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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2024

CORAM: JUSTICE N.SESHASAYEE

W.P. (IPD) No.2 of 2024 and
W.M.P. (IPD) No.3 of 2024

Versuni Holding B.V.,
High Tech Campus
42, 5656, AE Eindhoven
The Netherlands
Represented by Constituted Attorney
Dr.Ravi Tumkur ... Petitioner

Vs

1.Deputy Controller of Patents and Designs
The Patent Office
Intellectual Property Office Building
G.S.T. Road, Guindy
Chennai - 600 032

2.Suman Das

3.Amitava Mitra ... Respondents

COMMON PRAYER: Writ petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records of the 1st respondent pertaining to Patent Application No.201741025802, quash the hearing notice dated 19th January 2024 and consequently direct the 1st

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respondent to issue a fresh hearing notice in respect of the Patent Application No.201741025802 after providing adequate opportunity to the petitioner to respond and address the same on merits.

For Petitioner : M/s.Archana Shankar
K.Premchandar, N.C.Vishal
N.Shrivastav

For Respondents : Mr.Rajesh Vivekanandan,
Dy. Solicitor General of India for R1
Mr.Adarsh Ramanujam for R2

O R D E R

The grievance of the petitioner is that the petitioner had applied for patenting its invention, and it invited two pre-grant oppositions. However, without circulating the copy of the written statements of the two who opposed the grant of patent, the Patent Controller had issued a hearing notice without providing the petitioner an opportunity to know the contents of the written statements to enable it to complete its pleadings by filing its reply statements filed by the opponents, namely the respondents 2 and 3 herein, under Rule 55(4). It is in this setting, the Patent Controller had issued a notice of hearing, and the same is now under challenge.

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2. The learned counsel for the petitioner added that the Patent Office did not share the copies of the written statements of those who opposed the grant of patent, in spite of the fact that the petitioner had mailed to the Patent Office at least ten times seeking a copy of the same.

3. The first respondent, the Controller of Patents did not file its counter, but the learned Deputy Solicitor General of India on instructions from the first respondent submitted that there is an inadvertent mistake on the part of the Patent Controller to serve a copy of the written statements of the respondents 2 and 3 to the petitioner. The said statement of the learned counsel appearing for the first respondent is recorded. This now settles the issue.

4. Now, the first respondent is required to serve a copy of the written statement of respondents 2 and 3 and to grant the petitioner time to respond to the same with a reply statement and to dispose of the opposition, strictly in accordance with the procedure contemplated under the Patent Act and the Rules framed thereunder.

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5. Accordingly, the writ petition is disposed of by setting aside the hearing notice dated 19.01.2024 of the first respondent and remands the matter back to the Controller. To save embarrassment to the Controller in question, this court directs that the entire matter be placed before some other Controller, who can now resume the proceedings where the erstwhile Controller had left. No costs. Consequently, the connected WMP is closed.

20.03.2024

Asr
Index : Yes/No
Speaking/Non-speaking order

To

The Deputy Controller of Patents and Designs
The Patent Office
Intellectual Property Office Building
G.S.T. Road, Guindy
Chennai - 600 032

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N.SESHASAYEE, J.,

Asr

W.P. (IPD) No.2 of 2024

20.03.2024