IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 565/2019

(DR.KESHAV R. KRANTHI **VERSUS** UNDER SECRETARY, INTELLECTUAL PROPERTY AND TECHNICAL MANAGEMENT, INDIA COUNCIL OF AGRICULTURE RESEARCH & OTHERS)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders.	*Court's or Judge's order*

Shri R.S. Sundaram, counsel for the petitioner.
Shri S.S. Ghate, counsel for the respondents.

CORAM : NITIN W. SAMBRE AND VRUSHALI V. JOSHI, JJ.
DATE : MARCH 11, 2025

P. C.

We have heard the learned counsel for the parties.

2. The petitioner has preferred this writ petition for issuance of directions to the respondent no.2 to comply with the mandate provided in the letter dated October 11, 2013 and pay an amount of Rs.50,10,963/- alongwith interest at the rate of 18% per annum with effect from February-2018 till realization of the said amount.

3. The facts necessary for deciding the writ petition are as under :-

The petitioner, claiming to be a Scientist, has invented Bt Cotton Detection Kits by adopting a scientific research mode so as to help the cotton growing countries. It is claimed that the petitioner has been granted four patents in South Africa, Mexico, China and Uzbekistan and six patents in India. The respondent no.2 is a Government Agriculture Research Organization working under the supervision of the respondent no.1-Ministry of Agriculture. The respondent no.3 is the Central Institute working under the supervision and control of the respondent no.2. The respondent no.2 has laid down general guidelines and procedure for the management of IPR (Intellectual Property Rights) Portfolio. Under Chapter-4 of the said guidelines, general procedure for Intellectual Property Management has been contemplated. The guidelines also provides for incentives for developing various research activity and related patents by the scientists, ownership of which is with the respondent no.2.

4. According to the petitioner, he has invented Bt Detection kit. It is claimed that even though the patent is registered in the name of the respondent no.2 as owner, the inventor of the same is the petitioner and a certificate to that effect is issued on July 16, 2008, the Bt Detection Kit invented by the petitioner is widely commercialized and extensively used all over the country through the respondent no.2, which has generated huge revenue for the respondent no.2 from 2001-02. The benefits which are drawn by the respondent no.2 are required to be shared as per Chapter-XI of the guidelines, and more particularly Clauses 11.3 and 11.4 thereof. The petitioner has claimed entitlement to incentives which comes to Rs.83,51,605/-. Of the aforesaid due and receivables, an amount of Rs.14,09,139/- is received by the petitioner. In view of above, the petitioner has sought direction to the respondent no.2 to pay Rs.50,10,963/- alongwith interest at the rate of 18% per annum with effect from February-2018.

5. In support of the claim of the petitioner, the counsel for the petitioner has invited our attention to Chapter-XI of the ICAR Guidelines for IP Management. According to him, Chapter-XI of the guidelines deals with 'Incentive and Benefit Sharing'. Clause 11.3.1 provides for 'Monetary and Non-Monetary Benefits' and under Clause 11.4, 'Sharing of Benefit Money' is prescribed. It is urged that the petitioner is entitled for the aforesaid benefits. The counsel for the petitioner has relied on Clauses 11.3 and 11.4 of Chapter-XI of the aforesaid guidelines so as to substantiate his contentions.

According to the counsel for the petitioner, in the meeting of the Institute Technology Management Unit of the respondent no.3 dated September 03, 2013, the members of the ITMC have approved the payment of Rs.50,10,963/- being 60% of the net revenue of Rs.83,51,605/-. It is urged that in the backdrop of the mandate provided under Chapter-XI, particularly Clauses 11.3 and 11.4, the respondents are left with no other option but to release the amount of Rs.50,10,963/- alongwith interest accrued thereon.

6. As against above, it is urged by the counsel for the respondents that the petitioner is seeking benefit under the communication dated October 11, 2013, whereas the petition is preferred in 2019, i.e. after a lapse of six years and therefore, the writ petition is hopelessly time barred. It is claimed that even if the petitioner claims to have received the benefit of Rs.14,09,139/- under the communication dated July 15, 2014, still the writ petition is delayed by five years and as such, the same is liable to be dismissed.

Apart from above, it is the contention of the respondents that as per the guidelines referred above, 60% of the net revenue will be shared amongst the scientists and the team members. It is claimed that the petitioner has not identified other team members as referred in Clause 11.4.4 of the Guidelines. It is further urged that the petitioner is not entitled for the benefits as claimed by him, particularly when he was the Director of the Committee which had recommended payment to be released in favour of the petitioner. It is urged that since the petitioner has acted as a Judge in his own cause, the writ petition is liable to be dismissed.

7. We have considered the rival claims.

8. At the outset, we are required to consider the issue of limitation. The petitioner is seeking implementation of the mandate provided in the letter dated October 11, 2013. We are required to be sensitive to the receipt of an amount of Rs.14,09,139/- by the petitioner under the communication dated July 15, 2014. The fact remains that the said amount was received by the petitioner on March 14, 2017. As such, it cannot be said that the petitioner has preferred the writ petition at a belated stage as the writ petition is filed within a period of three years from the date of receipt of Rs.14,09,139/- on March 14, 2017.

9. As regards entitlement of the petitioner to the amount to the extent of Rs.50,10,963/- is concerned, Clauses 11.3 and 11.4 of the Guidelines are worth referring to. Rightly so, it cannot be said that under the said clauses, the petitioner is individually entitle for the said

benefit. It is the claim of the respondents that it was a teamwork of the petitioner and his associates who had invented the Bt Cotton Detection Kit. The petitioner has not disclosed as to how the petitioner alone is entitled to the benefit of Rs.50,10,963/-. Rather, in the proceedings of the meeting of the Zonal Technology Management Centre of the Indian Council of Agricultural Research, it is brought on record that what is receivable as per the guidelines referred above is an amount of Rs.14,09,139/-, which is already received by the petitioner alone. It was expected of the petitioner to question the findings in the communication dated July 15, 2014 which had approved the benefit to the extent of Rs.14,09,139/-. However, the petitioner has chosen not to question the same. In this background, we are of the view that the claim put forth by the petitioner not only suffers from non-raising of a challenge to the communication dated July 15, 2014 which had determined the entitlement of the petitioner to the extent of Rs.14,09,139/- but also his failure to establish that he is entitled to an additional amount of Rs.50,10,963/-.

10. That being so, since the writ petition lacks merit, the same stands dismissed. No costs.

(VRUSHALI V. JOSHI, J.) **(NITIN W. SAMBRE, J.)**

APTE