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

+ W.P.(C)-IPD 49/2023

INTELLECTUAL PROPERTY ATTORNEYS ASSOCIATION

(IPAA)

..... Petitioner

Through: Mr. Chander M. Lall, Sr. Advocate

versus

THE CONTROLLER GENERAL OF PATENTS, DESIGNS &

TRADE MARKS & ANR.

..... Respondents

Through: Mr. Harish Vaidyanathan Shankar,  
CGSC, Mr. Srish Kumar Mishra, Mr.  
Alexander Mathai Paikaday and Mr.  
Krishnan V. Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER**

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**07.03.2024**

**C.M. 26/2024 (Application under Section 151 of CPC r/w Article 226 of Constitution of India)**

1. This application has been filed under Section 151 of Code of Civil Procedure, 1908 (“CPC”) read with Section 226 of Constitution of India by petitioner/association seeking directions from this Court for suspension of periods of limitation prescribed under Trade Marks Act and Trade Mark Rules till the complete resumption of the services of the website/portal of the Trademark Registry (“website”) and other attendant reliefs.
2. This application has been filed in the following context.
3. This writ petition was filed for setting aside/withdrawal of Public Notices issued on 13<sup>th</sup> September 2023 issued by respondent no.1 where public



access was restricted of the website, during the normal working hours.

4. This Court on 08<sup>th</sup> January, 2024, directed that two independent status reports would be filed, one by respondent no.1 (*Controller General of Patents, Designs & Trade Marks*), as also another by respondent no. 2 (*Union of India through Ministry of Commerce and Industry*). The grievance and the context in which the issues arose were narrated in the said order.

5. It had also been noted in the said order that:

*“It is apparent from the submissions before this Court that the Registry, taking care of Intellectual Property matters, cannot possibly be working under an outdated system, considering it also invites a lot of international filings and investments. It is therefore expected that the competent authorities shall take up this matter on an urgent and serious basis so that solutions are found and implemented at the very earliest.”*

(emphasis added)

6. When the matter was listed on 05<sup>th</sup> February, 2024, a public notice dated 01<sup>st</sup> February, 2024, had already been issued by Controller General of Patents, Designs & Trade Marks stating that the website including the E-Register would be available 24x7 without any time restrictions w.e.f. 01<sup>st</sup> February, 2024.

7. Senior counsel for petitioner had even then submitted that the site was not functional and it was almost impossible to access it, imposing difficulties for the parties and their attorneys for complying with statutory deadlines.

8. This Court had noted as under:

*“6. Considering that this impacts the entire intellectual property ecosystem of the country, it would be imperative for the respondents to examine the issue in detail and file status reports, as already directed by this Court in order dated 8<sup>th</sup> January, 2024.*



7. *The necessity of the status report from both respondent nos. 1 and 2 is to apprise the Court and interested stakeholders as to what has merited the change in circumstances from pre-September, 2023 to date; the time period expected to be taken for transition to the cloud base system (as has been stated by Ms. Rekha Vijayam, Joint Controller of Patents & Designs, who is present in the Court today as well); and steps being taken at all levels to ensure that there is no impediment in the availability of the Register and seamless access is available to its stakeholders. The said status reports be filed before the next date of hearing with copies to the opposing counsel.*

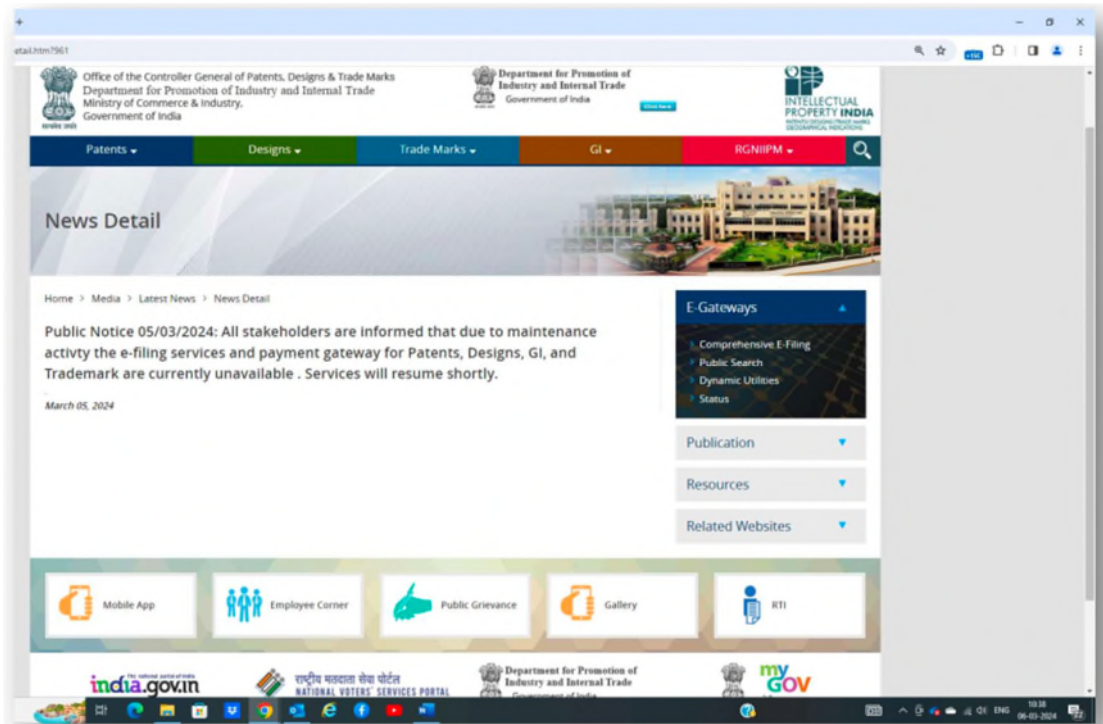
8. *Considering that directions for status reports had been issued earlier as well, this Court finds no reason that the same are not presented before this Court. In this context, a copy of order passed today as also copy of order dated 8th January, 2024 be communicated by the Office of CGSC to the Secretary, Ministry of Commerce & Industry in order to apprise them of the urgency and importance of this issue so that all relevant aspects/views/updates/plans may be placed in the status reports to be filed by respondent nos. 1 and 2.*

