IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. MISCELLANEOUS PETITION NO. 72 OF 2025

AIC246 AG & Co. KG .... Petitioner

Versus

The Patent Office of India and Ors. .... Respondents

Adv. Amey Nargolkar a/w Arkadeep Kundu i/b. Khaitan and Co. for Petitioner.
Adv. Vinit Jain a/w. Gaurav Mhatre and Shazia Ansari for Respondent No. 1.
Adv. Rashmin Khandekar a/w. Vandika Malhotra Hegde, Rishi Mody, Sanjana Krishnasarma, and Lavnish Kumar Sharma i/b. VMH and Associates for Respondent No. 3.

CORAM : ARIF S. DOCTOR, J.
RESERVED ON : 20th FEBRUARY 2026
PRONOUNCED ON : 27th FEBRUARY 2026

JUDGEMENT

1. The captioned Petition impugns an Order dated 26th June 2023 ("**the impugned order**") passed by Respondent No. 2, i.e., Controller of Patents, by which the Petitioner's Patent Application No. 201627001750 for "*Combinations Comprising a Triazole Fungicide and a Biological Control Agent*" was rejected solely under the

provisions of Section 25(1) of the Patents Act, 1970 ("**Patents Act**") on account of a pre-grant opposition filed by Respondent No. 3. Admittedly, the Petitioner was not given a hearing under Section 14 of the Patents Act before the patent was refused nor after the order passed under Section 15 of the Patents Act.

2. Mr. Nargolkar, Learned Counsel appearing on behalf of the Petitioner, at the outset submitted that the though impugned order suffers from several substantive infirmities, which include failure to consider expert evidence, absence of adequate reasoning, and failure to properly assess novelty, inventive step and the applicability of Section 3(d) of the Patents Act, the challenge was confined only with regard to the admitted and limited fact that the Petitioner was not granted a hearing under Section 14 of the Patents Act prior to rejection of the Petitioner's Patent application.

3. Before considering the rival contentions, it is useful for context to set out the following facts which are not in dispute:

i. The Petitioner on 21st March 2016 filed Patent Application No. 201627001750, which was subsequently published on 7th October 2016.

ii. A First Examination Report ("FER") under Section 12 of the Patents Act was then issued by the Controller on 4th December 2020.

iii. The Controller subsequently issued a hearing notice to the Petitioner under Section 14 of the Patents Act, scheduling a hearing on 5th January 2021.

vi. On 5th January 2021, less than one hour prior to the scheduled hearing under Section 14, the Controller adjourned/cancelled the hearing, expressly recording that a fresh hearing under Section 14 would be granted to the Petitioner "in due course".

v. Thereafter, Respondent No. 3 filed a pre-grant opposition under Section 25(1) of the Act on, subsequent to the Petitioner's reply to the FER dated 4th June 2021.

vi. Subsequently, on 19th April 2023, the Controller conducted a hearing in the pre-grant opposition proceedings, at which both the Petitioner and the Opponent made oral submissions and thereafter filed written submissions.

vii. Thereafter, without granting the earlier-promised hearing under Section 14 and without passing any order under Section 15 of the Act, the Controller passed the impugned order, rejecting the Petitioner's application solely under Section 25(1) of the Patents Act.

viii. Thus the present Petition.

Petitioner's Submissions:

4. Mr. Nargolkar, learned counsel appearing on behalf of the Petitioner, at the outset submitted that the statutory framework governing the 'examination of a patent application' and any 'opposition to a patent' was clearly delineated in the Patents Act, particularly in Chapters IV and V. He pointed out that Chapter IV was titled "Publication and

Examination of Applications", whereas Chapter V was titled "Opposition to Grant of Patents", thereby making it evident that the proceedings contemplated under Chapter IV and those under Chapter V are distinct in nature and operate independently within their respective statutory domains.

Chapter IV – Publication and Examination of Applications

5. Elaborating on the scheme under Chapter IV, Mr. Nargolkar submitted that once a patent application is filed, it is published in terms of Section 11A of the Patents Act, after which a Request for Examination is required to be filed under Section 11B. He pointed out that upon such a request, the Patent application is examined under Sections 12 and 13, and a First Examination Report ("**FER**") is issued, setting out the objections of the Controller, if any.

6. Mr. Nargolkar then submitted that the Applicant is thereafter required to respond to the FER, and if the Controller is satisfied with the response and the application is found to comply with the provisions of the Act, the patent is granted under Section 15.

