 3<sup>rd</sup> October 2024 passed by the respondent-Registrar of Trade Marks, whereby an application for registration of the mark of the petitioner "NAFA" has been refused, as the registration of the mark was found to be objectionable under Section 11(1) of the Trade Marks Act, 1999.

4. The learned counsel for the petitioner submits that the impugned order records that there was no appearance on behalf of the applicant on 1<sup>st</sup> October 2024, when the application was taken up for consideration by the respondent. He invites attention of this Court to screenshot at Exhibit 'I' (page No.60 of the petition), to contend that on the date and time of the hearing on 1<sup>st</sup> October 2024, the petitioner had made attempt to access hearing through video conferencing, but for some technical reason entry was not granted. Due to the aforesaid reason, there could be no appearance on behalf of the petitioner on the date of hearing. Immediately on 2<sup>nd</sup> October 2024, the petitioner sent a letter/communication (at Exhibit 'J') to the respondent, stating the aforesaid sequence of events and thereupon, sought accommodation so that proper hearing could be conducted in the matter.

5. It is the case of the petitioner that proper hearing was not given to the petitioner and in that light, the impugned order suffers from violation of principles of natural justices. It is further brought to the notice of this Court that thereafter, on 23<sup>rd</sup> December 2024, the respondent, in a similar situation, while considering an application of the petitioner for registration of the very same mark "NAFA" under class 35 accepted the contentions of the petitioner and after waiving the objection, directed the mark to be advertised in the trade mark journal. It is submitted that the subject application in the present case concerns

registration under class 36 and in the light of the sequence of events, this Court may consider setting aside the impugned order, so that appropriate hearing can be granted to the petitioner.

6. On the other hand, the learned counsel for the respondent initially sought time to file reply affidavit, but when this Court indicated that in the facts and circumstances of the present case, reply affidavit would not be necessary as the respondent could justify its order on the basis of the material on record and on the basis of the contents of the impugned order itself, the learned counsel for the respondent made submissions before this Court. The prayer made on behalf of the petitioner was opposed and it was indicated that the impugned order was passed after considering the merits of the matter and therefore, this Court may not allow the present petition.

7. This Court has considered the rival submissions in the backdrop of the material on record. A perusal of the impugned order shows that it is a short order recording the fact, at the outset, that there was no appearance on behalf of the petitioner. Thereupon, the respondent has recorded reasons as to why the application deserves to be refused under Section 11(1) of the Trade Marks Act.

8. There appears to be no discussion on the response/reply of the petitioner to the examination report. In any case, a crucial aspect of the matter is that after the impugned order was passed,

on 23<sup>rd</sup> December 2024, the respondent accepted the contentions raised on behalf of the petitioner in respect of registration of the identical mark “NAFA” for class 35. There is substance in the contention raised on behalf of the petitioner that for the same reasons, the application of the petitioner could have been considered favourably under class 36 also.

9. This Court is not expressing any opinion on the merits of the matter and the claim of the petitioner that the subject application also ought to have been allowed by the respondent. Nonetheless, there is sufficient material placed on record on behalf of the petitioner to demonstrate that the petitioner was deprived of a chance to appear before the respondent, due to reasons beyond the control of the petitioner. The screenshot at Exhibit ‘I’ does indicate that an attempt was made on behalf of the petitioner to join the hearing on 1<sup>st</sup> October 2024, but due to technical reasons, the petitioner could not get access. The prompt communication sent on behalf of the petitioner to the respondent, seeking accommodation in the matter, is also on record at Exhibit ‘J’, demonstrating that the petitioner did act with alacrity and made all possible attempts to have the opportunity of being heard.

10. Therefore, this Court is of the opinion that since the impugned order has been passed in a situation where the petitioner could not appear before the respondent due to factors beyond its control, in order to ensure that there is substantial compliance with the principles of natural justice, this Court is

inclined to partly allow the present petition, so as to afford an opportunity to the petitioner to make its case before the respondent for registration of its mark under class 36.

11. In view of the above, the petition is partly allowed. The impugned order is set aside and the matter is remanded to the respondent for consideration afresh.

12. It is made clear that this Court has made no observations on the merits of the matter and that the respondent shall proceed to decide the matter afresh, uninfluenced by the order passed by this Court today, as also the impugned order dated 3<sup>rd</sup> October 2024.

13. 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.**