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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

28.

+ **W.P.(C)-IPD 18/2025, CM 76/2025 & CM 77/2025**

NOVARTIS AG

.....Petitioner

Through: Mr. Hemant Singh, Ms. Mamta Rani
Jha, Mr. Siddhant Sharma and
Mr. Abhay Tandon, Advocates.

versus

CONTROLLER OF PATENTS AND DESIGNS
& ANR.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with
Mr. Akash Mishra, Mr. Debasish
Mishra and Mr. Arnav Mittal,
Advocates for R-1.
Mr. Dayan Krishnan, Sr. Advocate
with Ms. Amrita Majumdar,
Mr. Afzal B. and Mr. Sharad Besoya,
Advocates for respondent No.2.

29.

+ **W.P.(C)-IPD 19/2025, CM 78/2025 & CM 79/2025**

NOVARTIS AG

.....Petitioner

Through: Mr. Hemant Singh, Ms. Mamta Rani
Jha, Mr. Siddhant Sharma and
Mr. Abhay Tandon, Advocates.

versus

CONTROLLER OF PATENTS AND DESIGNS
& ANR.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with
Mr. Akash Mishra, Mr. Debasish
Mishra and Mr. Arnav Mittal,



Advocates for R-1.

Ms. Rajeshwari H., Mr. Praveen
Singh and Ms. Durgesh Nandini,
Advocates for R-2.

30.

+ **W.P.(C)-IPD 20/2025, CM 80/2025 & CM 81/2025**

NOVARTIS AG

.....Petitioner

Through: Mr. Hemant Singh, Ms. Mamta Rani
Jha, Mr. Siddhant Sharma and
Mr. Abhay Tandon, Advocates.

versus

CONTROLLER OF PATENTS AND DESIGNS
& ANR.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with
Mr. Akash Mishra, Mr. Debasish
Mishra and Mr. Arnav Mittal,
Advocates for R-1.
Mr. Manish Aryan, Ms. Mamisha
Singh, Mr. Varun Sharma
Mr. Nishant Rai and Mr. Abhai
Pandey, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

21.04.2025

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1. The present petitions have been filed seeking quashing of the common impugned order dated 17th March, 2025, passed by respondent no.1/Joint Controller of Patents and Designs, Patent Office Delhi, in post-grant opposition proceedings against Indian patent no. 414518.
2. The petitioner has also challenged the recommendation of the



Opposition Board which was given on the same date i.e., 17th March, 2025, recommending revocation of the patent granted in favour of the petitioner.

3. Mr. Hemant Singh, counsel appearing on behalf of the petitioner submits that the order passed by the Joint Controller is not in conformity with the directions passed by the Co-ordinate Bench of this Court in *Pharmacyclics LLC vs. Union of India*, 2019:DHC:6183 as the evidence submitted by the private respondents under Rules 59 and 60 of the Patent Rules, 2003 have been allowed. Having permitted the private respondents to place on record their evidence, the petitioner should have been given an opportunity to file rebuttal evidence. Therefore, the impugned order is in violation of principles of natural justice.

4. He further submits that while giving the recommendation, the Opposition Board has placed reliance on evidence filed by private respondents. It is submitted that the aforesaid recommendation has been given without the petitioner having been given an opportunity to file its rebuttal evidence.

5. He therefore submits that the recommendation of the Opposition Board be set aside and the matter be placed before a newly constituted Opposition Board.

6. Without prejudice to their rights and contentions, counsel for private respondents submit that they would not have any objection if the petitioner is given an opportunity to file its evidence in rebuttal.

7. *Vide* the order dated 3rd April, 2025, this Court directed the counsel for the respondents to take instructions. The relevant portion of the said order is set out below-

“11. The counsel appearing on behalf of the respondents shall



take instructions before the next date of hearing with regard to the following:-

i. The petitioner being permitted to file rebuttal evidence before the Joint Controller and consequent thereto, the recommendation given by the Opposition Board being set aside.

ii. The opposition proceedings being considered afresh by different Joint Controller.

iii. A fresh Opposition Board being appointed to consider the matter.

12. In addition, Ms. Raman will take instructions with regard to the proposed time frame in which a fresh Opposition Board, if ordered to be constituted by the respondent no.1, would be in a position to give its recommendation.”

8. Pursuant to the aforesaid order, Ms. Nidhi Raman, CGSC has returned with instructions in respect of the issues raised in the said order. She submits that a new Joint Controller has been designated to hear the post-grant opposition proceedings in the present case. She strongly opposes the appointment of a fresh Opposition Board.

9. Having heard the counsel for the parties, I am of the view that the present writ petitions can be disposed of by giving the following directions:-

- i. In view of the fact that the impugned order of the Joint Controller dated 17th March, 2025 as well as the recommendation made by the Opposition Board were made without the petitioner being given an opportunity to file rebuttal evidence, the same are set aside.
- ii. The petitioner is given an opportunity to file its evidence in



rebuttal to the evidence filed on behalf of the opponent/private respondents under Rule 59 and Rule 60. The same shall be filed within eight weeks from today.

- iii. After the evidence in rebuttal has been filed on behalf of the petitioner, the same shall be placed before the Opposition Board for their consideration. Based on the material placed before them, the Opposition Board shall make a fresh recommendation within four weeks thereafter.
- iv. After receiving the recommendation, the Deputy Controller shall issue a fresh hearing notice to the parties and conduct a hearing.
- v. The Controller shall decide all the post-grant oppositions in an expeditious manner.

10. The Registry is directed to send a copy of the present order to the office of the Controller General of Patents, Designs and Trade Marks at the e-mail *llc-ipo@gov.in* for compliance.

11. It is made clear that the aforesaid order has been passed in the peculiar facts and circumstances of the present case and will not be treated as a precedent. Further, no observations have been made with regard to the merits of the matter.

AMIT BANSAL, J

APRIL 21, 2025

Vivek/-