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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition (IPD) No.41 of 2025
and
W.M.P.(IPD) No.31 of 2025

Dr.Vishwanath Padmanabhan
S/o.Padmanabhan .... Petitioner

Vs.

1.The Joint Controller of Patents & Designs,
Head of Office, Patent Office Chennai,
Patent Office Intellectual Property Building,
G.S.T.Road, Guindy, Chennai – 600 032.

2.Sr.Joint Controller of Patents & Designs,
Head Office, Patent Office Delhi
Boudhik Sampada Bhawan,
Plot No.32, Sector 14, Dwaraka,
New Delhi - 110 078.

3.The Controller General of Patents,
Designs & Trade Marks (CGPDTM),
RoC, GI & SICLDR,
Office of Controller General of Patents,
Designs and Trade Marks,
Bouddhik Sampada Bhawan,
Plot No.32, Sector 14,
Dwarka, New Delhi – 110 078. .... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records on the file of first respondent in proceedings “Deemed to be

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withdrawn u/s 11B(4)", dated Nil and quash the same as illegal, incompetent and without jurisdiction and further, direct the first respondent to apportion the excess fee available towards Form 18 and revive the application bearing Application No.202247008249 for examination.

For Petitioner : Mr.C.Sai Krishna
Mr.S.Lalith Gavas
For Respondents : Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India

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ORDER

This writ petition has been filed challenging the proceedings of first respondent and for a consequential direction to first respondent to revive the application for examination.

2. Heard learned counsel for petitioner and learned Deputy Solicitor General of India appearing for respondents.

3. The case of petitioner is that he made an invention titled as "Compositions and Methods for the Treatment of Anterior Blepharitis and Posterior Blepharitis'. As per the abstract available, the invention of the petitioner has been described as follows:

> "Disclosed herein are pharmaceutical compositions and methods for the treatment of anterior blepharitis and posterior blepharitis which may be of primary origin and not secondary to other

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> factors such as infections, infestations or rosacea. The composition comprises Ivermectin in the range of about 0.001% to 20% by weight of the total composition. Topical administration of said compositions precisely to the eyelid margin provides therapeutic benefit to patients suffering from anterior blepharitis and posterior blepharitis."

4. The patent agent of the petitioner filed the subject patent application on 16.02.2022 along with the request for examination *vide* Form 18 and the requisite fee was also paid on the same day. The additional fees incurred was also remitted on 28.02.2022.

5. The petitioner came to know that Form 18 was erroneously uploaded in a different drop-down available in the e-filing portal. An order came to be passed under Section 11B(4) of the Patents Act, 1970, [for brevity 'the Act'] in the year 2023 rejecting the application. Immediately thereafter, the petitioner's agent approached the patent office and through a virtual conference, an attempt was made to resolve the dispute. After the discussion, the petitioner's agent sent an e-mail communication dated 22.07.2024 and thereafter, many communications were also exchanged. After all those communications, the petitioner was expecting that the patent office will act upon the application. Ultimately, the petitioner was informed that the proceedings issued by the first

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respondent as "deemed to be withdrawn" under Section 11B(4) of the Act, cannot be reconsidered and aggrieved by the same, the present writ petition has been filed before this Court.

6. In the case in hand, an error had crept in at the instance of the person, who moved the patent application and the petitioner is only seeking rectification of the same. Under Section 78 of the Act, the Controller of Patents has sufficient powers to correct clerical error in any patent application either upon a request or even without a request and it is wide enough to deal with the mistake that had crept in the case in hand. The petitioner never intended to abandon his application and Form 18 is very much available along with appropriate fee paid by the petitioner. The only mistake committed was that the application was uploaded in a different drop-down available in the e-filing portal. This issue could have been resolved and for no reasons, the petitioner is made to run from pillar to post.

7. In the light of the above discussion, the impugned proceedings of the first respondent intimating that the patent application submitted by petitioner is deemed to be withdrawn under Section 11B(4) of the Act is

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hereby set aside. There shall be a direction to first respondent to apportion the excess fee available towards Form 18 and revive the application bearing No.202247008249 for examination.

This writ petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

18.12.2025

NCC:Yes/No
gm

To
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2.Sr.Joint Controller of Patents & Designs,
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N.ANAND VENKATESH, J.

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