7. He, however, pointed out that if the Controller remains unsatisfied or considers that amendments are necessary to bring the application into compliance with the Act, the Patents Act mandates the Controller to give the Applicant an opportunity of being heard under Section 14. He submitted that the opportunity enables the Applicant to address the outstanding objections of the Controller and make appropriate amendments, etc., to the patent application which has been denied to the Petitioner in the present case.

8. Mr. Nargolkar submitted that it is only after affording the Applicant an opportunity of hearing under Section 14 that the Controller can proceed to pass an order under Section 15, either granting or refusing the patent application. He submitted that any order refusing a patent must therefore be made under Section 15 of the Patents Act and only after strict compliance with the procedure prescribed under Chapter IV of the Act, which would include a hearing to the Applicant under Section 14 of the Patents Act, which he reiterated was not granted to the Petitioner in the present case.

Chapter V – Opposition to Grant of Patents

9. Mr. Nargolkar then, with regard to Chapter V, submitted that Section 25(1) enables "any person" to file a pre-grant opposition at any time after publication of the application. He submitted that on such opposition being filed, the Controller is required to decide the same in accordance with the procedure prescribed under Rule 55 of the Patent Rules after hearing the Applicant and the Opponent.

10. He pointed out that a hearing under Section 25(1) is adversarial and bilateral in nature, involving both the Applicant and the Opponent. He submitted that the opposition proceedings under Chapter V of the Patents Act serve only as an aid to the examination process under Chapter IV but do not supplant or form part of the examination stage contemplated under Chapter IV.

11. Mr. Nargolkar submitted that even where a pre-grant opposition is filed, the Controller typically proceeds to grant the Applicant a

hearing under Section 14, to which the Opponent is not a party, and only thereafter proceeds to pass a composite speaking order under Sections 15 and 25(1), simultaneously deciding the opposition and the application filed for the grant of a patent. He thus submitted that a separate hearing under Section 14 is mandatory before the Controller exercises the power of grant or refusal under Section 15.

12. Mr. Nargolkar submitted that the fact that a hearing under Section 14 of the Patents Act must be afforded to the Applicant before rejection of a Patent was also clear from the Manual of Patent Office Practice and Procedure ("**Patents Manual**"), 09.04(12), which clearly provides that "*No patent is refused without giving an opportunity of being heard under Section 14 of the Act.*" He also referred to Rule 55(5) of the Patent Rules and paragraph 09.06(10) of the Patent Manual to point out that after the conclusion of the Section 25(1) proceedings, the Controller may either reject the opposition or, if not satisfied, refuse the patent by passing a speaking order under Section 15,

thereby deciding both the opposition and the application by a composite order.

13. Basis the above, he submitted that the scheme under Chapters IV and V of the Patents Act was distinct and independent inasmuch as the same contemplates two distinct but parallel processes, both culminating in a speaking order under Section 15 and that the same cannot be merged or eclipsed into one proceeding even though they may proceed in parallel.

14. Mr. Nargolkar further submitted that it is no longer *res integra* that the proceedings contemplated under Chapters IV and V of the Patents Act are distinct in character and operate independently. In support of his contention, he placed reliance upon the decision of the division bench of the Delhi High Court in ***Novartis AG v. Natco Pharma & Anr.*** [1]from which he pointed out that the Delhi High Court had, after a detailed analysis of the statutory framework under the Patents Act and Rules, held that the examination process under Chapter IV involves an independent and substantive determination of patentability by the

[1][Delhi High Court] Order dated 9th January 2024 in LPA No. 50 of 2023.

Examiner and/or the Controller, whereas the opposition mechanism under Chapter V is intended to assist that process by enabling third parties to place relevant material and objections on record. He pointed out that the Court had specifically cautioned against conflating the two processes, observing that any merger or convergence would dilute the rigour and discipline inherent in the examination process and would be contrary to the legislative design and intent. He also pointed out that the said decision specifically laid down that the Controller's power under Section 15 to grant or refuse a patent flows from Chapter IV and is an independent statutory power, not controlled or circumscribed by opposition proceedings under Section 25(1), and that while both processes may run simultaneously, they remain distinct and independent, and the Patents Act does not envisage their merger into a single composite proceeding.

