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250 Pq/2024
Srinivas S. Devathi



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NC: 2024:KHC:21420
WP No. 13823 of 2023

Annexure A - Page 1

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE C M JOSHI

WRIT PETITION NO. 13823 OF 2023 (IPR)

BETWEEN:

SRINIVAS S DEVATHI,
S/O LATE D SATYANARAYANA,
AGED ABOUT 47 YEARS,
R/AT NO.63, 11TH 'B' CROSS,
3RD MAIN, PRASHANTHAGAR,
BENGALURU-560 079,
INDIA.
MOBILE NO.(91)-966-393-2293,
EMAIL ID.projectearthling@srinivasdevathi.com

...PETITIONER

(BY SRI SRINIVAS.S DEVATHI, PARTY- IN- PERSON)

AND:

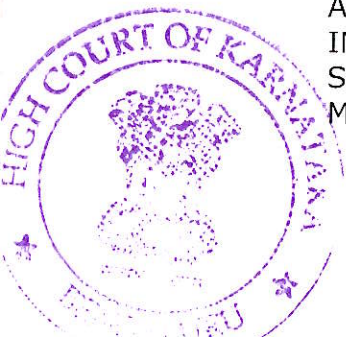
UNION OF INDIA,
MINISTRY OF EXTERNAL AFFAIRS,
LEGAL AND TREATIES DIVISION,
ROOM #901, AKBAR BHAVAN,
CHANAKYAPURI, NEW DELHI-110 021.
PH: 91-11-24674143.
REP. BY MRS. UMA SEKHAR, ADDL. SECRETARY,
ALSO REPRESENTING EXTERNAL AFFAIRS MINISTER,
MR.S.JAISHANKAR.

...RESPONDENT

(BY SMT. NAYANATARA.B.G, ADVOCATE FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA BY PETITIONER PARTY- IN- PERSON, PRAYING FOR MANAGING THE WEALTH FROM 62 SALE AGREEMENTS, SECURE MY FINGER PRINTS AND BIO-METRIC INFORMATION. TO ADDRESS MY LIVING EXPENSES. A)

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NANDINI R
Location:
High Court
of Karnataka



GIVEN THE VALUE OF 62 SALE AGREEMENTS, MY WEALTH ALLOCATION IN ANNEXURE-O AND MY WEALTH MANAGEMENT RESPONSIBILITIES OF EARHLING FOUNDATION PUBLIC CHARITABLE TRUST AND EARHLING FOUNDATION PRIVATE TRUST, I WILL BE USING MULTI-COMBINATION AS PASSWORDS FOR MY BANK VAULTS, MY ONLINE ACCOUNT ACCESS, DIGITAL ACCESS PLATFORMS, LEGAL DOCUMENTS VAULT, DATA WAREHOUSE OFFICES AND OTHER AND HENCE MY FINGER PRINTS ARE PRECIOUS AND VALUABLE. HENCE, RESPONDENT TO WORK WITH FINANCE MINISTRY AND ISSUE ME A GOODS AND SERVICES TAX, GST NUMBER WITHOUT ME HAVING TO SUBMIT AADHAR CARD, WHICH NEEDS ME TO GIVE MY FINGER PRINTS AND BIO-METRIC INFORMATION SECURITY UNTIL I EXECUTE THE 62 SALE AGREEMENTS AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 07-06-2024 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

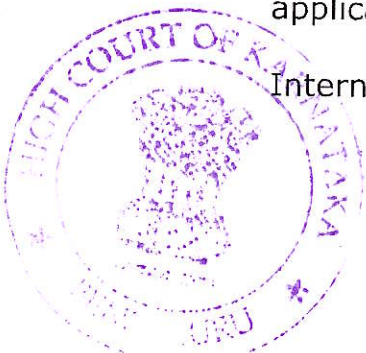
The petitioner, party-in-person in this writ petition has prayed as many as 32 prayers, among which, 16 are interim prayers. These prayers include to direct the respondent-Union of India to work with the Prime Minister of India, Finance Minister of India, and other Departments to register the 'Living Will' of the petitioner for its registration in all the States and Union Territories since he has bequeathed all his future assets in favour of the Nation. The prayers include direction to the respondent to





work with one Mr. Daren Tang, Director General of World Intellectual Property Organization (WIPO) to introduce Macro Governance Reform of 'New World Order', prepared by the petitioner to all 193 Member Countries. The prayers also include direction to the respondent to take steps to execute Sale Agreements with 62 Countries in respect of the invention/patent of the petitioner granted in US Patent No.8910998 B1 as it would fetch the Indian Government an income of 93 Trillion Earthlings (Dollars). The prayers include not only in respect of the Patent of the petitioner but several others which are outside the purview of such claimed invention.