(emphasis added)

9. The matter has now been scheduled for 01<sup>st</sup> April, 2024.

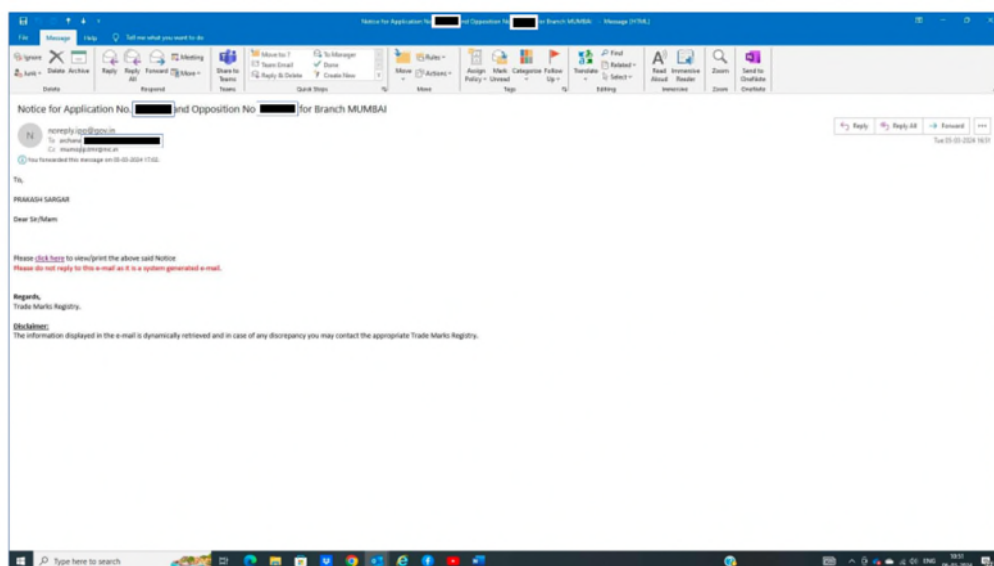
10. By this application, however, the petitioner/association states that another public notice issued on 05<sup>th</sup> March, 2024, informing stakeholders that due to maintenance activity, the e-filing services and payment gateway for Patents, Designs, GI and Trademark are unavailable.

11. The screenshot of this notice is extracted as under:



12. Further, it was noted that there is serious difficulty in accessing the various modules on the website such as “First Examination Report”, “Notice of Opposition”, “Counter Statement” and “Notice” are still quite evident.

