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

+ W.P.(C) 5735/2021

PHONOGRAPHIC PERFORMANCE LIMITED Petitioner
Through: Mr. Rajiv Nayar and Mr. Akhil
Sibal, Senior Advocates with
Mr. Ankur Sangal, Ms. Sucheta
Roy & Ms. Imon Roy, Advocates

versus

UNION OF INDIA Respondent
Through: Mr. Harish V Shankar, CGSC with
Mr. Abhishek Khanna, GP with
Ms. S. Bushra Kazim & Ms. Kinjal
Shrivastava, Advocates.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
% **02.06.2021**

The proceedings in the matter have been conducted through video conferencing.

CM APPLs. 17950-17951/2021 (exemptions)

Exemption allowed, subject to all just exceptions.

The applications are disposed of.

W.P.(C) 5735/2021 & CM APPL. 17949/2021 (stay)

1. Issue notice. Mr. Harish Vaidyanathan Shankar, learned counsel, accepts notice on behalf of the respondent-Union of India ["the Union"].
2. The petitioner challenges an order dated 25.05.2021, passed by the

respondent, whereby the petitioner's application for re-registration as a copyright society under Rule 47 of the Copyright Rules, 2013 ["the Rules"], has been rejected. The petitioner also seeks a direction upon the respondent to decide the petitioner's application on merits.

3. It appears that, pursuant to an amendment in the Copyright Act, 1957 ["the Act"] and the Rules thereunder, in the year 2012 and 2013, registered copyright societies such as the petitioner, were required to apply for re-registration within a stipulated time frame.

4. The petitioner applied for such re-registration on 09.05.2013. However, by a communication dated 20.05.2014, the petitioner informed the respondent that it was not desirous of carrying on business as a registered copyright society, and that it ceased to be a "copyright society" under Chapter VII of the Act. It therefore stated that its application dated 09.05.2013 stood withdrawn by it.

5. The respondent did not accept the aforesaid position and, by a communication dated 20.11.2014, informed the petitioner that its application for re-registration was still under consideration of the Central Government, and no final decision had been taken so far. The respondent took the position that, pending a final decision on the petitioner's application, the petitioner was not entitled to take a unilateral decision not to continue as a copyright society, as the interests of several rights owners were involved.

6. Mr. Rajiv Nayar and Mr. Akhil Sibal, learned Senior Counsel for the petitioner, submit that, between 2014 and 2021, the respondent has proceeded in a manner entirely consistent with the pendency of the petitioner's application for re-registration, including issuance of an office

memorandum dated 06.10.2016 stating that the petitioner and one other society have applied for re-registration before the Central Government, which is under examination. A series of correspondence between the parties has been placed on record in support of this contention. However, by the communication dated 25.05.2021, the respondent has contended that the petitioner had withdrawn its application on 20.05.2014, and that it had made a subsequent application on 11.01.2018, which was belated. The respondent has therefore communicated its decision that re-registration cannot be granted to the petitioner.

7. Learned senior counsel for the petitioner seek an interim order directing the respondent not to process any other application for registration as a copyright society in respect of sound recordings, being the works in which the petitioner's members are right holders. My attention is drawn to the proviso to Section 33(3) of the Act and Rule 49 of the Rules, which provide that an application for registration may be rejected *inter alia* on the ground of existence of another copyright society registered under the Act for administering the same right or set of rights in the specific categories of works.

8. Having regard to the fact that the petitioner's communication dated 20.05.2014 was expressly rejected by the respondent *vide* its communication dated 20.11.2014, and the subsequent correspondence between the parties treating the petitioner's application as a live application, the petitioner has made out a case for a limited *ad interim* order. However, I am of the view that an order restraining the respondent from processing any other application would not be appropriate at this stage, particularly as no other applicant is even a party before this Court.

Suffice it to clarify that, in the event the petitioner succeeds in the present petition, its application for re-registration dated 09.05.2013 under Rule 47 of the Rules would stand revived, and would have to be examined on its own merits. This position will be borne in mind by the respondent, and the respondent shall not take any action inconsistent with this position during the pendency of the present petition. In the event the respondent is considering any other application for registration in the interim, the applicant will also be informed of the pendency of this petition and the contents of this order.

9. Counter affidavit be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

10. List on 25.08.2021.

PRATEEK JALAN, J

JUNE 2, 2021

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