2. The petitioner party-in-person states that he applied for Priority Patent with US Patent Office with Patent No. 8910998 B1 for 'Systems and methods for altering the colour, appearance or feel of a vehicle surface' claiming that he had invented the same. He also filed an application under the Patent Co-operation Treaty, International Application No.PCT/US/2014/046619 dated





15-07-2014 to the USPTO in the capacity of "International Search Authority ISA". USPTO issued a fabricated "International Search Report ISR" and it was transmitted to the petitioner on 05-08-2015 thereby breaching Articles 18(2) and 19(1) of Patent Co-operation Treaty. Using the said PCT International Application, he filed 15 National and 02 Regional Stage applications for Patent Protection of his invention covering total of 61 Non USA Countries. It is alleged by the petitioner that the fabricated ISR with fabricated Prior art has resulted in all National and Regional Stage applications to go into 'pending-reject' office actions causing him to lose his 'patent rights' across 60 World Countries. Therefore, it was alleged that the fraud committed by USPTO is very deliberate and intentional with malicious intent and motive to block his invention patent rights from across the World Countries.

3 On the basis of such contentions, the petitioner has sought as many as 32 prayers and directions to the



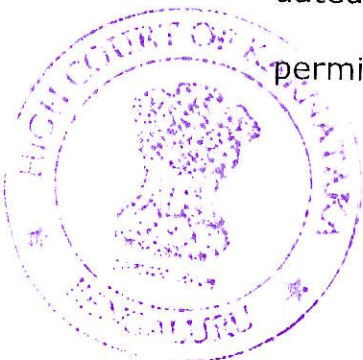


respondent-Union of India and has produced voluminous correspondence (in 04 volumes), documents to demonstrate that he has made all his efforts to make his claim. The petitioner has produced additional documents after conclusion of the arguments.

4. On issuance of notice, respondent has appeared through learned counsel Smt. Nayantara B.G.

5. The submissions by the writ petitioner-party-in- person and Smt. Nayantara, the learned counsel for respondent-Union of India were heard.

6. Before considering the maintainability or otherwise of the petition concerning the prayers made, it is necessary to note that the petitioner had filed similar petition in W.P.No.4851/2023, which came to be rejected on 06-06-2023, reserving liberty to the petitioner to challenge the communication of the Central Government dated 05-04-2023 before appropriate Legal Forum, if law permits. Pursuant to the said order, the petitioner had





filed W.P.No.12356/2023. It was filed seeking directions to the respondent-Union of India to give 'consent letter of Indian Central Government duly certified by Secretary to Indian Central Government, to sue United States Patent and Trademark Office, USPTO, and summon WIPO, World Intellectual Property Organization, International Bureau to assist the court with discovery and fact finding', to address CPC Section 86(1) applicable to them, such that I could initiate the court proceeding in the trial court, at the earliest. This is in accordance with documented proof submitted and explained in Annexure- A, of 'Breach of Patent Co-operation Treaty Articles 18(2) and 19(1), committed by USPTO on 05/08/2015 in their capacity of ISA, International Search Authority for PCT International Application PCT/US2014/046619 which corresponds to invention priority patent grant US 8,910,998 BI.' Noting the filing of the said writ petition, this Court by order dated 07-11-2023, passed an order as below:

" xxx xxx xxx

Unless, the said writ petition is disposed of on merits and petitioner is able to procure the consent letter from the Indian Central Government,





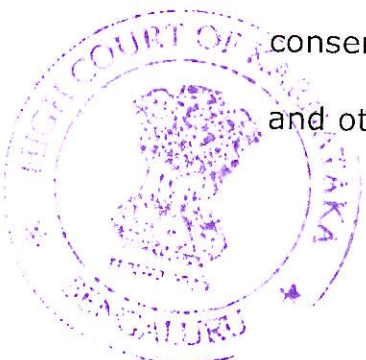
the present writ petition or any other proceedings would be maintainable.

Having regard to the statutory requirements, option is given to the petitioner, to keep the present writ petition pending till the disposal of WP No.12356/2023 or file a fresh writ petition after WP No.12356/2023 is disposed of on merits.

