



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 18998/2022

Mrs. Nirmala Kabra Wife Of Shri Narain Prasad Kabra, Trading As
M/s. Action (India) Pharmaceuticals Division, 157, Ram Nagar
Shopping Centre, Shastri Nagar, Near Nehru College, Jaipur.

-----Petitioner

Versus

1. The Registrar Of Trade Marks, (Govt. Of India) Near
Chanakyapuri Overbridge, Ghatlodiya, Ahmedabad (Guj.)
2. Hassnar Health And Personal Care, 1, Awho Pirupuram,
Ambabari, Jaipur, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Dharmendra Kumar Gupta
For Respondent(s) : Mr. Divyesh Maheshwari

JUSTICE ANOOP KUMAR DHAND

Order

07/08/2025

Reportable

Over the past decade, there has been a substantial rise in the number of trademark applications filed in India. As a matter of fact, in 2020, India overtook Japan in the number of filed trade mark applications and became the fifth largest trade mark filer worldwide. But it has been noticed that lakhs of applications are pending with the Registrar of Trademarks in India at various stages of registration. In the instant case as well, the application seeking registration of trademark, submitted by the petitioner in the year 2010, is still lying pending for its adjudication inspite of passing of more than one and a half decade.



1. With a limited prayer, the instant writ petition has been filed by the petitioner seeking direction to the Registrar of Trademarks (for short 'respondent-Registrar') to decide the application submitted by the petitioner seeking registration of its Trademark - 'Breastone'.

2. Counsel for the petitioner submits that an application in this regard was submitted by the petitioner to the respondent-Registrar on 25.06.2010 but inspite of passing of considerable time, till date the said application has not been decided by the respondent-Registrar by passing a reasoned and speaking order, so appropriate direction be issued to the respondent-Registrar to decide the petitioner's registration application expeditiously within a time frame.

3. Per contra, counsel for the respondent-Registrar opposed the arguments raised by counsel for the petitioner but he is not in a position to controvert the submissions made by the counsel for the petitioner.

4. Heard and considered the submissions made at Bar and perused the material available on record.

5. Perusal of the record indicates that the petitioner has submitted an application seeking registration of its trademark 'Breastone' in the office of the Registrar of Trademarks on 25.06.2010. Thereafter, the said application has been opposed by the respondent No. 2 by way of filing opposition dated 07.03.2013, and after completion of pleadings of both the sides, the matter was posted for recording of evidence on 25.07.2017 thereafter nothing has been done so far inspite of passing of more than eight years since. The Trade Mark Rules, 2017 (for short, 'the



Rules of 2017') deals with the complete procedure and mechanism or application of registration of trademark, any oppositions to the application and subsequent acceptance or rejection of application.

6. Rule 50 of the Rules of 2017 deals with hearing and decision and the same is reproduced as under:-

"Rule 50. Hearing and decision.

(1)The Registrar, after the closure of the evidence, shall give notice to the parties of the first date of hearing. The date of hearing shall be for a date at least one month after the date of the first notice.

(2)A party to a proceeding may make a request for adjournment of the hearing with reasonable cause in Form TM-M accompanied by the prescribed fee, at least three days before the date of hearing and the Registrar, if he thinks fit to do so, and upon such terms as he may direct, may adjourn the hearing and intimate the parties accordingly:

Provided that no party shall be given more than two adjournments and each adjournment shall not be for more than thirty days.

(3)If the applicant is not present at the adjourned date of hearing and at the time mentioned in the notice, the application may be treated as abandoned.

(4)If the opponent is not present at the adjourned date of hearing and at time mentioned in the notice, the opposition may be dismissed for want of prosecution and the application may proceed to registration subject to section 19.

(5)The Registrar shall consider written arguments if submitted by a party to the proceeding.

(6)The decision of the Registrar shall be communicated to the parties in writing at the address given for service."

7. Perusal of the aforesaid Rule indicates that after closure of evidence, notice for first date of hearing would be given to both parties for a date at least one month after the first notice, and under Rule 50(2), in case either party makes any request for adjournment of hearing with reasonable cause in the Form TM-M





within the prescribed period i.e. three days before the date of hearing, the Registrar may adjourn the matter by intimating the parties accordingly. The proviso attached with the aforesaid Rule 50(2) provides for a maximum of 2 adjournments to each party lasting not more than 30 days which indicates that a complete mechanism has been provided to expedite the disposal of the registration application.

8. It is quite shocking and surprising that in the present case, the application seeking registration has been lying pending for its adjudication since last more than one and half decade i.e. more than fifteen years and that is clear act of violation of the mandatory provisions contained under the Rule 50 of the Rules of 2017. The Registrar of Trademarks is expected to follow the mandatory provisions contained under the Rules of 2017 in its letter and spirit and he cannot be allowed to sit over the matter for an indefinite period of time.

9. Excessive delays in resolving the applications seeking registration of Trademark indeed undermines the very purpose of filing such applications. When the matter is unnecessarily prolonged, it can lead to a number of negative consequences, including the loss of evidence and increased costs along with a sense of injustice to the parties involved.

When the applications drag on for an extended period without resolution, it can erode public confidence in the fairness and efficiency of the prescribed system.

Prolonged delays can be particularly harmful to parties who are seeking a resolution to their case, as it can keep them in a



state of uncertainty and prevent them from moving forward with their lives and businesses.

Excessive delays in disposal of the applications amounts to violation of principles of natural justice which requires that the statutory procedure should be conducted fairly and in a timely manner.

10. Trademark Registration Application cannot be allowed to remain pending for decades. The Registrar of Trademarks is not expected to keep these applications pending for an indefinite period and indefinite time. The respondent-Registrar is expected to decide the application in a reasonable time.

The right of speedy and expeditious disposal of these applications is one of the most valuable and cherished rights of the applicant guaranteed under Article 21 of the Constitution of India. It is an integral and essential part of the fundamental right to life and enshrined under Article 21

11. Instant case is a classic example where inspite of passing of more than fifteen years till date, the application submitted by the petitioner has not been decided on its merit. Taking a serious note of the aforesaid situation, a general direction is issued to the Registrar of Trademarks to decide all pending applications expeditiously as early as possible in terms of Rule 50 of the Rules of 2017.

12. In the present case, additional direction is issued to the respondent-Registrar to decide the pending application expeditiously as early as possible within a period of three months from the date of receipt of the certified copy of this order.

13. The writ petition stands disposed of, accordingly.



14. Stay application and all pending application(s), if any, also stand disposed of.

15. Before parting with this matter, this Court observes and expects from the Registrar of Trademarks to come up with a strategy to address this issue of backlog of pending applications. A fast and simple mechanism to secure the Intellectual Property Rights and in terms to secure the business, is tantamount and a need of the hour. By addressing this issue of delay in disposal of the pending Trademark Registration Applications, in an expeditious manner, the system can better serve the purpose in resolving the Trademark disputes fairly and effectively, upholding the principles of justice and maintaining public confidence.

16. Let a copy of this order be sent to the Registrar Trade Marks (Respondent No.1) for necessary compliance of this order.

(ANOOP KUMAR DHAND),J

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