



2026:DHC:5109



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 22<sup>nd</sup> May, 2026*

+ C.A.(COMM.IPD-TM) 30/2025 &amp; I.As. 15656/2025, 15657/2025

PURPOS PLANET .....Appellant

Through: Mr. Rishi Bansal and Mr. Saransh Saini, Advocates.

versus

THE REGISTRAR OF TRADE MARKS .....Respondent

Through: Mr. Satya Ranjan Swain, CGSC with Mr. Kautilya Birat, GP.

**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)**

1. This appeal is filed on behalf of the Appellant under Section 91 of the Trade Marks Act, 1999 ('1999 Act') and Rule 156 of the Trade Marks Rules, 2017 for quashing and setting aside the impugned order dated 27.05.2025 passed by the Respondent, whereby registration of word mark 'BIG INDIA' in Class 05 applied under Trademark Application bearing No.5214186, has been refused.

2. To the extent necessary, facts as brought forth in the appeal are that Appellant, a Partnership Firm, has in the last over 27 years evolved lifestyle trends and is recognised for its excellence, trustworthiness and innovation. Appellant continues to redefine business experiences, deliver exceptional value to its stakeholders and consumers and has invested considerable time, resources and effort in the field of beauty, fashion and fragrances. Appellant has made continuous strides in improving its offerings by carefully considering feedback from various stakeholders and customers ensuring that



evolving needs and preferences of its clientele are met in a timely and effective manner.

3. It is stated in the appeal that as part of its strategy of progress and innovation, Appellant honestly adopted and conceived the trademark 'BIG INDIA' and applied for its registration on 18.11.2021 on 'proposed to be used' basis vide Application No.5214186 in Class 05 in relation to '*Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for human beings and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides*' and that the trademark BIG INDIA being a unique and distinctive mark is capable of distinguishing the goods of Appellant from those of others. Examination Report ('ER') was issued on 22.12.2021, wherein the following objection was raised by the Respondent:-

*"The objection is raised under S 9(1)(a) of the Trade Marks Act 1999, as the mark is geographical name or a non-distinctive and as such it is not capable of distinguishing the goods of one person from those of others."*

4. It is stated that Appellant duly responded to the objection raised by the Respondent by filing a detailed reply dated 19.01.2022 bringing forth reasons why the objection was not tenable and requested the Examiner to waive the objection and proceed with advertisement of Appellant's trademark application. Examiner granted opportunity of hearing to the Appellant thereafter, but did not waive the objection and vide impugned order dated 27.05.2025, refused registration of the mark BIG INDIA on the ground that the applied mark is common and non-distinctive and granting



exclusive right over such words will unfairly restrict others from using the same.








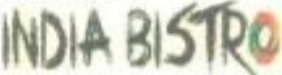



5. Learned counsel for the Appellant submits that the impugned order is completely arbitrary and unreasoned and shows total non-application of mind by the Respondent inasmuch as Respondent failed to consider the settled law that registration of a trademark cannot be refused only because it incorporates a geographical name and in the past many marks containing geographical names have been registered. More specifically, record reflects that Registrar of Trade Marks has even registered trademarks including 'India', *albeit* with a disclaimer that no exclusive right will be conferred for use of 'India' individually and separately. List of such marks given by the Appellant is as follows:-

S. NO.	TRADEMARK	APPLICA TION NO.	CLASS	STATUS
1.	INDIA	218380	12	Registered
2.	India India	1233187	34	Registered
3.	India" S Edge	1279435	36	Registered
4.	India Online	1401806	37	Registered
5.	India' s International Face	1951655	16	Registered
6.	India Trail	2910787	39	Registered
7.	Go India	1363024	39	Registered
8.	Beautiful India	3571888	25	Registered
9.	Decor India	3723627	20	Registered
10.	MONSTER INDIA	1429750	35	Registered
11.	 /SHARDA INDIA	3179529	17	Registered
12.	INDIA/  INDIA	296615	07	Registered
13.	INDIA/	1879440	12	Registered



14.	INDIA/ <b>INDIA</b>  STRATEGY GROUP	1961470	45	Registered
15.	INDIA'S INVITATION/  india's invitation 	1677364	39	Registered
16.	INDIA CAN INDIA WILL	1806012	42	Registered
17.	INDIA CAN INDIA WILL	1806025	41	Registered
18.	India <b>EXPLAINED</b> <i>i.e.</i> India <b>EMPOWERED</b> / India Explained I.E. India Empowered	1389490	16	Registered
19.	Young India Brand India  (Label)	2303743	38	Registered
20.	India Favourite/ 	951732	14	Registered
21.	Give India/  Give India/ <b>Give India</b> <small>Give India / Give India</small>	2524114	35	Registered
22.	INDIA TODAY/ 	2919382	16	Registered
23.	FEST INDIA/  fest india	3054332	25	Registered