The petitioner opts to keep the present writ petition pending, till the disposal of WP No.12356/2023.

Accordingly, re-list this matter after disposal of WP No.12356/2023."

7. It is pertinent to note that this Court has found that the rejection of the prayer to give consent under Section 86 of CPC was rejected by the Union of India without giving any reasons and by relying on several judgments of the Supreme Court, allowed the said Writ Petition No.12356/2023 to the limited extent that the reasons for rejection should have been disclosed by it and directed accordingly. Therefore, evidently, this Court had indicated that the present petition is premature and only if consent is given under Section 86 of CPC to sue USPTO and others, considering the present prayers would arise.





8. Be that as it may, the question whether the petitioner has US Patent No.8910998B1 and whether International Search Report issued by International Search Agency (which is US PTO itself under WIPO) is fabricated and maliciously issued is to be established in the legal proceedings that may be initiated by the petitioner. Evidently, such proceeding has to be under the consent that may be granted or otherwise under Section 86 of CPC. Under these circumstances, the present petition is totally premature and therefore, it would not be maintainable at this stage.

9. It is also relevant to note that the prayers of the petitioner which are 32 in number, are not only pertaining to the invention claimed by the petitioner, but they relate to the other fields like, bribery in the offices, medical education, health, defence, etc. It is not known how the petitioner is invoking Articles 226 and 227 of the Constitution of India, unless he establish an inherent right in himself to claim such reliefs. This was observed by this





Court in the order passed in W.P.No.4851/2023 as well. It is also pertinent to note that before the orders were passed in W.P.No.4851/2023, he had filed O.S.No.40/2022 and O.S.No.41/2022 before City Civil Court, Bengaluru, which were rejected by the trial Court and then the petitioner had filed W.P.No.21782/2022 which was disposed of by this court on 06-02-2023 with a direction to the respondent to consider the request of the petitioner under Section 86 of CPC. It is also clear that the prayers made by the petitioner delve into the fabricated, fraudulent and malicious act of the US PTO as ISA. Such contentions require evidence and therefore, it cannot be considered in a writ petition. The claim is well beyond the writ jurisdiction since it requires evidence to be adduced and ascertained.

10. For these reasons, the present writ petition is not maintainable and therefore, deserves to be rejected. It is evident that the petitioner has filed the present petition with voluminous material which are in the form of the





details of the invention, correspondence made with his Attorneys, patent offices, and such other Agencies. The petitioner has argued his case for hours together consuming judicial time. Learned counsel appearing for the respondent has submitted that the writ petition be dismissed with exemplary costs.

11. Considering the fact that the petitioner has argued the case in person, tried to convince the Court about his inventions and other aspects; this Court do not intend to impose any costs, at this juncture. Hence, the following:

ORDER

- (i) The writ petition is hereby dismissed.
- (ii) The petitioner is cautioned that if repeated frivolous writ petitions are filed, they may call for imposition of costs.
- (iii) Liberty is given to the petitioner to file the writ petition with appropriate reliefs, in case he obtains consent letter from respondent-Union





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WP No. 13823 of 2023

of India, under Section 86 of CPC to sue the
USPTO and others in their capacity as ISA.

Sd/-
JUDGE

tsn*
List No.: 1 SI No.: 3

TRUE COPY

S.K. Nema malini
Section Officer 20/6/24
High Court of Karnataka
Bengaluru - 560 001

This is the Annexure ^A stated in the
Affidavit of SRINIVAS. S. DEVATHI

M. S. BALLAL
Advocate & Notary (Govt. Of India)
Reg. No. 2374, Bengaluru.

- a) The date on which the application was made 18/06/2024
- b) The date on which charges and additional Charges if any are called for
- c) The date on which charges and additional Charges if any are deposited/Paid
- d) The date on which the copy is ready 20/06/2024
- e) The date of notifying that the copy is ready for delivery 20/06/2024
- f) The date on which the applicant is required to appear on or before 24/06/2024
- g) The date on which the copy is delivered to the Applicant 21/6/24
- Examined by



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-50 - Srinivas S. Devathi



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WP No. 12356 of 2023

Annexure B - Page 1

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE C M JOSHI

WRIT PETITION NO. 12356 OF 2023 (GM-RES)

BETWEEN:

SRINIVAS S. DEVATHI,
S/O LATE D. SATYANARAYANA,
AGED ABOUT 46 YEARS,
R/AT NO.63, 11TH 'B' CROSS, 3RD MAIN,
PRASHANTHAGAR, BANGALORE-560 079,
INDIA.
MOBILE (91)-966-393-2293
EMAIL ID- projectearthling@srinivasdevathi.com

