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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)

W.P.No.1256 of 2011

Shamnad Basheer
Ministry of HRD Chair Professor in
Intellectual Property Rights,
West Bengal National University of Juridical Sciences,
NUJS Bhavan, 12 LB Block,
Salt Lake City, Sector III,
Kolkata 700 098, India.

... Petitioner

Vs.

1. Union of India,
represented by its Secretary,
Department of Industrial Policy and Promotion,
Ministry of Industry & Commerce,
Government of India, Udyog Bhavan, New Delhi-110 011.
2. Intellectual Property Appellate Board,
represented by its Registrar,
Annex-I, Guna Complex, II Floor,
443, Anna Salai, Teynampet,
Chennai 600 018.
3. Intellectual Property Rights Bar Association
(Regn.No.48/2011) rep. by its President,
Mr.K.Rajasekran, III Floor, YMCA Buildings,
No.223, NSC Bose Road, Chennai 600 001.

... Respondents.

**REPORT OF THE CHAIRMAN,
INTELLECTUAL PROPERTY APPELLATE BOARD, CHENNAI**

This additional report is filed in continuation of the reports already filed as per the orders of the Hon'ble High Court of Madras dated 3.2.2012.

2. This report is filed to bring to the knowledge of the Hon'ble High Court the developments in the IPAB up to date, in particular (a) space requirements; and (b) financial requirements.

(a) Space requirements:

3. As per the orders of the Hon'ble Madras High Court, the internal Finance (IF) Wing of the Ministry of Commerce & Industry approved the proposal for occupation of space of

13204 sq.ft. (carpet area) in TICEL Bio Park-II and the IPAB is yet to take possession of the same as the construction in TICEL Bio Park-II is yet to complete.

4. In the meantime, a space of 2300 sq.ft. has become vacant in the existing premises itself and with this additional space, the total space would become 7800 sq.ft. (existing 5500 + additional 2300 sq.ft.) and the immediate requirement of IPAB will be met. The said proposal is pending with CPWD for fixation of fair rent. If the said additional space of 2300 sq.ft. is taken possession, IPAB need not occupy the space in TICEL Bio Park-II, as IPAB has been included in Twelfth Plan and there is a proposal in it for the construction of a permanent structure for IPAB. One more reason is that a huge sum is required for interior works besides the payment of monthly rent which is approximately three times higher than the rent payable for the present premises including the rent for the additional space of 2300 sq.ft. The Hon'ble High Court may take the above position on record and pass suitable orders.

(b) Financial requirements:

5. IPAB holds circuit sittings all over India throughout the year and it requires funds mainly under the heads, 'Domestic Travel Expenses' and 'Office Expenses. Under 'Domestic Travel Expenses' a sum of Rs.32,00,000/- has been allocated as against Rs.75,00,000/- projected by IPAB and under 'Office Expenses' a sum of Rs.31,80,000/- has been allocated as against Rs.1,20,00,000/- projected by IPAB.

6. The allocation of funds for 2013-14 is almost the same as was allocated for the year 2012-13. In the last financial year, viz., 2012-13, due to paucity of funds, IPAB was forced to cut down its tour schedule during the last quarter of the said financial year. The bills raised by traveling agencies for the circuit sittings earlier conducted were settled after a delay of four months. Needless to emphasize that the travel agencies may not be willing to spare their services if timely payment is not made.

7. Further, under the head "Rent", a sum of Rs.14,00,000/- has been allocated as was in the previous year, which will only be sufficient for the payment of rent for just about seven months for the present space of 5500 sq.ft. Anticipating the rent payable for the space in TICEL Bio Park-II, which is to be occupied as per the orders of the Hon'ble High Court, a proposal for Rs.1,20,00,000/- was made taking into account its monthly rent of about Rs.9 lakhs. The allocation to the tune of Rs.14 lakhs will not be sufficient for even 2 months' rent if TICEL Bio Park-II is taken on rent.

9. If the IPAB takes up the additional space of 2300 sq.ft. in the present premises, the rent for the same would roughly come to Rs.85,000/- and total rent payable for the present premises would become around Rs.3 lakhs. The allocation under 'rent' will cover only about four months' period. It is respectfully submitted that the budgetary allocation is clearly inadequate.

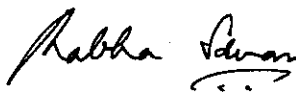
9. The above said factual position has been brought to the notice of the Hon'ble Minister of Commerce and Industry as well as the Department of Industrial Policy and Promotion (DIPP). The DIPP has orally given an undertaking that positive steps would be taken in the allocation of additional funds immediately. Needless to say, if the same situation continues, IPAB will not be in a position to function effectively and IPAB has to cut down its circuit sittings. This will injure public interest and the interest of justice.

8. In addition to the above, it is placed on record that a D.O. letter dated 4th April, 2013 was received from the Secretary (Justice), Ministry of Law and Justice, Government of India stating that a proposal to bring all Tribunals under the administrative control of single nodal agency and to have uniformity of appointment and service conditions has been made and that the Government has constituted a Group of Ministers to consider and examine the issues involved.

9. The Search-cum-Selection Committee for the selection to the post of Vice-Chairman and Technical Members is headed by the Secretary, DIPP, while the Chairman (who is a retired Judge of the High Court) of IPAB is only a Member. This anomaly is referred to at page No.10 of the 1st Report filed as per the orders of the Hon'ble Court dated 06.06.2011. In spite of that, the Ministry has constituted the same Committee for selection of the Technical Member. The judgment of the Hon'ble Supreme Court in Union of India v. R.Gandhi (2010(3) CTC 517) specifically holds that the Tribunals have no link with the Parent Department.

The report is filed before the Hon'ble Court for appropriate and suitable directions and for justice.

CHENNAI,
25.4.2013


JUSTICE PRABHA SRIDEVAN
CHAIRMAN
Intellectual Property Appellate Board
Gene Complex, 43, Anna Salai, Teyyanpet,
CHENNAI-600 018

**HIGH COURT OF JUDICATURE
MADRAS**

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REPORT OF THE CHAIRMAN
Intellectual Property
Appellate Board, Chennai