24.	Interiors India/ 	3609492	42	Registered
25.	Salaam India/ 	3662251	38	Registered
26.	Khadi India/ 	3863684	06	Registered
27.	Mr. India/ 	3879869	41	Registered
28.	Pan India/ 	4942721	25	Registered
29.	Run India/ 	2934943	25	Registered
30.	Kidzone India/ 	2009781	38	Registered
31.	India Bistro/ 	2970740	43	Registered
32.	Fit India/ 	4918703	42	Registered
33.	Essence India/ 	3073874	43	Registered
34.	Hasley India/ 	3383681	41	Registered

6. It is argued that Respondent failed to appreciate the judgment in *Jain Shikanji Private Limited v. Satish Kumar Jain*, (2023) 303 DLT 729, wherein this Court held that a mark comprising of two generic and commonly used words, may in a given case be distinctive and unique,





capable of distinguishing the goods and thus registrable. Applying the ratio of the judgment to the instant case, trademark BIG INDIA, although comprises of two commonly used words i.e., 'BIG' and 'INDIA', is a distinctive and unique mark, capable of distinguishing the goods of Appellant from those of others, especially, keeping in view the fact that the goods for which the mark was applied for fall in Class 05 and hence, the mark is completely arbitrary with absolutely no connection whatsoever with the goods.

7. It is further argued that Respondent failed to take into consideration that it was categorically stated by the Appellant in its response to the ER that Appellant was seeking to register and use the trademark BIG INDIA as a whole mark and had no intent to use or claim any proprietary right on the two words 'BIG' and 'INDIA' individually or separately or use the trademark BIG INDIA to indicate source of origin of goods and therefore, the objection ought to have been waived with an appropriate disclaimer. The impugned decision is in contravention of settled law that a mark must be considered in its entirety and not dissected into its components for purpose of scrutiny for registration. Had the Examiner followed the law and examined the mark BIG INDIA as a whole rather than dissect it into the constituent words 'BIG' and 'INDIA', the proposed mark would have proceeded for registration.

8. It is also urged that the Respondent erroneously failed to take into consideration the fact that Appellant had earlier filed applications for registrations of several trademarks 'BIG INDIA' (both word and labels) in different classes and the marks have been granted registrations as follows and this includes BIG INDIA (word mark) in classes 31 and 43 with a disclaimer to use the mark as a whole and that registration will not confer



the right to exclusive use of the mark ‘India’ as also considering that that there was no other objection(s) raised by the Trade Marks Registry, especially, under Section 11 of 1999 Act:-

App No.	Status	Class	Date of App.	Trademarks	Disclaimer
5214189	Registered on	31	18/11/2021	BIG INDIA (WORD)	Registration of this Trade
	25.09.2024				Mark shall give no right to the exclusive use of the word India.
5214190	Registered on 27.07.2024	43	18/11/2021	BIG INDIA (WORD)	This is condition of Registration that mark should be used as a whole. Registration of this trade mark shall give no right to the exclusive use over the word "India".
5367531	Registered on 20.07.2024	32	12/03/2022	 BIG INDIA	No Disclaimer
5367532	Registered on 01.11.2024	43	12/03/2022	 BIG INDIA	Registration of this Trade Mark shall give no right to the word "India" and other descriptive matters appearing in the mark / label.
5367525	Registered on 21.07.2024	5	12/03/2022	 BIG INDIA	Registration of this Trade Mark shall give no right to the



					exclusive use of the words separately & mark shall be used as represented.
5367527	Registered on 20.07.2024	30	12/03/2022	 BIG INDIA	Mark to be used as a device as represented and filed with no exclusive right over any of the words appearing separately.