...PETITIONER

(BY SRI SRINIVAS S DEVATHI, PARTY -IN -PERSON)

AND:

UNION OF INDIA,
MINISTRY OF EXTERNAL AFFAIRS,
LEGAL AND TREATIES DIVISION,
ROOM #901, AKBAR BHAVAN,
CHANAKYAPURI, NEW DELHI-110 021.
PH: 91-11-24674143.
REP. BY MRS. UMA SEKHAR, ADDL. SECRETARY,
ALSO REPRESENTING EXTERNAL AFFAIRS MINISTER,
MR. S. JAISHANKAR.

...RESPONDENT

(BY SRI M.N KUMAR, CGSPC)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, BY PETITIONER PARTY-IN- PERSON PRAYING TO ISSUE ORDERS TO RESPONDENT TO ISSUE THE CONSENT LETTER OF INDIAN CENTRAL

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Location:
High Court of
Karnataka



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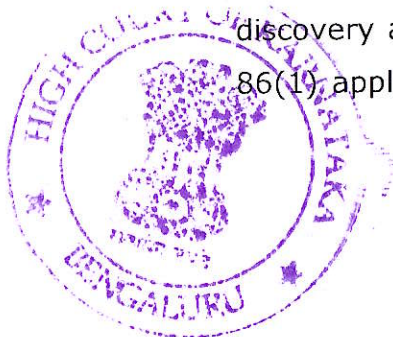
GOVERNMENT DULY CERTIFIED BY SECRETARY TO INDIAN CENTRAL GOVERNMENT, TO SUE UNITED STATES PATENT AND TRADEMARK OFFICE, USPTO, AND SUMMON WIPO, WORLD INTELLECTUAL PROPERTY ORGANIZATION, INTERNATIONAL BUREAU TO ASSIST THE COURT WITH DISCOVERY AND FACT FINDING TO ADDRESS CPC SECTION 86(1) APPLICABLE TO THEM, SUCH THAT I COULD INITIATE THE COURT PROCEEDING IN THE TRIAL COURT, AT THE EARLIEST. THIS IS AN ACCORDANCE WITH DOCUMENTED PROOF SUBMITTED AND EXPLAINED IN ANNEXURE A, OF BREACH OF PATENT COOPERATION TREATY ARTICLES 18(2) AND 19(1), COMMITTED BY USPTO ON 05/08/2015 IN THEIR CAPACITY OF ISA, INTERNATIONAL SEARCH AUTHORITY FOR MY PCT INTERNATIONAL APPLICATION PCT/US2014/046619 WHICH CORRESPONDS TO MY INVENTION PRIORITY PATENT GRANT US 8,910,998 BI.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 07-06-2024 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

In this petition, petitioner-party in -person has prayed for the following relief:

"To issue orders to respondent to issue the 'consent letter of Indian Central Government duly certified by Secretary to Indian Central Government, to sue United States Patent and Trademark Office, USPTO, and summon WIPO, World Intellectual Property Organization, International Bureau to assist the court with discovery and fact finding', to address CPC Section 86(1), applicable to them, such that I could initiate



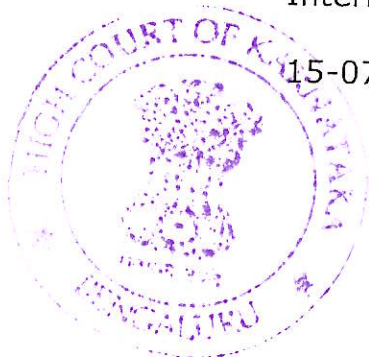


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WP No. 12356 of 2023

the court proceeding in the trial court, at the earliest. This is in accordance with documented proof submitted and explained in Annexure- A, of 'Breach of Patent Co-operation Treaty Articles 18(2) and 19(1), committed by USPTO on 05/08/2015 in their capacity of ISA, International Search Authority for my PCT International Application PCT/US2014/046619 which corresponds to my invention priority patent grant US 8,910,998 BI."

2. The arguments by the writ petitioner-party-in-person and Sri M.N. Kumar, the learned CGSPC for respondent-Union of India were heard.

