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

+ W.P.(C) 1155/2018

SAREGAMA INDIA LTD. THROUGH
MR. GB AAYEER

..... Petitioner

Through: Mr Rajiv Nayar, Senior Advocate
with Mr Saikrishna Rajagopal, Mr
Siddharth Chopra and Mr Munish
Mehra, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Kirtiman Singh, CGSC with Mr
Waize Ali Noor, Advocate for UOI.
Mr P.S. Patwalia, Senior Advocate
with Ms Natasha Vinayak, Advocate
for R-4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.02.2018

CM No. 4841/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1155/2018 and CM No. 4840/2018

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 10.04.2017 passed by the Deputy Registrar of Copyrights, granting an “interim statutory license under Section 31D(1) of the Copyright Act, 1957” to respondent no.4.
4. The petitioner contends that the said License is without jurisdiction, as in terms of Section 31D of the Copyright Act, 1957 (hereafter ‘the Act’),

the authority to issue the said License is with the “Appellate Board” and not the Registrar. In terms of Section 11 of the Act, the Appellate Board established under Section 83 of the Trademarks Act, 1999 is the Appellate Board for the purposes of the Act.

5. Mr Kirtiman Singh, the learned counsel appearing for respondent nos. 1 to 3 has handed over a brief note on behalf of the said respondents. A perusal of the said note indicates that the said respondents do not dispute that the Registrar of Copyright does not have the power to issue the interim license as granted. The case of respondent nos.1 to 3 is that the said License has been granted in terms of the order passed by the Punjab and Haryana High Court on 21.10.2016 in CWP 21945/2016 captioned “*Interjit Singh and Anr. v. Union of India and Ors.*”

6. A plain reading of the aforesaid order does not indicate that the Punjab and Haryana High Court had directed the Registrar or Deputy Registrar of Copyrights to pass an order contrary to the provisions of the Act. The Court had merely directed the respondents to decide the representations filed on behalf of the petitioner therein.

7. This Court is, *prima facie*, of the view that such directions had to be complied in accordance with law and thus, if the Registrar of Copyrights did not have the power to issue a statutory licence, no such license could be granted.

8. In view of the above, the interim statutory license, which is impugned in this petition, is stayed till the next date of hearing.

9. Issue notice. MsVinayak, the learned counsel appearing for respondent no.4 accepts notice. Mr Patwalia, the learned senior counsel appearing on behalf of respondent no.4 states that a copy of the petition has not been provided to him. It is directed that the same be provided to him during the course of the day. Respondent no.4 may file its affidavit on or before 19.02.2018. Rejoinder, if any, be filed on or before the next date of hearing with an advance copy to respondent no.4.

10. List on 22.02.2018.

11. Order *dasti* under signature of Court Master.

FEBRUARY 12, 2018
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VIBHU BAKHRU, J