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

7+ **C.O.(COMM.IPD-CR) 3/2021 & I.A. 13101/2021**

**ENTERTAINMENT NETWORK INDIA LIMITED** ..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gamnani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

**PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.**

..... Respondents

Through: Mr. Harsh Kaushik, Mr. S. Ahluwalia, Mr. Abhay Chattopadhyay, Ms. Anushree Rauta, Ms. Astha Pandey and Mr. Mohit Bangwal Advocates for R-3/ Tips Industries Limited. Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd. Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-6/ Indian Performing Right Society. Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-6/ Super Cassettes Industries Private Limited. Mr. Ankur Sangal and Ms. Trisha

Nag, Advocates for Phonographic Performance Limited.

Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**8+ C.O.(COMM.IPD-CR) 6/2021**

HT MUSIC AND ENTERTAINMENT CO LTD. .... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gamnani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Respondents

Through: Mr. Harsh Kaushik, Mr. S. Ahluwalia, Mr. Abhay Chattopadhyay, Ms. Anushree Rauta, Ms. Astha Pandey and Mr. Mohit Bangwal Advocates for R-3/ Tips Industries Limited. Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd. Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata- Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-7/ Indian Performing Right Society. Mr. Neel Mason, Ms. Geentanjali

Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-5/ Super Cassettes Industries Private Limited.

Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited.

Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

9+ **C.O.(COMM.IPD-CR) 7/2021**

**DIGITAL RADIO MUMBAI BROADCASTING LIMITED**

..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gannani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

**PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.**

..... Respondents

Through: Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd. Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra,

Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-6/ Indian Performing Right Society. Ms. Mamta Jha and Mr. Sambhav Jain, Advocates for R-3/ Zee Entertainment Enterprises Ltd.

Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-6/ Super Cassettes Industries Private Limited.

Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited.

Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**10+ C.O.(COMM.IPD-CR) 8/2021**

**SOUTH ASIA FM LIMITED**

..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gamnani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Respondents

Through: Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd. Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-5/ Indian Performing Right Society. Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-5/ Super Cassettes Industries Private Limited. Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited. Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**11+ C.O.(COMM.IPD-CR) 9/2021**

**NEXT RADIO LIMITED**

..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gannani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali

Tiwari and Mr. Gurmukh Choudhri,  
Advocates.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Respondents

Through: Mr. Harsh Kaushik, Mr. S. Ahluwalia,  
Mr. Abhay Chattopadhyay, Ms.  
Anushree Rauta, Ms. Astha Pandey  
and Mr. Mohit Bangwal Advocates for  
R-3/ Tips Industries Limited.  
Mr. Jagdish Sagar, Advocate for  
Recorded Music Performance Ltd.  
Mr. Saikrishna Rajagopal, Mr.  
Himanshu Bagai, Mr. Munish Mehra,  
Ms. Deepshikha Sarkar, Ms. Pallavi  
Sondhi, Ms. Namrata Dubey, Mr. Md.  
Sarwar Ali and Ms. Bhanu, Advocates  
R-8/ Indian Performing Right Society.  
Ms. Mamta Jha and Mr. Sambhav Jain,  
Advocates for R-5/ Zee Entertainment  
Enterprises Ltd.  
Mr. Neel Mason, Ms. Geentanjali  
Vishvanthan, Mr. Vihan Dang, Mr.  
Uday Singh Chopra, Mr. Shivang  
Sharma, Mr. Siddharth Vardhman,  
Ms. Devangini Rai, Mr. Parva Khare,  
Mr. Harsh Kaushik and Mr. Abhay  
Chattopadhyay, Advocates for R-  
6/ Super Cassettes Industries Private  
Limited.  
Mr. Ankur Sangal and Ms. Trisha  
Nag, Advocates for Phonographic  
Performance Limited.  
Mr. Amit Jamsandekar, Mr. Rishi  
Agarwal, Mr. Vaibhav Shukla, Ms.  
Vinita Muley, Ms. Aishwaryajeeta

Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**12+ C.O.(COMM.IPD-CR) 10/2021**

D B CORP LTD

..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gamnani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

PHONOGRAPHIC PERFORMANCE LIMITED & ORS.

..... Respondents

Through: Mr. Harsh Kaushik, Mr. S. Ahluwalia, Mr. Abhay Chattopadhyay, Ms. Anushree Rauta, Ms. Astha Pandey and Mr. Mohit Bangwal Advocates for R-3/ Tips Industries Limited. Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd. Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-6/ Indian Performing Right Society. Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay

Chattopadhyay, Advocates for R-4/ Super Cassettes Industries Private Limited.

Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited.

Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**13+ C.O.(COMM.IPD-CR) 11/2021**

**HT MEDIA LIMITED**

..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gamnani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

**PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.**

..... Respondents

Through: Mr. Harsh Kaushik, Mr. S. Ahluwalia, Mr. Abhay Chattopadhyay, Ms. Anushree Rauta, Ms. Astha Pandey and Mr. Mohit Bangwal Advocates for R-3/ Tips Industries Limited.  
Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd.  
Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi



Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-8/ Indian Performing Right Society. Ms. Mamta Jha and Mr. Sambhav Jain, Advocates for R-5/ Zee Entertainment Enterprises Ltd.

Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-6/ Super Cassettes Industries Private Limited.

Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited.

Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**14+ C.O.(COMM.IPD-CR) 12/2021**

**RAJASTHAN PATRIKA PRIVATE LIMITED**

..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gamnani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Respondents

Through: Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd.  
Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-9/ Indian Performing Right Society.  
Ms. Mamta Jha and Mr. Sambhav Jain, Advocates for R-4/ Zee Entertainment Enterprises Ltd.  
Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-5/ Super Cassettes Industries Private Limited.  
Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited.  
Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

15+ **C.O.(COMM.IPD-CR) 13/2021**  
T V TODAY NETWORK LIMITED

..... Petitioner

Through: Mr. Abhishek Malhotra, Mr. Kaizad Irani, Ms. Sapna Chaurasia, Ms. Shilpa Gannani, Ms. Atmaja Tripathy, Ms. Sanya Dua, Ms. Anjali Tiwari and Mr. Gurmukh Choudhri, Advocates.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Respondents

Through: Mr. Harsh Kaushik, Mr. S. Ahluwalia, Mr. Abhay Chattopadhyay, Ms. Anushree Rauta, Ms. Astha Pandey and Mr. Mohit Bangwal Advocates for R-3/ Tips Industries Limited.  
Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd.  
Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-5/ Indian Performing Right Society.  
Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-5/ Super Cassettes Industries Private Limited.  
Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited.  
Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms.

Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**16+ C.O.(COMM.IPD-CR) 14/2021 & I.As. 11410/2021, 11411/2021.**  
**MUSIC BROADCAST LIMITED** ..... Petitioner

Through: Mr. Jayant Mehta, Senior Advocate with Mr. Sagar Chandra, Ms. Sakshi Pande and Ms. Urvashi Garg, Advocates.

versus

**TIPS INDUSTRIES LTD. & ORS.** ..... Respondents

Through: Mr. Harsh Kaushik, Mr. S. Ahluwalia, Mr. Abhay Chattopadhyay, Ms. Anushree Rauta, Ms. Astha Pandey and Mr. Mohit Bangwal Advocates for R-3/ Tips Industries Limited. Mr. Jagdish Sagar, Advocate for Recorded Music Performance Ltd. Mr. Saikrishna Rajagopal, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Md. Sarwar Ali and Ms. Bhanu, Advocates R-7/ Indian Performing Right Society. Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Vihan Dang, Mr. Uday Singh Chopra, Mr. Shivang Sharma, Mr. Siddharth Vardhman, Ms. Devangini Rai, Mr. Parva Khare, Mr. Harsh Kaushik and Mr. Abhay Chattopadhyay, Advocates for R-6/ Super Cassettes Industries Private

Limited.

Mr. Ankur Sangal and Ms. Trisha Nag, Advocates for Phonographic Performance Limited.

Mr. Amit Jamsandekar, Mr. Rishi Agarwal, Mr. Vaibhav Shukla, Ms. Vinita Muley, Ms. Aishwaryajeeta Tawde, Ms Niyati Kohli, Ms Megha Bengani, Mr. Vighnesh Kamat, Mr. Swanand Tarde and Ms. Puja Uday Bakshi, Advocates for Sony Music Entertainment India Pvt. Ltd.

**CORAM:  
HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**01.02.2022**

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**[VIA VIDEO CONFERENCING]**

1. Two separate public notices had been issued for fixation of statutory licensing fee – one for the ‘sound recording’ and the other for the underlying literary and musical works. Comments from the public have also been received and shared with the counsel. The matter is now to be set down for hearing.
2. The counsels have been heard on the aspect of whether the Court should proceed to hear the parties on the fixation of the revision of rates for underlying literary and musical works as well. On this aspect, the attention has been drawn to para 8 of this Court’s order dated 6<sup>th</sup> October, 2021 wherein direction for publication of the said notices was issued, which included notice *qua* underlying works.
3. Indeed, public notices were issued in anticipation of the decision on the matters pending consideration before the Division Bench.

4. Now it is informed that the Division Bench has, in fact, framed several issues which would have direct bearing on the rights of Indian Performing Right Society (IPRS) *qua* the underlying works in sound recordings.<sup>1</sup> Considering that, Mr. Saikrishna Rajagopal, counsel for IPRS, has suggested that this Court may await the decision of the Division Bench. In the alternative, he suggests that the court may proceed to hear the matter for fixation of the fees for underlying works, which could be implemented subject to the decision of the Division Bench.

5. On the other hand, some counsels suggest that Court should proceed to decide the petitions in terms of the view taken in the judgment dated 27<sup>th</sup> September, 2021. They oppose IPRS's plea for keeping the present proceedings in abeyance.

6. Having considered the submissions of the counsels, in the opinion of the Court, the view expressed in the decision dated 27<sup>th</sup> September, 2021 whereby *status quo* has been directed with respect of payment of royalty of broadcast of sound recordings, makes it clear that the Court is embarking upon the exercise of fixation of the royalty rates for sound recordings only.