3. The petitioner party-in-person states that he applied for Priority Patent with US Patent Office with Patent No. 8910998 B1 for 'Systems and methods for altering the colour, appearance or feel of a vehicle surface' claiming that he had invented the same. He also filed an application under the Patent Co-operation Treaty, International Application No.PCT/US/2014/046619 dated 15-07-2014 to the USPTO in the capacity of "International





Search Authority- ISA". USPTO issued a fabricated "International Search Report- ISR" and it was transmitted to the petitioner on 05-08-2015 thereby breaching Articles 18(2) and 19(1) of Patent Co-operation Treaty. Using the said PCT International Application, he filed 15 National and 02 Regional Stage applications for Patent Protection of his invention covering total of 61 Non USA Countries. It is alleged by the petitioner that the fabricated ISR with fabricated Prior art has resulted in all National and Regional Stage applications to go into 'pending-reject' office actions causing him to lose his 'patent rights' across 60 World Countries. Therefore, it was alleged that the fraud committed by USPTO is very deliberate and intentional with malicious intent and motive to block his invention patent rights from across the World Countries.

4. Therefore, he filed a suit in OS No.2613/2020 but the said suit came to be rejected on the ground that the defendant is an instrumentality of the Foreign State and the consent of the Central Government under Section

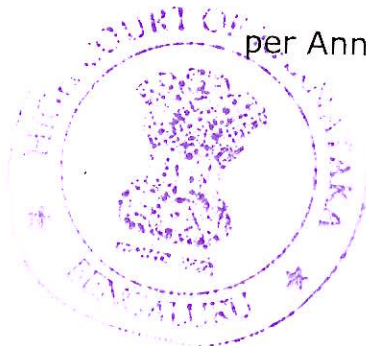




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86 of CPC is mandatory. Therefore, he sought for consent of the Central Government and when there was no response, he approached this Court in W.P.No.21782/2022 and the said petition came to be disposed of on 06-02-2023 with a direction to the respondent-Central Government to consider and pass appropriate orders with regard to the grievance of the petitioner. It is submitted that there was Webex meeting with the petitioner on 13-2-2023 and thereafter, the respondent by an email communication dated 05-04-2023, informed that it is not possible to accede to the request.

5. The petitioner submits that he has submitted voluminous materials to the respondent with all documents which show that the ISR issued by USPTO was fabricated and malicious and none of the materials submitted by him were considered by the respondent. It is submitted that a two line communication is issued as per Annexure-C which reads as below:

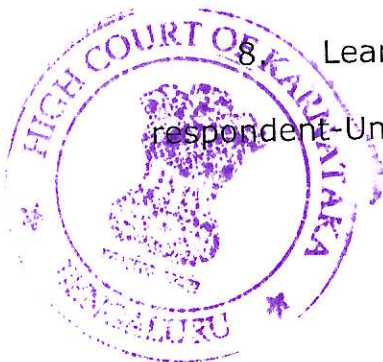




"The request has been considered in the Ministry of External Affairs. However, it has not been found possible to accede to the request."

6. The petitioner submits that the Article 18 of the Patent Co-operation Treaty stipulates that the ISR shall as soon as it is established have to be transmitted to the applicant. But such communication was delayed by the USPTO, which is the ISA.

7. In order to substantiate his contentions, he has produced voluminous material to demonstrate that he has merits in suing the US PTO and the WIPO. It is submitted that Annexure-C issued by respondent is a non speaking order and the reasons for rejection of his application is not forthcoming and therefore, Annexure-C has to be quashed and the respondent be directed to issue the consent as required under Section 86 of Code of Civil Procedure.



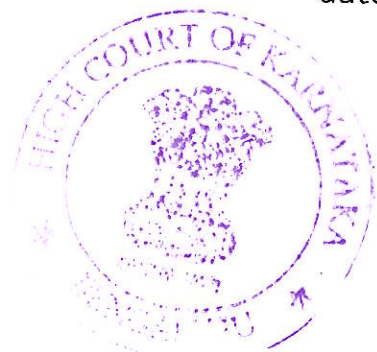
8. Learned standing counsel appearing for the respondent-Union of India submits that the request of the



petitioner was considered by the Central Government in length and it was found that there was no merit in the claim. It is submitted that the functioning of ISA is governed by the agreement of the respective authority with the international bureau of WIPO. The application filed by the petitioner with the USPTO is in the capacity of ISA and therefore, the USPTO is not sued in the capacity of an instrumentality of the State. It is submitted that the respondent is not having competency to make assessment or give comment as to whether or not USPTO can be sued by the plaintiff or not. Therefore, he defended the communication issued by the respondent as per Annexure - C.