15. Mr. Nargolkar also placed reliance upon the decision of the Delhi High Court in ***Abraxis Bioscience LLC v. Union of India***[2] to point out that the opportunity of hearing under Section 14 of the Patents Act

[2] 2014 SCC OnLine IPAB 37.

was held to be mandatory and constitutes a valuable statutory right of an Applicant. He pointed out that the Court categorically held that an order passed without affording such a hearing would stand vitiated on the ground that the same was in breach of both the principles of natural justice.

16. He further also placed reliance upon the decision in ***UPL Limited v. Union of India & Ors.***[3], to point out that the Calcutta High Court had set aside the order of the Controller on the ground that the statutory scheme under the Patents Act had not been properly adhered to. He submitted that the Court, in that case, held that opposition proceedings under Section 25(1) and examination proceedings under Chapter IV must be heard separately, though they may ultimately be disposed of by a common, reasoned order. He submitted that the decision clearly reinforced the statutory distinction between the processes to be adopted for examination of a patent and for opposition and that any final determination must culminate in an order passed under Section 15 of the Act. Placing reliance upon the decision in the case of ***Trex***

[3] 2025 SCC OnLine Cal 7944.

India Private Limited v. CDE Asia Ltd. & Anr.[4], he submitted that since the impugned order was procedurally flawed, the same would have to be set aside on that ground alone and heard afresh by a different Controller to obviate any allegation of bias.

17. Mr. Nargolkar then invited my attention to several instances where the Patent Office had followed the procedure contemplated under Rule 55(5) by conducting separate hearings under Section 25(1) and Section 14 of the Patents Act and thereafter disposed of both the opposition and the patent application simultaneously by a composite order passed under Section 15 and Section 25(1) of the Patents Act. He submitted that this consistent practice reflected the correct understanding of the statutory scheme. According to him, in the present case, Respondent Nos. 1 and 2 had, for reasons best known to them, deviated from this established procedure and denied the Petitioner a hearing under Section 14 and rejected the Petitioners application without passing an order under Section 15 of the Patents Act.

[4] 2023 SCC OnLine Del 2388.

18. Mr. Nargolkar further submitted that the Affidavit in Reply filed on behalf of the Respondents was plainly untenable since the Respondents had taken a stand therein which was contrary to the provisions of the Patents Act, the Patents Rules and, in fact, completely disregarded the provisions of the Patent Manual. First, he pointed out that the Respondents' assertion that once a hearing has been granted under Section 25(1), there is no requirement to grant a separate hearing under Sections 14 and 15 was plainly contrary to the statutory scheme of the Act, the procedure contemplated in the Patent Manual, and the binding judicial precedents relied upon by the Petitioner. Second, he submitted that the Respondents' contention that there was no obligation upon the Controller to invoke Sections 14 and 15 during the pendency of a pre-grant opposition was contrary to the Patent Manual itself, which envisages that, after consideration of the opposition, both the opposition and the patent application must culminate in a reasoned order under Section 15. Third, he submitted that the Respondents' reasoning that granting separate hearings would

amount to duplication and that Parliament did not contemplate two consecutive hearings was misconceived and directly contrary to both the provisions of the Patents Act, Rules, and Manual and the law laid down in ***Novartis*** and ***Abraxis Bioscience LLC.***

19. He further submitted that the contention that granting a Section 14 hearing without the Opponent would amount to an infraction of the principles of natural justice was contrary both to the statute and to the decision of the Delhi High Court in ***Novartis*** and in ***Abraxis Bioscience LLC*** which clearly held that examination proceedings under Chapter IV, including hearings under Section 14, do not contemplate the participation of the Opponent and that a hearing under Section 14 of the Patents Act was mandatory.

Respondents' Submissions:

20. Mr. Vinit Jain, learned counsel appearing on behalf of Respondent No. 1, submitted that the impugned order was passed strictly in accordance with the Patents Act and does not suffer from any

procedural infirmity. He submitted that the Petitioner's contention that the Controller could not refuse the patent under Section 25(1) without first granting a hearing under Sections 14 and 15 was based on a fundamental misreading of the Patents Act and the relevant Rules.

21. Mr. Jain submitted that Sections 14 and 15 of the Patents Act fall under Chapter IV of the Act and govern the examination stage of a patent application. He submitted that these provisions only operate during the internal scrutiny of the application prior to its grant and are confined to that stage. In contrast, Section 25(1), which falls under Chapter V, provides for pre-grant opposition and constitutes a distinct quasi-judicial proceeding governed by a self-contained mechanism under Rule 55 of the Patent Rules.