9. It is argued that Respondent failed to appreciate that the factum of earlier registrations of the word mark BIG INDIA *albeit* in different classes indicates that the mark is distinctive and capable of distinguishing the goods in Class 05, in relation to which registration is now sought as also the fact that Appellant is entitled to expand the goods and services as a natural consequence of business expansion in other fields. Respondent has passed the impugned order on a completely erroneous interpretation of Section 9(1)(a) of 1999 Act, which no doubt proscribes registration of a trademark '*devoid of any distinctive character*' but also explains the phrase by further providing that the proposed mark must be one which is not capable of distinguishing the goods or services of one person from those of another person and hence, Respondent ought to have given reasons why the proposed mark does not fall in the second part and fails to distinguish the goods in respect of which registration is sought. Respondent erroneously interpreted the disclaimer while registering the device mark under Appellant's Application bearing No.5367525 and consequently, erred in holding that '*the stylized representation, taken as a whole, was considered*



capable of functioning as a trade mark. However, the word mark "BIG INDIA" alone, when separated from the stylization and graphical features, does not meet the threshold of distinctiveness required under the Act', overlooking that distinctiveness has to be examined in relation to the goods and not in abstract and also glossing over the crucial fact that various trademarks incorporating the word INDIA have been declared as well-known trademarks and illustratively, three of the said trademarks are as follows:-

92.	<b>INDIA GATE</b> For Food grains and allied Products.	KRBL Limited, 5190, Lahory Gate, Delhi. 110006.	Registrar of Trade Marks	N/A	The Registrar observed that the Mark is well-known in reference to Food grains and allied Products.
34			816705	BENNETT COLEMAN & COMPANY LIMITED THE TIMES OF INDIA BUILDING, DR D.N. ROAD, FORT, MUMBAI, MAHARASHTRA – 400 001	
112.			816690	M/S. LIVING MEDIA INDIA LIMITED F-26, FIRST FLOOR, CONNAUGHT CIRCUS, NEW DELHI- 110 001.	

10. It is urged that Respondent has also erred in failing to appreciate the decision in *Radico Khaitan Limited v. Union of India and Another, 2020 SCC OnLine Del 2832*, wherein this Court held that “*the mere inclusion of a geographical name as part of a trademark would not disentitle the mark from registration/protection. If the mark includes a geographical name, the said mark can be protected/granted registration.*” In the case of *The Imperial Tobacco Co. of India Ltd. v. The Registrar of Trade Marks and another, 1977 SCC OnLine Cal 133*, Calcutta High Court referred to Article 53 of *Corpus Juris*, (1933 Edn.), volume 63 in the Chapter of Trade Marks, which reads as follows:-

*“Geographical terms and words in common use to designate a locality, a country, or a section of country cannot be monopolised as trade marks;*



*but a geographical name not used in geographical sense to denote place of origin, but used in an arbitrary or fanciful way to indicate origin or ownership regardless of location, may be sustained as a valid trade mark.”*

11. On behalf of the Respondent, it is argued that there is no legal infirmity in the impugned order refusing to register the applied word mark ‘BIG INDIA’ as the same is generic, commonly used and non-distinctive in nature and granting exclusive right over the two words will unfairly restrict others from using the same. Section 9 of 1999 Act stipulates the absolute ground of refusal of trademark registration and sub-Section (1)(a) thereof bars registration of a trademark which is ‘*devoid of any distinctive character*’, i.e. the trademark is incapable of or insufficient to distinguish the goods or services of the person seeking registration from the goods or services of another person. Applied mark falls within the rigours of the said provision and being devoid of distinctiveness cannot be registered.

12. The argument of the Appellant that its device mark incorporating the words ‘BIG INDIA’ has been registered and on parity the applied word mark should be registered, is misplaced as each mark has to be separately examined and scrutinized on its own merit. The device mark has a stylized form and owing to its stylized representation, when taken as a whole, it was found to be capable of functioning as a trademark, but the applied word mark BIG INDIA, taken alone and bereft of any stylization and graphical features, does not meet the threshold of distinctiveness required under the 1999 Act. Moreover, the device mark was registered with a condition that ‘*Registration of this mark shall give no right to the exclusive use of the words separately, the mark shall be used as represented.*’

13. Heard learned counsels for the parties and examined their respective contentions.



14. Appellant's application for registration of the trademark BIG INDIA (word) in Class 05 in relation to goods '*Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for human beings and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides*', has been refused under Section 9(1)(a) of 1999 Act holding as under:-

*"The applied mark BIG INDIA is common and non distinctive. Granting exclusive right over such words will unfairly restrict others from using the same. It is noted that the applicant's device mark containing the words "BIG INDIA" in a stylized form has been accepted separately in the same class, with the following conditions:*

*'REGISTRATION OF THIS TRADE MARK SHALL GIVE NO RIGHT TO THE EXCLUSIVE USE OF THE WORDS SEPARATELY, THE MARK SHALL BE USED AS REPRESENTED.'*

*This indicates that the stylized representation, taken as a whole, was considered capable of functioning as a trade mark. However, the word mark "BIG INDIA" alone, when separated from the stylization and graphical features, does not meet the threshold of distinctiveness required under the Act. Accordingly, the application for registration of the word mark "BIG INDIA" is refused under Section 9(1)(a) of the Trade Marks Act, 1999."*

15. Perusal of impugned order indicates that registration is refused on the ground that the applied mark 'BIG INDIA' is common and non-distinctive and the earlier registration of the device mark incorporating the words BIG INDIA is of no relevance as the said mark had a stylized representation which made it distinctive and was thus capable of distinguishing the goods for the which registration was sought from the goods of others. Registration is refused invoking Section 9(1)(a) of 1999 Act, which is extracted hereunder for ready reference:-

***"9. Absolute grounds for refusal of registration. - (1) The trade marks –***



*(a) which are devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person;*

.....