9. It is relevant to note that this Court in W.P.No.21782/2022 had directed the respondent to consider the grievance of the petitioner and pass necessary orders. Para 7 of the order passed by this Court dated 06-02-2023 reads as below:

"The submission is placed on record. Since the consideration is underway, I deem it appropriate to





issue a direction to the respondent to pass appropriate orders, with regard to the grievance of the petitioner, after affording an opportunity of hearing, within six weeks from the date of receipt of a copy of this order, if not earlier."

10. Pursuant to the said orders passed by this Court, a Webex Meeting was held by the respondent with the petitioner on 13-02-2023 and a communication was issued as per Annexure C on 05-04-2023 as stated supra.

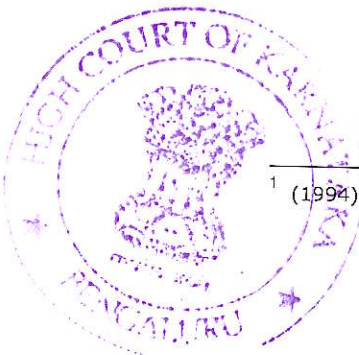
11. The provisions of Section 86 of Code of Civil Procedure deal with consent to be given by the Central Government to sue any Foreign State, its Envoys, Rulers etc. When a request is made to the Central Government by a person who is aggrieved by the act of any Foreign Entity which is under the control of the Foreign State, the consent of the Central Government is mandatory. Such consent, if rejected would affect the rights of an Indian citizen. A rejection cannot be by cryptic and whimsical orders. In this regard, it is relevant to rely on the





judgment of the Apex Court in the case of ***Veb Deutfracht Seereederei Rostock v. New Central Jute Mills Co. Ltd.***¹

- "11. Sub-section (2) of Section 86 of the Code says that such consent shall not be given unless it appears to the Central Government that the suit in question has been filed under the conditions mentioned in clauses (a) to (d) of sub-section (2) of Section 86. Clause (b) of sub-section (2) provides that consent shall be given, in respect of a suit, which has been filed against a foreign State, if such foreign State 'by itself or another, trades within the local limits of the jurisdiction of the Court'. When sub-section (2) provides that such consent shall be given by the Central Government in respect of cases covered by clause (b) of sub-section (2), then a person who is to sue in any court of competent jurisdiction, against any such foreign State or any company or corporation, which can be held to be a foreign State in respect of any breach of contract, is entitled to apply for consent of the Central Government and the Central Government is expected to consider the said request taking into consideration the facts and



¹ (1994) 1 SCC 282



circumstances of that particular case. While considering the question of grant or refusal of such consent, the Central Government is expected to examine that question objectively. Once the Central Government is satisfied that a cause of action has accrued to the applicant against any foreign company or corporation, which shall be deemed to be a foreign State, such consent should be given. The immunity and protection extended to the foreign State on the basis of International Law should not be stretched to a limit, so that a foreign company and corporation, trading within the local limits of the jurisdiction of the court concerned, may take a plea of Section 86, although prima facie it appears that such company or corporation is liable to be sued for any act or omission on their part or for any breach of the terms of the contract entered on their behalf. It is neither the purpose nor the scope of Section 86 to protect such foreign traders, who have committed breach of the terms of the contract, causing loss and injury to the plaintiff. But, if it appears to the Central Government that, any attempt on the part of the plaintiff, to sue a foreign State, including any company or corporation, is just to harass



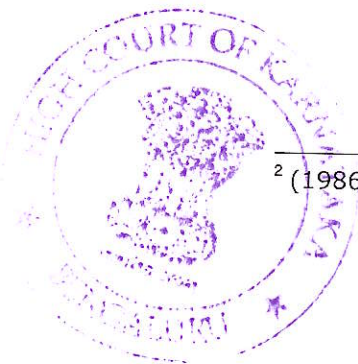


or to drag them in a frivolous litigation, then certainly the Central Government shall be justified in rejecting any such application for consent, because such motivated action on the part of the plaintiff, may strain the relations of this country with the foreign State.