22. He submitted that Rule 55 of the Patents Rules prescribes a complete procedure for the adjudication of a pre-grant opposition. He pointed out that Rule 55 required the Controller to furnish notice of opposition to the Applicant, permit the Applicant to file a reply, allow both parties to place their respective statements and evidence on record,

and grant a hearing if requested, before ultimately passing a reasoned order. Mr. Jain therefore submitted that Rule 55 constitutes the sole procedural framework governing proceedings under Section 25(1) of the Patents Act and that there was no statutory provision requiring the Controller to additionally invoke Sections 14 or 15 once pre-grant opposition proceedings have been initiated. He contended that accepting the Petitioner's interpretation would lead to an unnecessary duplication of hearings and procedural steps, resulting in an outcome that was neither contemplated nor intended by Parliament.

23. Mr. Jain submitted that full compliance with Rule 55 would satisfy all procedural requirements, as well as natural justice. He pointed out that in the present case, the Petitioner was served with the notice of opposition and supporting documents, had filed a reply statement and evidence, participated in an oral hearing conducted on 19th April 2023, and filed written submissions. He submitted that natural justice requires a fair and meaningful opportunity to be heard, not multiple or repetitive hearings. He thus submitted that since both the Applicant

and the Opponent were heard, there was no procedural violation or violation of the principles of natural justice.

24. He further submitted that once proceedings under Section 25(1) were initiated, Section 14 cannot operate in parallel. He submitted that a Section 14 hearing was Applicant-centric, whereas a Rule 55 hearing was bilateral and adversarial. He thus submitted that granting an additional hearing under Section 14 after the conclusion of the opposition hearing would effectively afford the Applicant a second opportunity while excluding the Opponent, thereby disturbing the procedural balance. Such duplication, according to him, would itself be inconsistent with the statutory framework as well as the requirements of natural justice.

25. Mr. Jain then did not dispute that the impugned order was passed expressly under Section 25(1), which, according to him, was a self-contained provision empowering the Controller to grant or refuse the patent once a pre-grant opposition was filed. He submitted that the impugned order specifically adjudicated upon the statutory grounds

under Section 25(1)(b), (e), and (f) read with Section 3(d) of the Patents Act, and therefore, neither Section 15 nor a hearing under Section 14 was a precondition to such refusal.

26. Mr. Jain then placed reliance upon the decisions in ***Snehlata Gupte v. Union of India***[5] and ***Merck v. Glenmark***[6] to point out that the expression "separate" in this context denotes procedural independence and distinct statutory streams and not duplication or repetition of hearings. He submitted that the statutory framework consciously segregates examination and opposition, and the impugned order faithfully adheres to that structure by simply avoiding duplication.

27. He thus concluded by submitting that there was absolutely no infirmity with the impugned order or the procedure adopted by the Controller in passing the impugned order. He thus submitted that the Petition deserved to be dismissed.

[5] 2012 SCC OnLine Del 2259.
[6] 2015 SCC OnLine Del 8227.

Reasons and Conclusions:

28. After having heard learned counsel for the parties and having considered the case law upon which reliance has been placed, I have no hesitation in holding that the Petition deserves to be allowed. I say so for the following reasons:

A. The Division Bench of the Delhi High Court in ***Novartis AG v. Natco Pharma & Anr***. has in clear terms held that the examination process under Chapter IV and the opposition process under Section 25 constitute two distinct statutory pathways which may proceed in parallel but do not merge. It was further clarified that the power under Section 15 is independent and is neither guided nor controlled by the opposition proceedings. It was also expressly held that an opponent has no right to participate in the examination hearing contemplated under Section 14. The examination hearing is a bilateral proceeding between the applicant and the Controller. The exclusion of the opponent at that stage is by statutory design and

does not amount to any infraction of the principles of natural justice.

B. In the case of ***Abraxis Bioscience LLC v. Union of India***, it was specifically held that the opportunity of hearing contemplated under Section 14 is mandatory and constitutes a statutory right of an Applicant and that the denial of such a hearing vitiates the order as being contrary to the principles of natural justice. The Calcutta High Court in ***UPL Limited v. Union of India & Ors.***, also held that opposition proceedings under Section 25(1) and examination proceedings under Chapter IV are distinct statutory processes and must be heard separately, though they may ultimately be disposed of by a composite, reasoned order under Section 15. The Respondents' reliance upon ***Snehlata Gupte v. Union of India*** and ***Merck v. Glenmark*** is misplaced since the issue that is dealt with in these decisions is completely distinct to the dispute at hand and these decisions do not, in any manner, observe that the examination and opposition proceedings are only procedurally separate.

