
(2012) 10 DEL CK 0033

In the Delhi High Court

Case No : Writ Petition (C) No. 6299 of 2011

Sanjeev Kumar Chaswal

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 03-10-2012

Acts Referred:

Constitution of India, 1950 — Article 217

Citation : (2012) 132 DRJ 609

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Kirti Uppal, with Mr. Chirag Bhatia, for the Appellant; Sachin Datta, CGSC, for the Respondent

Judgement

Suresh Kait, J.—Vide the instant petition, the petitioner is seeking the following reliefs:-

I. Issue a writ of certiorari thereby quashing the illegal opinion of the Vice Chairman IPAB wherein the Vice Chairman has rejected the papers of specialized experience of the petitioner for appointment of the post of Member Technical (Trademarks) u/s 85 (4) (b) of Trade Marks and Merchandise Act of 1999.

II. Issue a writ of Certiorari directing the Respondent to quash the appointment Notice No. 7(1) 2010/IPR./PAB published in Times of India and other leading Newspapers dated 16th April 2011 inviting fresh applications for the Post of Member Technical (Trade Mark) of IPAB and summoning all records from the respondent in respect of all the prior appointments made from 2005 onward.

III. Issue a writ of prohibition directing the respondent to not select or to carry out appointment process for the selection of new candidate for the post of Member Technical (Trademarks) in Intellectual Property Appellate Board (IPAB).

IV. Issue a writ of Mandamus or any other Writ or order directing the Respondent to Appoint the Petitioner to the Post of Member Technical (Trade Mark) IPAB with all consequential benefits.

V. Issue a writ of Mandamus, or any other Writ or Order directing the respondent to produce the records pertaining to the verification of work profile and their appointments, for scrutiny by this Hon"ble Court.

VI. Issue a writ of Mandamus, or any other Writ or Order directing the respondent to keep one post of Member Technical (Trade Mark) IPAB vacant till the disposal of this writ.

In brief, the facts of the case are that Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, on behalf of IPAB published advertisement in "Hindustan Times" on 04.09.2010 inviting applications, from Advocates having specialised brief experience in Trademarks and Patents, for two posts of Member Technical in Trademarks (one rolled over vacancy of February, 2010) and one vacancy in Patents.

2. Pursuant to the above advertisement, the petitioner applied and sent his bio-data against the said vacancy of Technical Member (Trademarks) in IPAB.

3. The respondent constituted a Search-cum-Selection Committee as per the directions of DOPT, vide its Office Memorandum dated 30.07.2007.

4. After the initial scrutiny of the petitioner"s bio-data and other documents by the respondents, he was invited to appear before the Search-cum-Selection Committee/Interview Board for interview, in which eight candidates (six candidates from Chennai alone) including the petitioner appeared before the aforesaid Search-cum-Selection Committee/Interview Board.

5. After careful assessment of the Search-cum-Selection Committee, the petitioner was selected along with Mr. V. Ravi at the first place and petitioner at the second number in order of merit with the rider "subject to verification of experience in Trademarks". Thereafter, the Vice Chairman of Intellectual Property Appellate Board, to whom this assignment was given, opined as under:-

I. The petitioner is not in the PANDA case.

II. The petitioner has filed few Trademark registrations applications.

III. That Anoop Singh & Co. has not whispered about his experience.

IV. That no opposition case has been filed.

6. Mr. Kirti Uppal, learned senior counsel appearing on behalf of the petitioner has submitted that the qualifications of the petitioner are extraordinary and he has long standing in Bar. For the convenience, the qualifications and experience of the petitioner is mentioned as under:-

QUALIFICATION OF THE PETITIONER:

? Appeared for final year LL.M.(IPR) Exams, from Mewar University, Vasundhara, Gaziabad.

? Pursuing 2nd semester in M.S. Cyber Security and Cyber law (Two Year Post Graduate Degree Course) from MLU Jodhpur.

? Completed on line Distance learning course DL-001 Intellectual Property (IP) Primer Course.

? Completed on line Distant learning course DL-101 General Course on Intellectual Property.

? Completed on line Distance learned course Patent Cooperation Treaty (PCT).

? Recently Completed Advances Course DL-317 Arbitration and Mediation Procedure under the WIPO Rules.

? Admitted for on Advances Course DL-450 Intellectual Property Management.