Further in another judgment in the case of **Harbhajan Singh Dhalla v. Union of India**,² the Apex Court has held as below:

"23. It is well to bear in mind the two principles on which sovereign immunity rest. The principle expressed in maxim *par in parem non habet jurisdictionem* is concerned with the status of equality. The other principle on which immunity is based is that of non-intervention in the internal affairs of other states. See in this connection *Brownlie "Principles of Public International Law*, 3rd Edn., pp. 322-25. Much has happened in different States since Marshall, C.J. of the United States in *Schooner Exchange v. McFaddon* [(1812) 7 Cranch 116 : Green, p. 237; Briggs, p. 413 Bishop, p. 659] explained the principle and said that a state within its own territory as being "necessarily exclusive and absolute". In the days of international trade and

² (1986) 4 SCC 678



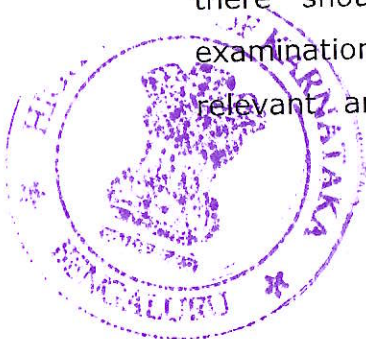


commerce, international interdependence and international opening of embassies, in granting sanction the growth of a national law in this aspect has to be borne in mind. The interpretation of the provisions of Code of Civil Procedure must be in consonance with the basic principles of the Indian Constitution.

24. The expression "political ground" used in the communication of the Government noted before covers a wide range as explained in Aiyar's *Law Lexicon*, p. 986. It connotes without further particulars vague and fanciful attitude.

25. *Corpus Juris Secundum*, Vol. 48, p. 28 at p. 30 to 35 deals with the various kinds of remedies by a citizen against foreign State. In granting of sanction or refusing sanction under Section 86, the Central Government must bear these factors in mind.

26. In this case there is no provision of any appeal from the order of the Central Government in either granting or refusing to grant sanction under Section 86 of the Code. This sanction or lack of sanction may, however, be questioned in the appropriate proceedings in court but inasmuch as there is no provision of appeal, it is necessary that there should be an objective evaluation and examination by the appropriate authority of relevant and material factors in exercising its



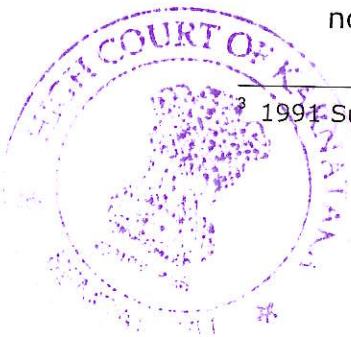


jurisdiction under Section 86 by the Central Government. There is an implicit requirement of observance of the principles of natural justice and also the implicit requirement that the decision must be expressed in such a manner that reasons can be spelt out from such decision. Though this is an administrative order in a case of this nature, there should be reasons. If the administrative authorities are enjoined to decide the rights of the parties, it is essential that such administrative authority should accord fair and proper hearing to the person to be affected by the order and give sufficiently clear and explicit reasons. Such reasons must be on relevant material factors objectively considered. There is no claim of any privilege that disclosure of reasons would undermine the political or national interest of the country."

So also, in the case of ***Shanti Prasad Agarwalla v. Union of India***³, the Apex Court has noted the necessity of a reasoned order in following words:

"6. In the present case also, it is difficult to comprehend what is meant by the expression "political grounds" used in the impugned order. It is not clear what political considerations necessitated

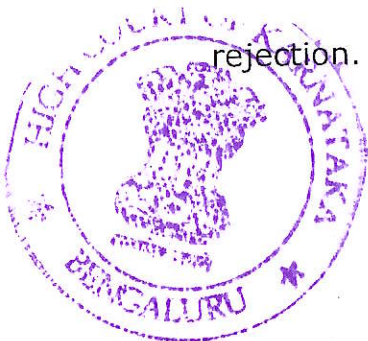
³ 1991 Supp (2) SCC 296





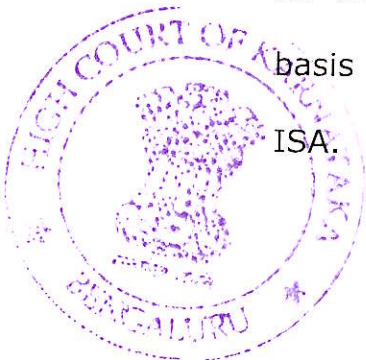
the rejection of the application. The Central Government while considering the application under Section 86 of the Code must decide the application in accordance with the provisions of the section itself and state clearly and intelligibly its reasons for rejecting the application. In the instant case, we are unable to appreciate what political considerations weighed with the Central Government for rejecting the application. We, therefore, have no alternative but to quash the impugned Order No. 10245-EE/82 dated February 1, 1984 and remit the matter to the Central Government for taking a fresh decision in accordance with law after giving an opportunity to the petitioners of being heard."