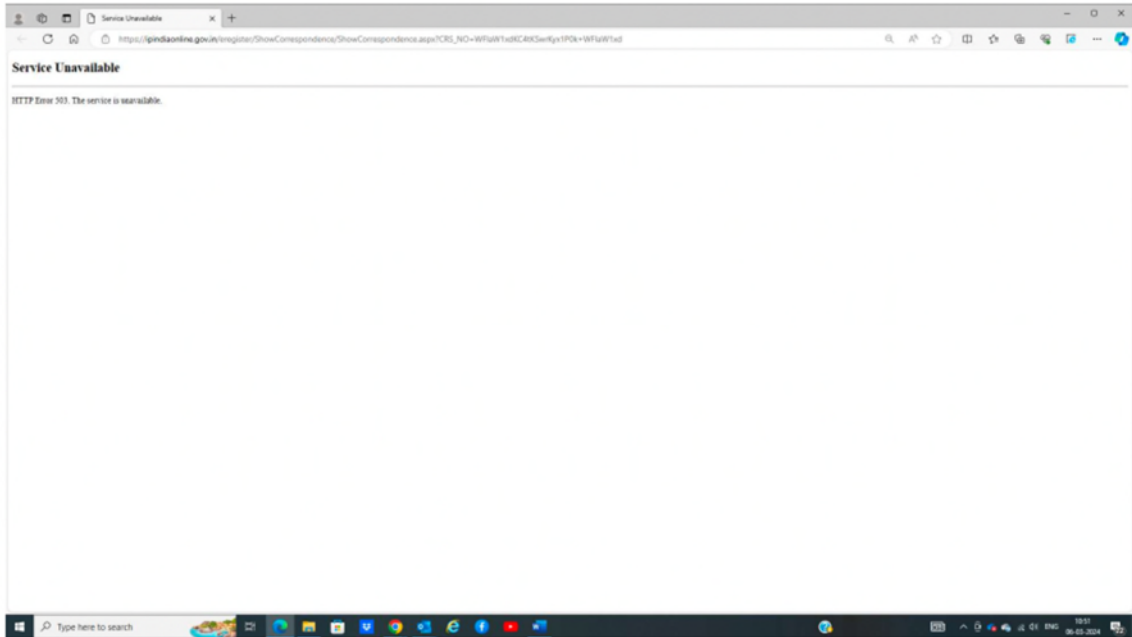
13. Screenshots in this regard are being extracted as under:



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*The Order is downloaded from the DHC Server on 07/03/2024 at 23:32:54*



14. Stakeholders are, therefore, reduced to tracking their matters by going through cause lists on daily basis since hearing notices are being issued with links which are not accessible.

15. Further, there is complete non-availability of the e-filing services and the payment gateways since 04<sup>th</sup> March, 2024 and on account of failure to make payments for various deadlines, stakeholders are losing their valuable rights in their intellectual property.

16. In this regard, today, Mr. Harish Vaidyanathan Shankar, CGSC has drawn attention to another public notice of 06<sup>th</sup> March, 2024 issued by the Controller General of Patents, Designs & Trade Marks stating that services of e-filing and payment gateway have now resumed and that the deadline which fell within 04<sup>th</sup> March, 2024 to 06<sup>th</sup> March, 2024 is now extended up to 11<sup>th</sup> March, 2024.

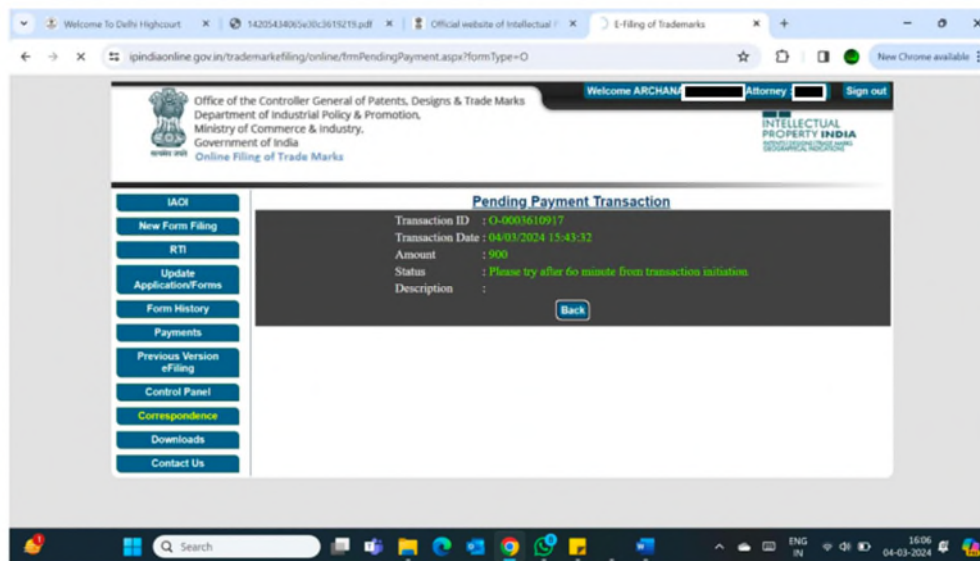
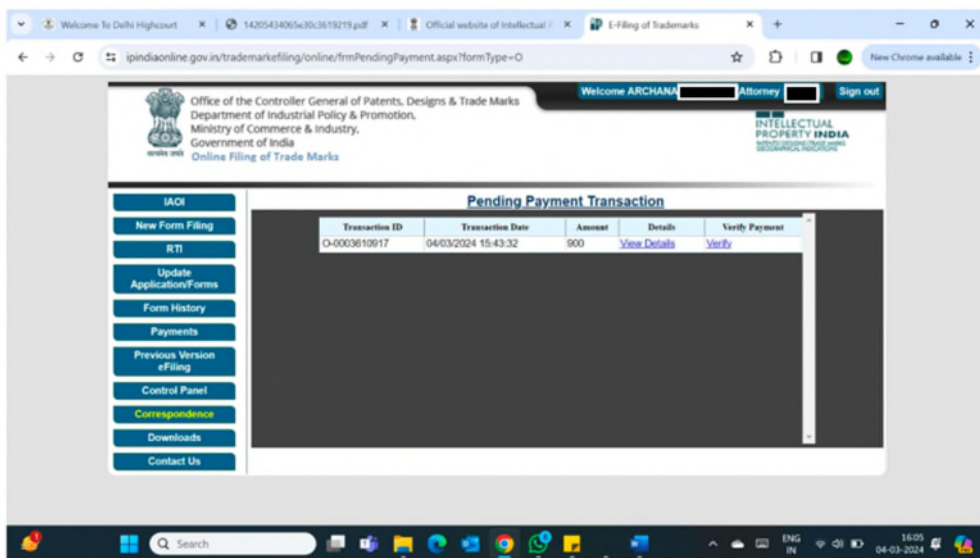
17. Mr. Chander M. Lall, Sr. Advocate, for petitioner, submits that these