EXPERIENCE OF THE PETITIONER:

? The petitioner has started his advocate career with Mr. Manmohan Singh adv in the year 1992 and later Joined Anoop Singh & Co. (The experience Certificate at page No. 441) and worked with him till the year 2001 and since 2001 working independently and has approximate 20 years of exposure exclusively in IPR matters.

? The petitioner has been filing applications for registration of Trademarks, copyrights, Design applications and has been dealing with respective offices/registries as well as filing criminal and dealing with civil suits of injunction for infringement of trademarks in the High Court of Delhi.

7. Qualification and experience of the petitioner as per Section 85(4) (b) Of Trademarks Act 1999 is as under:

? The petitioner has approximate 20 years of exposure exclusively in IPR matter and has been solely practicing in IPR matters since then and for last twenty year the petitioner had filed hundreds of trademark Application in the Trademark registry.

? The due to petitioner professional expertise the petitioner has been able to get almost all trademark applications of his clients registered except few which are still where opposition proceedings yet to take place.

8. Ld. Counsel has submitted that the statutory provisions of part VI Chapter -II Standards of Professional Conduct and Etiquette Rules governing advocates under Advocates Act 1961 bars the advocates from using stationery or sign boards claiming to be specialization in any particular type of work or field and as natural progression in career amongst IPR has to diversify in other areas of laws also. Thus, the respondent's claim of asking the advocates to submit profile to show proven specialize experiences is contrary to the rules of Advocates Act, 1961.

9. Learned counsel has submitted that the respondent has admitted in its

counter reply that the petitioner was selected by the Search-cum-Selection Committee after carefully examined all the candidates called for the interview. Therefore, the opinion of the Vice Chairman is contrary to factual position and the record as well. For the convenience, as submitted by counsel for the petitioner, a chart is prepared as under:-

10. Learned Senior counsel has further submitted that the Vice Chairman has erroneously and malafidely assessed the cases filed by the petitioner, which is not permissible under the law. The respondent could not have delegated the powers of verification as the respondent was only to collect the documents and was to forward it to the ACC, as the ultimate authority is vested with it.

11. The DOPT has laid down guidelines under Clause 5 (V), which says that "The panel recommended by the Committee will have to be accepted in toto by the Ministry/Department. Any deviation in the matter will require the prior approval of the ACC." Therefore, any proposal to reject the re-recommendations will require the approval of ACC, which is absent in the present case.

12. Moreover, as per the DOPT circular guidelines under Clause 5(I) to (X), OM No. 28113/2006-EO (SM II) dated 03.07.2006, the respondent do not enjoy the power to cancel or reject the selection panel recommended by the Search-cum-Selection Committee, hence their requisitioning opinion report on the guise of verification from the Vice Chairman of IPAB and subsequent acceptance of report and rejection of the candidature of the petitioner by the respondent is illegal and beyond its powers, which is contrary to the directives of the DOPT.

13. Learned counsel has further submitted that the respondent had concealed the facts from this Court as the Under Secretary of the respondent office had removed hand written comments of the Secretary, DIPP as well as date from the letter and annexed certified true copy with their reply as annexure with a sole view to impress upon the Court that the opinion report was accepted by the Secretary, DIPP/Chairman, Search-cum-Selection Committee. The acting Vice Chairman has sent an undated opinion report and the same was not even on the official letter head. The respondent had managed the said vindictive report on plain paper just to oust the petitioner on the basis of false averments made in the report, which reads as under:-

? The Secretary DIPP/Chairman Search and selection committee has written comments on top of open space of the said opinion report which were removed from Court annexure is as under. QUOTE

? "It will be impossible to find candidates who are qualified & willing, we may think of amending the RR"s for the future "read" sd/- RP Singh"

? Though officials of the respondent has annexed a camouflage report concealing the comments of the secretary from the annexed annexure is a perjury and deliberately for the purpose of obtaining favourable order and against the petitioner from the court on the basis of fabricated document.

14. The learned counsel has further submitted that the respondent has used different yardsticks in appointments of other Member Technical in IPAB. Learned counsel has pointed out that verification of documents submitted by Sh. Obaidur Rehman, who was appointed on the post of Member Technical (Trademarks) in IPAB in the year 2004 relying on false case list thereby claiming to have appeared in a trademark matter in England in the year 1935.

