

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

Writ Petition No. 2257 of 2018

Ceres Intellectual Property Company Limited	...	Petitioner
v/s.		
The Controller of Patents, Trade Marks and Designs & 2 ors.	...	Respondents

Mr. Yatin Khochare, Mr. Anshul Saurastri & Mr. Minesh Andharia,
Mr. Jay Shah i/b. Krishna & Saurastri Associations LLP for the
Petitioner.

Mr. D.N. Mishra for Respondent Union of India.

**CORAM : S.V. Gangapurwala &
R.N. Laddha, JJ.**

6th October 2022

P.C.

The Petitioner filed National Phase application at the Indian Patent Office in respect of method for deposition of ceramic films for the use in manufacture of solid oxide fuel cells on or about 29th December 2010. The Respondent No.1 published a National Phase application in its official Journal. On or about 28th May 2012 Petitioner filed Form-18 with the Respondent No.1, being request for examination of patent application as per Section 11B of the Patents Act read with Rule 24C of the Patents Rules. On or about 5th January 2017

Petitioner received the impugned communication from Respondent No.1 rejecting the patent application in view of the directions of Respondent No.2 that the said patent application relates to the Atomic Energy. The Petitioner filed a Review Petition against the order dated 5th January 2017. The Review is rejected.

2. Amongst other submissions, one of the submission of the learned Advocate for the Petitioner is that Respondent No.1 has not given any reasons while rejecting the application of the Petitioner for patent except that in view of the directions from the Department of Atomic Energy and Section 4 of the Patent's Act, 1970, patent cannot be granted in respect of the intervention in the instant application. The learned Counsel submits that as the impugned communication does not depict reasons, the same is bad in law.

3. The learned Advocate for the Respondents submits that the application of the Petitioner was sent to the department of the Atomic Energy. As per the directions issued by the Department of the Atomic energy the application is rejected. The same is legal and proper in view of section 20(1) of the Atomic Energy Act 1962.

4. We have considered the submissions canvassed by the learned Advocate for the parties.

5. Reasons now are considered to be one of the limbs of the principles of natural justice. Reasons depict the mind of the person passing the order. The order bereft of reasons cannot be sustained.

6. From perusal of the impugned order, it is manifest that the application has been rejected only on the ground that the directions are issued by the Department of Atomic Energy and in view of the said directions, the application is rejected. There cannot be a manner of doubt that if the application of patent engulfs within its fold, the circumstances and/or inventions as detailed in Section 20(1) of the year 1962, the Authority has got powers to reject the patent application. However, the same is to be borne out from the reasons in the order.

7. In light of the above, as the impugned order is *dehors* the reasons, the impugned order is set aside. The Respondent No.1 shall reconsider the application of the Petitioner for issuance of patent on its own merits in accordance with law and shall decide it a fresh expeditiously.

8. Writ Petition accordingly disposed of. No costs.

(R.N.Laddha, J)

(S.V.Gangapurwala, J)