C. In the present case, it is undisputed that prior to the filing of the pre-grant opposition, the Controller had issued notice to the Petitioner and scheduled a hearing under Section 14 of the Patents Act, 1970. Upon receipt of the pre-grant opposition, however, the Controller cancelled the scheduled hearing while expressly assuring the Petitioner that a fresh hearing under Section 14 would be granted “in due course". Despite this assurance, the Controller proceeded to reject the Petitioner’s patent application solely under Section 25(1), without affording the Petitioner a hearing under Section 14 and without passing any order under Section 15 of the Act. In doing so, the Controller has therefore not only acted contrary to the express assurance given to the Petitioner but also in clear disregard of the legal position laid down by the Delhi High Court in ***Novartis*** and ***Abraxis Bioscience LLC*** and the Patent Manual [09.04(12) and 09.06(10)], which clearly provide that no patent shall be refused without affording the applicant an opportunity of being heard under Section 14, and that after a

Section 25(1) hearing, the Controller shall pass a speaking order under Section 15 simultaneously deciding both the application and the opposition.

D. The stand taken by the Respondents in the Affidavit in Reply that (i) upon the filing of a pre-grant opposition the provisions of Chapter V would apply and the requirement of a hearing under Section 14 of the Patents Act ceases to apply; (ii) Section 14 of the Patents Act does not mandate an independent hearing if a hearing has already been granted under Section 25(1); and (iii) separate hearings for examination and opposition would result in duplication of proceedings, is not only wholly untenable but in fact befuddling since such a stand is in the teeth of the law laid down in ***Novartis*****,** ***UPL Limited*****,** ***Abraxis Bioscience LLC,*** and the provisions of the Patents Act and Manual.

E. Furthermore, the Petitioner has placed on record several orders which demonstrate that, in several other matters, the Controller has treated proceedings under Chapters IV and V of the Patents Act as

separate and distinct. In all those cases, separate hearings were granted under Sections 14 and 25(1), and thereafter both the patent application and the opposition were disposed of simultaneously by a composite and reasoned order passed under Sections 15 and 25(1) of the Patents Act. In light of this consistent practice adopted by the Controller, the manner in which the Controller has proceeded in the present case is plainly arbitrary, unexplained, and contrary to the statutory scheme of the Act and the Rules framed thereunder. To condone such a course of action would, in effect, permit the Controller to bypass the mandatory provisions of Chapter IV and the procedure for examination prescribed in the Patent Manual, thereby allowing the Controller to act in a manner wholly inconsistent with the statutory framework. This would result in the Applicant not only being deprived of the statutory right to a hearing under Section 14 but also would enable the Controller to reject a patent without passing an order under Section 15, which is the only provision that governs the grant or refusal of a patent. Thus it would

permit the Controller to act in a completely arbitrary manner and adopt a different procedure for different matters.

F. It is also necessary to note that, despite having been afforded several opportunities, the Controller initially failed to file any Affidavit in Reply. It was only after this Court, by its order dated 25th November 2025, observed that the Controller's omission to file a reply was inexplicable and that the Court was taking a serious view of such non-compliance that a Reply Affidavit eventually came to be filed. Even thereafter, as noted earlier, the Controller has sought to justify the impugned order on grounds which are wholly untenable in law. As already discussed in paragraphs (D) and (E) above, if I were to accept the stand sought to be advanced by the Controller, it would in effect permit the Controller to bypass the mandatory statutory requirements of the Patents Act and act as a law unto himself and in utter disregard to the provisions of the Patents Act. Such an approach cannot be countenanced.

29. Hence, for the aforesaid reasons, I pass the following order:

ORDER

i. The Impugned Order dated 26th June 2023 is set aside.

ii. The Petitioner's Patent Application No. 201627001750 is remanded back for fresh consideration before a different Controller who shall adjudicate the application in accordance with law. This would include compliance with hearing procedures under Sections 14 & 15 as well as Section 25 of the Act.

iii. There shall be no order as to costs.

[ARIF S. DOCTOR, J.]