15. Even bio-data of Ms. S. Usha, selected as Member Technical in IPAB shows that she was working as Associate at the time of her appointment as Member. She herself stated that she was associated with Mr. V. Veeraraghvan, Advocate since 1990 preceding to her appointment as Member. The respondents have themselves admitted in their so called official communication dated 18.01.2011, which is annexed with the rejoinder.

16. In fact, on the order of merit, it was the first vacancy against which Mr. V. Ravi has been selected which was not filed in February 2010 and the petitioner was selected against the second vacancy for which he had applied and which is admittedly arise only on February 2011 after the retirement of Mr. Obaidur Rehman. Hence the alleged linking of the petitioner to the first vacancy is irrational and mala-fide with manipulative intention to keep petitioner away from appointment as Member technical in IPAB.

17. Learned counsel for the petitioner has drawn attention of this Court that after illegally cancelling the candidature of the petitioner for the post of Member Technical (Trademarks) in IPAB, the respondent had issued a fresh advertisement Notice No. 7(1) 2010/IPR.I/IPAB, which was published in "Times of India" on 16th April, 2011 inviting fresh applications for the post of Member Technical (Trademarks) IPAB.

18. The petitioner had applied and sent his bio-data to the respondent against the advertisement mentioned above, but the respondent, in view of the petition pending before this Court, had rejected his bio-data at very threshold and did not call him even for the interview for the above post. Probably, the respondent did not able to find suitable qualified candidates, hence they published the same old advertisement altering its advertisement notice number as 7(1)/10-IPR.I (IPAB) in "Hindustan Times", Delhi dated 28.07.2012.

19. It is submitted that as this vacancy's advertisement as well as the cancellation of the appointment of the petitioner's candidature is under judicial consideration, further advertisement etc. against the said vacancy does not arise.

20. Learned counsel for the petitioner has relied upon the judgment delivered by this Court on 06.08.2012 in W.P.(C) No. 3660/2007, titled as Shiv Charan Lal Sharma Vs. UOI & Ors.", which reads as under:-

31. Article 217 of the Constitution of India under Clause 2 provides that a person "shall not be qualified for appointment as a Judge of High Court unless he is a citizen of India and (a) has for at least 10 years held a Judicial Office in the

Territory of India or (b) has for at least 10 years been an Advocate of High Court or of two or more such Courts in succession.

33. Although a person on the select panel has no vested right to be appointed to the post for which he has been selected, however, the appointing authority cannot ignore the select panel or on its whims and fancies decline to make the appointment. When a person has been selected by the selection committee and there is a vacancy which can be offered to him, keeping in view his merit position then ordinarily, there is no justification to ignore him for appointment.

34. There has to be a justifiable reason to decline to appoint a person who is on the select panel. In the present case, the reasons given are contrary to their own circular. This Court finds no material against the petitioner, except the reasons given in the note mentioned above.

35. No doubt, the approval of the AC is mandatory and the final authority vests with the ACC. But if the selection committee has selected any candidate, the ACC can reject the same by giving the reasons on record, which is missing in the present case.

37. Since the name of the petitioner has not been approved by the ACC which is mandatory, therefore, the respondent Ministry is directed to send the name of the petitioner for ACC approval. If the ACC approves the same, the concerned Ministry shall issue the appointment letter to the petitioner against the first available vacancy.

21. On the other hand, Mr. Sachin Dutta, learned standing counsel appearing on behalf of the respondent has submitted that the prescribed qualifications for appointment as Technical Member (Trademarks) as laid down in Section 85 (4) of the Trademarks Act, 1999 are as under:-

A person shall not be qualified for appointment as a Technical Member, unless he-

(a) has, for at least ten years, exercised the functions of a tribunal under this Act or under the Trade and Merchandise Act, 1958 (43 of 1958), or both, and has held a post not lower than the post of a Joint Registrar for at least five years;

or

(b) has, for at least ten years, been an advocate of a proven specialized experience in trade mark law.

22. He further submitted that keeping in view the responsibility, nature of experience required and to ensure transparency, appointments to the post of Technical Member (Trademarks) have been made by a Selection Committee, which was formed with the approval of Ministry of Commerce and Industry, comprising of Secretary (IPP) as Chairman, Secretary (Legal) and Secretary (DOPT) as Members.

23. Learned standing counsel has further submitted that out of three posts of

Technical Members, (two for Trademarks and one for Patents), one post of Technical Member (Trademarks) had fallen vacant on 22.06.2009 consequent upon the appointment/elevation of Ms. S. Usha, Technical Member (Trademarks) to the post of Vice Chairman, Intellectual Property Appellate Board. To fill this vacancy, an advertisement was placed in the Employment News and in one daily newspaper in four metropolitan cities on 27.02.2010.