public notices have been issued only upon service of this instant application and states that even today, access to various parts of the website and the payment gateway is at best intermittent.

18. In particular, he has pointed out to the payment gateway screenshots which note that there is a time lag of 60 minutes, after failure of the first attempt of payment, to successfully complete the same.

19. In this regard, the following screenshots have been presented:



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Office of the Controller General of Patents, Designs & Trade Marks  
Department of Industrial Policy & Promotion,  
Ministry of Commerce & Industry,  
Government of India  
Online Filing of Trade Marks

Welcome ARCHANA [Name] Attorney [Name] Sign out

INTELLECTUAL PROPERTY INDIA  
IPINDIA ONLINE

IACI  
New Form Filing  
RTI  
Update Applications/Forms  
Form History  
Payments  
Previous Version eFiling  
Control Panel  
Correspondence  
Downloads  
Contact Us

### Pending Payment Transaction

Transaction ID	Transaction Date	Amount	Details	Verify Payment
O-0003811239	04/03/2024 16:48:10	9000	<a href="#">View Details</a>	<a href="#">Verify</a>
O-0003811424	04/03/2024 17:24:49	900	<a href="#">View Details</a>	<a href="#">Verify</a>

Office of the Controller General of Patents, Designs & Trade Marks  
Department of Industrial Policy & Promotion,  
Ministry of Commerce & Industry,  
Government of India  
Online Filing of Trade Marks

Welcome ARCHANA [Name] Attorney [Name] Sign out

INTELLECTUAL PROPERTY INDIA  
IPINDIA ONLINE

IACI  
New Form Filing  
RTI  
Update Applications/Forms  
Form History  
Payments  
Previous Version eFiling  
Control Panel  
Correspondence  
Downloads  
Contact Us

### Pending Payment Transaction

Transaction ID : O-0003811424  
Transaction Date : 04/03/2024 17:24:49  
Amount : 900  
Status : Please try after 60 minute from transaction initiation  
Description : [Back](#)

ipindiaonline.gov.in/trademarkfiling/user/Error.aspx?aspxerrorpath=/trademarkfiling/Online/fmfiledforms.aspx

# 404

## Page Not Found !

Looks like the page you are looking for doesn't exist or some error occurred.  
In case the problem persists, please send mail to [Help Desk \(tmr-helpdesk@nic.in\)](mailto:Help_Desk (tmr-helpdesk@nic.in))

[Home](#)

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20. In these circumstances, ***Controller General of Patents, Designs & Trade Marks*** or a senior designated Officer is requested to be present either personally or through *video-conferencing* on the next date of hearing in order to apprise the Court as to what steps can be taken to avoid such eventualities, and in the event there are technical glitches, solutions which can be implemented for the same.

21. Mr. Chander M. Lall, Senior Counsel is also requested to tabulate a list of issues which have arisen in the petitioner Association's understanding over the past few months and suggest solutions for the same.

22. This will enable a conducive deliberative process in order to achieve a solution, which as per this Court is urgent and critical.

23. List on 11<sup>th</sup> March, 2024 (considering that public notice dated 06<sup>th</sup> March, 2024 has extended the deadline only till 11<sup>th</sup> March, 2024).

24. Copy of this order be also given *dasti* under signature of the Court Master.

**ANISH DAYAL, J**

**MARCH 7, 2024/RK/ig**