12. Thus, it is evident that the rejection has to be with reasons. A cryptic and two line order would not show that there was any application of mind by the concerned authority. The applicant, who is an Indian citizen is entitled to know the reasons, unless they affect the National interest. Annexure-C issued by the respondent does not disclose any such reason for rejection.





13. Pursuant to a query posed by this Court dated 03-01-2024, the learned counsel appearing for the respondent-Union of India, has filed a Memo stating that the place of cause of action being USA, the petitioner should have filed the suit in USA. Such a view was taken by the Additional City Civil Judge Bangalore in OS No.2613/2020 filed by the plaintiff which came to be rejected. It was stated in the memo that the subject matter is not about the infringement of the patent rights of the patent holder, but it was the allegation pertaining to ISA report issued by USPTO in the capacity of ISA. Therefore, he has defended the Annexure-C issued by respondent. Evidently, the above contentions of the respondent-Union of India are not sustainable. The petitioner is not claiming that his patent rights have been infringed. It is his contention that his patent applications for the invention made by him are being rejected on the basis of a fabricated and fraudulent search report by the ISA. It is his contention that the voluminous materials





produced by him show that with a malicious intention that the petitioner, who is an Indian should not be allowed to obtain the patent, a fabricated ISA report came to be communicated to him. The delay in communicating the ISR itself is an indication of the violation of the Articles of the Treaty. Evidently, the respondent-Union of India, should have bestowed its attention on these contentions of the petitioner.

14. Now the next question would be, Whether a direction can be issued to the respondent-Union of India, to give consent as required under Section 86 of CPC? In this regard, it is relevant to refer to the judgment of the Apex Court in the case of ***Union of India v. Bilash Chand Jain⁴***, wherein it was held below:

"5. It may be mentioned that there is a distinction between "judicial review" and "appellate jurisdiction". The High Court in a writ petition when examining an administrative order is not exercising the appellate power but exercising the power of

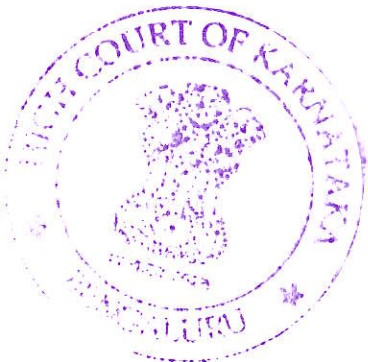




judicial review which is much narrower than the appellate power. Such judicial review can only be exercised on Wednesbury principles.

6. It is well settled by a series of decisions of this Court that the High Court cannot itself perform the functions of a statutory authority. Thus in *G. Veerappa Pillai v. Raman and Raman Ltd.* [(1952) 1 SCC 334 : AIR 1952 SC 192] it was held that the High Court under Article 226 of the Constitution of India cannot direct the Regional Transport Authority to grant bus permits as the grant of the permit is entirely within the discretion of the Regional Transport Authority. Of course, if the Regional Transport Authority rejects the application for grant of permits arbitrarily or illegally, the High Court can set aside the order of the Regional Transport Authority and direct the Regional Transport Authority to pass a fresh order in accordance with law, but the High Court cannot itself order grant of permits, in that case it will be taking over the function of the Regional Transport Authority.

11. In the circumstances, we allow these appeals; set aside the judgments of the Division Bench and the learned Single Judge of the High Court and remand the matter to the Central Government to reconsider the prayer of Respondent 1 under Section 86(3) CPC for giving consent to execute the





decree in accordance with law expeditiously. There shall be no order as to costs."

15. Therefore, this Court cannot take the role of the respondent and issue directions to give consent. It is the duty of the respondent-Union of India to consider the grievance of the petitioner and pass a reasoned order as reiterated by the Apex Court in several decisions as referred above. A cryptic order, without any reasons is not expected by the Union of India, when a citizen of this Country claims an invention, which would have fetched him a patent of great importance.

16. For aforesaid reasons, the writ petition deserves to be allowed. Hence, the following:

ORDER

- (i) Writ Petition is allowed.
- (ii) The communication dated 05-04-2023 at Annexure-C is hereby set aside.

(iii) The respondent-Union of India, is directed to reconsider the application of the petitioner afresh