24. In pursuance thereof eight applications were received, out of which three candidates were shortlisted. After interviewing the candidates on 13.09.2010 by the Search-cum-Selection Committee, none of the three candidates was found fit for appointment to the post of Technical Member. There was also a need to fill up the post of anticipated vacancy of vice Shri S. Chandrasekaran, Technical Member (Patents) and Shri S. Obaidur Rehman, Technical Member (Trademarks), which were likely to be vacant on 02.12.2010 and 05.02.2011 respectively. To fill these two vacancies, on 04.09.2010, an advertisement in the Employment News and in one leading newspapers in each of the four metro cities calling for applications from eligible and willing candidates were invited giving one month's time.

25. After the meeting of Search-cum-Selection Committee, on 13.09.2010, when no candidates were found suitable for selection as Technical Member (Trademarks), the Committee recommended that this post need not be re-advertised (as already an advertisement was given in the newspapers on 04.09.2010 for filling up one post of Technical Member) and both the posts of Technical Member, may, therefore, be considered for filling up from amongst the applicants who would apply against the advertisement given on 04.09.2010. Accordingly, Secretary (IPP) opined that a corrigendum-addendum in the advertisement be carried that number of posts will be two for Technical Member (Trademarks) and one for Technical Member (Patents). Accordingly, a corrigendum was issued on 30.10.2010. In response to the aforesaid advertisement, eight applications were received for selection of Technical Member (Trademarks) as under:-

26. In regard to selection of Technical Member (Patents), eight applications were received, out of seven applicants were shortlisted for selection. Therefore, in total eight + seven (fifteen) candidates were called for interview before Search-cum-Selection Committee on 29.11.2010 for selection of a suitable candidate for the posts mentioned above.

27. After scrutinizing the applications/documents, candidates were called for interview. The Search-cum-Selection Committee recommended the names of Shri D.P.S. Parmar, for Technical Member (Patents) and Shri V. Ravi and Shri Sanjeev Kr. Chaswal/petitioner herein (subject to verification of his experience in trademarks) for Technical Member (Trademarks).

28. Thereafter Prof. Samir K. Brahmachari, Director General of Council of Scientific and Industrial Research (CSIR), who could not attend the meeting, has

signed the minutes after scrutinizing documents of the candidates.

29. Ms. S. Usha, Vice-Chairman, IPAB and a Member of Search-cum-Selection Committee, after perusing the documents has opined as under:-

Please refer to your D.O. letter No. 7/1/2010-IPR-I (IPAB) dated 14th December, 2010 regarding examining of credentials of Shri Sanjeev KR Chaswal for appointment to the post of Technical Member, Trade marks.

2. I have perused the copies of documents sent to me for examining the credentials of Shri Sanjeev KR Chaswal. On perusal I understand the candidate has filed a few applications for registration of trade marks. Apart from the applications for registration, the candidate has not produced any order to say that he has appeared before the Registrar of Trade Marks in any opposition proceedings. That apart the candidate has produced about three judgments to say that he has appeared before the Hon'ble High Court of Delhi. Even in those judgments I do not see his appearance, whereas he has only assisted the counsel appeared as counsel on record which does not prove his experience. In fact in the application for the post of Technical Member he had quoted the Panda case as a citation, in which I do not find his appearance there and it is not clear as to in what context that has been relied on.

3. As regards the experience certificate given by M/s Anoop Singh & Co. Solicitors, Attorneys and Advocates it is seen that he has worked under them for almost eight years. Even in that there is no whisper about his experience in the IP laws. Whereas in another letter it is clearly mentioned that he has helped them in drafting of pleadings and in relation to search in IPR matters which again will not go to say that he has proved knowledge of trade mark laws but has only done desk work. The rest of the documents are only on extract of blogs which are only self-appraised documents. In order to prove the experience in trade mark law, judgments where the candidate has appeared and argued will have to be produced. In this case, I do not see any such judgments/orders produced.

4. The provision of section 85(4) (b) of the Trade Marks Act, 1999 stipulated that- A person shall not be qualified for appointment as a Technical Member, unless he-

(b) has, for at least ten years, been an advocate of a proven specialized experience in trade mark law.