7. The right of IPRS *qua* the sound recordings is squarely covered by the issues that arise for consideration before the Division Bench. This can be seen from the issues framed therein, which read as follows:

*"1. Whether the Intellectual Property Appellate Board ('IPAB') exceeded its jurisdiction or in any event erred by (a) returning the legal findings with respect to the rights of authors and music composers; and (b) proceeding to fix a royalty rate for underlying works viz. literary and musical works in a sound recording and issuing directions consequent thereto in a proceeding under Section 31D of the Copyright Act, 1957 pertaining to radio broadcast of sound recordings only?"*

*2. Whether the Hon'ble Intellectual Property Appellate Board had jurisdiction under S. 31D of the Copyright Act, 1957 to grant a composite license while fixing separate royalty*

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<sup>1</sup> Order dated 20<sup>th</sup> December 2021 in RFA No. 17/2021.

*rates for literary and musical works and the rates for sound recordings, considering that the Broadcasters sought fixation of royalty rates for sound recordings only?*

*3. Whether the 2012 Amendment to the Copyright Act, 1957 alters the position of law as it existed prior to 2012 where a separate authorization or license was not necessary from the author of the musical and/or literary work embodied in a Sound Recording when such Sound Recording was broadcast through radio or whether the 2012 Amendment is only clarificatory in nature?*

*4. Whether judgment of the Ld. Single Judge in CS(OS) 666/ 2006 and CS(OS) 1996/2009 dated January 4, 2021, is liable to be set aside?*

*5. Whether the term 'right to receive royalties to be shared on an equal basis with the assignee' in the 3rd and/or 4th proviso to Section 18 (1) read with Sections 19(9) and 19(10) of the Copyright Act, 1957, can be interpreted to cast an additional liability on the Appellant/broadcasters to pay separate royalty for underlying literary and musical works embodied in the sound recording when such Sound Recording is broadcast through the Radio.*

*6. Whether the Underlying literary and musical works embodied in a Sound Recording are utilized independent of the Sound Recording when such Sound Recording is broadcast through the Radio by the Appellant?*

*7. Whether authors of literary and musical works are entitled to receive/claim royalty to be shared on an equal basis with the assignee (owner of copyright) in respect of literary and musical works authored by them when a sound recording incorporating the said literary and musical works are broadcast by way of radio under the Copyright Act, 1957?*

*8. Whether a Statutory License rate, once fixed under Section 31D of the Copyright Act, 1957 read with the Copyright Rules, 2013 can be restricted only to such works that are published up to the date of such fixation/determination or issue of public notice therefore, or whether once the rate is so fixed, the same will also apply to works that are published after such fixation, but after giving a fresh notice for such newly published works?*

*9. Whether the IPAB has erred in adopting the per needle hour model as the basis for the rates determined, as opposed to the net advertising revenue model adopted by the Copyright Board in 2010?*

*10. Whether Rule 29(4) relied upon by IPAB in adopting per needle hour model as the basis for the rates determined is ultra vires the Copyright Act, 1957?*

*11. Whether the Ld. IPAB committed an error apparent on the face of the record by mistakenly holding that it is fixing a rate that is equivalent to 9% of the NAR earned by radio broadcasters, when in fact, the rates fixed by it in paragraph 210 of the Impugned Judgment, i.e., NPH rate as ₹ 1050 (₹ 750 for sound recordings and ₹ 300 for underlying works), for the Prime Slot in the A+ Cities, does not amount to 9% of the NAR of the radio broadcasters?*

*12. Whether the IPAB erred in determining the quantum of license fee for exercise of statutory license?*

*13. Whether the composite rate determined by the IPAB vide order dated 31.12.2020 must be set aside and the rates of royalty for sound recordings be determined afresh, if the rates for the broadcast of underlying literary and musical works that are embodied within the sound recordings are set aside or quashed?"*

8. The matters before the Division Bench are listed on 12<sup>th</sup> May, 2022, and considering the intricate issues involved, final decision is likely to take some time. In view of the above, for now, the hearing in the present petitions shall progress *qua* 'sound recordings' only.

9. No need is felt to keep the matters in abeyance. The matter is now set down for hearing for consideration for fixation of royalty for broadcast of sound recordings. Since the issue of royalty *qua* underlying works is beyond the ambit of the present proceedings, the same shall be taken up, subject to the decision of the Division bench on the issues noted above.

10. The Court is informed that Senior Counsels Mr. Rajshekhar Rao and Mr. Jayant Mehta would commence arguments for the Petitioners, followed by Mr. Abhishek Malhotra and Mr. Sagar Chandra.

11. All the parties are permitted to file: (1) brief note of submissions in a readable font size, not exceeding 3 pages; (2) caselaw compilation, with index, and relevant parts highlighted; (3) convenience file, containing relevant pleadings, documents, reports, etc., on which they may seek to rely on, at least one week prior to the next date of hearing. Physical copy of the above to be delivered to, and in coordination with, the learned Court Master as well.

12. Re-notify on 10<sup>th</sup> March, 2022.

**SANJEEV NARULA, J**

**FEBRUARY 1, 2022/as**