*shall not be registered.”*

16. Section 9(1)(a) of 1999 Act provides that if a trademark is devoid of any distinctive character, it shall not be registered. The phrase ‘*devoid of any distinctive character*’ has been explained to mean and connote a mark which is not capable of distinguishing the goods/services of one person from another. There is no doubt that the two words ‘BIG’ and ‘INDIA’ taken separately and individually, are generic and common and non-distinctive and even Appellant does not dispute this position. However, in response to the objection raised in the ER, Appellant brought forth some crucial points to support the application, which have not even been considered by the Respondent. Appellant is thus right that the order is unreasoned and non-speaking and shows non-application of mind. It needs no reiteration that an order reflecting a decision and adjudicating on the rights and contentions of parties, must be reasoned and speaking so as to indicate what weighed with the authority concerned in arriving at a decision. Passing a reasoned order is also a facet of principles of natural justice as an applicant has a right to know why the decision is adverse and why the points raised in its support did not find favour with the authority taking the decision.

17. Appellant had submitted several points to support its case for registration, which can be briefly captured as: (a) the applied word mark ‘BIG INDIA’ should have been considered as a whole applying the well settled law of anti-dissection and ought not to have been examined looking at individual words ‘BIG’ and ‘INDIA’ separately and in isolation and when seen as a whole, the mark ‘BIG INDIA’ is uncommon, unique and



distinctive; (b) Section 9(1)(a) of 1999 Act proscribes registration of a trademark which is devoid of distinctiveness but the expression has been explained further to mean a mark which is incapable of distinguishing the goods of the person seeking registration from the goods of any other person and in the instant case the required exercise of examining the mark in relation to the goods for which the mark is to be registered and will be used, has not been carried out; (c) registration was sought in Class 05 for goods such as *Pharmaceuticals, medical and veterinary preparations; sanitary preparations; dietetic food; dietary supplements for human beings and animals; materials for dressings; dental wax; disinfectants; fungicides and herbicides* etc. and the mark BIG INDIA is wholly arbitrary in respect of these goods and thus distinctive; (d) Appellant has been granted registrations for the word mark BIG INDIA in Classes 31 and 43, which reflects that the examination at that stage was rightly done looking at the goods in question and that the mark is distinctive *qua* certain kinds of goods, but this yardstick is not applied while examining the present application; (e) list of trademarks incorporating 'INDIA' having been granted registrations *albeit* with disclaimer on no exclusive use of word INDIA as also list of marks declared as well-known with INDIA given to the Respondent have been totally glossed over; (f) this Court in *Jain Shikanji (supra)* has held that a mark comprising of two generic and commonly used words, may in a given case be distinctive and unique, capable of distinguishing the goods and thus registrable; and (g) Appellant does not claim exclusive use or monopoly or proprietary right over 'INDIA' and seeks registration for the whole mark BIG INDIA with a disclaimer. Court finds from a reading of the impugned order that none of these points, which were crucial and should have been taken into consideration while examining the applied mark, have been



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considered by the Respondent and in fact, the impugned order does not even refer to these submissions. This methodology of carrying out the examination of a trademark for registration not only violates the principles of natural justice but also defeats the purpose and objective of calling for response to Examination Reports and giving an opportunity of hearing. Consequently, in my view, the matter deserves to be remanded for fresh consideration.

18. Accordingly, this appeal is partially allowed quashing and setting aside the impugned order dated 27.05.2025 passed by the Senior Examiner of Trade Marks with a direction to re-consider the application bearing No.5214186 for registration of the applied word mark 'BIG INDIA' in Class 05, taking into consideration all points raised by the Appellant and after granting opportunity of hearing to the Appellant. Decision will be taken within four months from the date of receipt of copy of this order.

19. It is made clear that this Court has not expressed any opinion on the merits of the case.

20. Appeal is disposed of along with pending applications.

**JYOTI SINGH, J**

**MAY 22, 2026/S.Sharma**