Going by the above provisions, I am of the opinion that Shri Sanjeev KR Chaswal is not qualified for appointment as Technical Member as contemplated under the provisions of the Act.

5. I, therefore, do not approve the candidature of Shri Sanjeev KR Chaswal as he does not fulfill the eligibility conditions as prescribed u/s 85(4) (b) of the Trade Marks Act, 1999.

30. Learned counsel further submitted that the candidature of the petitioner for

appointment to the post of Technical Member (Trademarks) does not fulfill the eligibility conditions as prescribed u/s 85(4) (b) of the Trade Marks Act, 1999, as mentioned in the report submitted by Ms. S. Usha, Vice-Chairman, IPAB.

31. The Chairman of the Search-cum-Selection Committee was apprised of the view of the acting Chairman, IPAB about the experience of the petitioner in Trademarks Laws. Based on that input, the Chairman, Search-cum-Selection Committee rejected the candidature of the petitioner. Further, in any event, since there were some complaints alleging that the second vacancy of Technical Member (Trade Marks) had not been advertised properly, it was decided to issue a fresh advertisement for the same. The petitioner, along with other aspiring candidates, would be entitled to participate in such process. Accordingly, the post was re-advertised on 16.04.2011 and again recently on 28.07.2012 for Technical Member (Trademarks).

32. I have heard Id. Counsel for the parties.

33. During arguments, learned counsel for the petitioner has produced Office Memorandum dated 17.07.2012, issued by Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training regarding setting up of Search Committees/Search cum Selection Committees, which reads as under:-

Reference is invited to this Department's OM of even number dated 30.7.07 on the above subject. The guidelines prescribe that the panel recommended by the Committee will be valid for one year. If no selection is made within a period of one year, a fresh committee shall be constituted to prepare a fresh panel. The guidelines further stipulate that the panel recommended by the Committee will have to be accepted in toto by the Ministry/Department. Any deviation in such matters will require the prior approval of ACC.

2. It has been observed that there are a number of instances of scrapping of panel by various Ministries/Departments without the approval of ACC. This is not a healthy practice. All the Ministries/Departments are requested to follow the laid down norms without deviation and that the powers rested with the ACC should not be exercised by the Ministries/Departments without the approval of ACC.

34. The petitioner has filed a compilation of the cases in which he has appeared, which shows that the petitioner has substantial experience in the Trademarks matters. Moreover, the petitioner apart from an enrolled Advocate and having practice of around more than 20 years, he is pursuing final year of LLM (IPR), pursuing second Semester in M.S. Cyber Security and Cyber law and completed DL-001 Intellectual Property Primer Course, DL-101 General Course on Intellectual Property, Patent Cooperation Treaty (PCT) and Online Distant Learning Course. Recently, he has completed Advance Course DL-317, Arbitration and Mediation Procedure under the WIPO Rules. He also admitted for an Advance Course DL-450 Intellectual Property Management.

35. He has been filing application for registration of Trademarks, Copyrights,

Design applications and has been dealing with respective offices/registries as well as filing criminal and dealing with civil suits of injunction for infringement of trademarks which can be established from the compilation of the cases he has filed before this Court.

36. The petitioner applied for Technical Member (Trademark). There has been history of this post. To fill up this vacancy, an advertisement was issued on 27.02.2010. Pursuance thereof, 8 applications were received, out of which three candidates were shortlisted. After interviewing the candidates on 03.09.2010 by the Search-cum-Selection Committee, none of the three candidates was considered fit for appointment to the said post.

37. Again an advertisement was issued on 04.09.2010. After the meeting of Search-cum-Selection Committee on 13.09.2010 when no candidate was found suitable for selection as Technical Member (Trademark), the Committee recommended that this post could not be re-advertised (as already an advertisement was given in the Newspaper on 04.09.2010 for filling up one post of Technical Member) and both the posts of Technical Member may, therefore, be considered for filling up from amongst the candidates who would apply against the advertisement given on 04.09.2010. Accordingly a Corrigendum Addendum in the advertisement was carried out on 30.10.2010 that number of posts will be two for Technical Member (Trademarks) and one for Technical Member (Patents).

38. In response thereto, as mentioned above, 8 applications were received for selection of Technical Member (Trademarks), out of which seven were Advocates including the petitioner and one Senior Joint Registrar of Trademarks.

39. The petitioner was called for interview before Search-cum-Selection Committee. After scrutinizing the applications/documents, the said Committee recommended the Sh. V. Ravi and Sh. Sanjiv Kr. Chaswal (petitioner herein) (subject to verification of his experience in Trademarks for Technical Member (Trademarks)).

40. For verification of the experience of the petitioner, Ms. S. Usha, Vice Chairman, IPAB, who was one of the members of the Search-cum-Selection Committee, was requested to do needful, who after perusing the documents has opined that the petitioner was not qualified for appointment as Technical Member as per the Provision of Section 85 (4) (b) of the Trademarks Act, 1999.

41. The question before this Court is that if the Candidate has been selected by Search-cum-Selection Committee, can the same Committee has power to reject the candidature on any ground.

42. As per the opinion given by Ms. S. Usha, Vice-Chairman, IPAB, the petitioner has not produced any order to say that he had appeared before Registrar of Trademarks in any opposition proceedings. That apart, the candidate has produced about 3 judgments to say that he has appeared before the High Court of Delhi, even in those judgments, she did not find his appearance as he had

only assisted the Counsel. Therefore, it does not prove his experience. Further, it is pointed out that the petitioner's name does not appear in Panda case.

43. But the fact remains that Ms. S. Usha, Vice-Chairman, IPAB did not verify about the experience from Anup Singh and Co. nor verified the list of cases pending or otherwise in High Court or District Court submitted by the petitioner as she has opined that no opposition case has been filed.

44. On this, I am of the considered opinion that if the petitioner has been able to get the maximum of his applications registered, except few, that does not mean that he has no experience in this field. Moreover, the petitioner appeared in the interview and after proper assessment about the documents and the knowledge of law in the Trade Marks, the Search-cum-Selection Committee selected the petitioner. However, based on the input submitted by Ms. S. Usha, Vice-Chairman, IPAB the candidature of the petitioner was rejected. There were 7 Advocates, out of those only the petitioner was found suitable. Therefore, he was selected for the post in question.

45. It is also emerged on record that there have been some complaints on the second vacancy of Technical Member (Trade Marks) as had not been advertised properly. Therefore, Ms. S. Usha, Vice-Chairman of the Committee has taken easy decision by rejecting the candidature of the petitioner.

46. The exercise of the Selection Committee is not a mere formality and cannot be a conditional one. If the Committee is of the view that any of the Candidates is not worthy of then the said Committee has every right to reject him or her straightway. No-one can question to the decision of the said Committee, however, once a decision is taken, that cannot be a subjective as happened in the present case. If the Selection Committee was of the different view, then the petitioner should have been given a chance to put his case before taking final decision.

47. Interview is meant to assess the knowledge, personality and calibre of a candidate. The petitioner has gone through the same and thereafter, he was selected by the Committee.

48. In such eventuality, the case of the petitioner should have been referred to the ACC, which is the appointing authority and if the ACC found any wrong with the candidate, it has the power to reject the candidature of a candidate.

49. In past also, there have been instances of scrapping of panel by various Ministries/Departments without the approval of ACC. Therefore, the Ministry of Personnel, Public Grievances and Pensions (DOPT) issued Office Memorandum dated 17.07.2012 as mentioned above and clearly sent message to all the Ministries that the panel recommended by a Committee would be accepted in toto by the Ministry/Department. Any deviation in such matters will require the prior approval of ACC.

50. By the aforesaid Office Memorandum, it is further stated that such type of

practice is not an healthy tactics therefore all the Ministries/Departments were requested to follow the laid down norms without deviation and that the power rested with the ACC should not be exercised by anyone without the approval of ACC.

51. The case of the petitioner was also not sent before the ACC. The Selection Committee first selected the petitioner thereafter itself rejected the same.

52. In view of the above discussion, I am of the considered opinion that the Selection Committee was not the competent authority to take such decision against the petitioner. Consequently, the opinion given by Ms. S. Usha, Vice Chairman, IPAB vide D.O. Dy. No. 9369/2010 and subsequent action taken is set aside. I hereby direct the concerned Ministry that the case of the petitioner be put up before the ACC. Thereafter, the said authority shall take decision on the fate of the petitioner. In view of the above, instant petition stands disposed of with no order as to costs.

CM Nos. 9848/2010 (for stay), 12662/2011 (for stay) & 246/2012 (for directions)

With the disposal of the petition itself, all these applications have become infructuous. Therefore, the same are disposed of accordingly.