



2025:DHC:3311



\$~1 to 4

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

%

Date of decision: 29th April, 2025

1.

+ **C.A.(COMM.IPD-TM) 5/2022**

CAPITAL VENTURES PVT LTD.

.....Appellant

Through: Mr. Akhil Sibal, Senior Advocate
with Mr. Manoj Arora, Mr. Mohan
Vidhani, Ms. Sapandeep, Ms. Janvi
Buttan, Mr. Saurabh Kumar and Mr.
Lakshya Gupta, Advocates.

versus

REGISTRAR OF TRADEMARKS

.....Respondent

Through: Mr. Arnav Kumar, CGSC with Ms.
Gitanjali Vohra, Advocate.
Mr. Sumit Nagpal, SPC with Ms.
Aastha Sood, Advocate.

2.

+ **C.A.(COMM.IPD-TM) 102/2022**

CAPITAL VENTURES PVT LTD. 7, SARJA
MARKET COMPLEX, VILLAGE NAHARPUR,
SECTOR-7, ROHINI, DELHI

.....Appellant

Through: Mr. Akhil Sibal, Senior Advocate
with Mr. Manoj Arora, Mr. Mohan
Vidhani, Ms. Sapandeep, Ms. Janvi
Buttan, Mr. Saurabh Kumar and Mr.
Lakshya Gupta, Advocates.

versus

REGISTRAR OF TRADE MARKS, IP BUILDING,



2025:DHC:3311



SECTOR-14, DWARKA, NEW DELHI

.....Respondent

Through: Mr. Piyush Beriwal, Mr. Nikhil Kumar Chaubey and Ms. Jyotsha Vyas, Advocates for respondent no. 1.
Mr. Arnav Kumar, CGSC with Ms. Gitanjali Vohra, Advocate.
Mr. Sumit Nagpal, SPC with Ms. Aastha Sood, Advocate.

3.

+

C.A.(COMM.IPD-TM) 132/2022

CAPITAL VENTURES PVT LTD.

.....Appellant

Through: Mr. Akhil Sibal, Senior Advocate with Mr. Manoj Arora, Mr. Mohan Vidhani, Ms. Sapandeep, Ms. Janvi Buttan, Mr. Saurabh Kumar and Mr. Lakshya Gupta, Advocates.

versus

REGISTRAR OF TRADE MARKS

.....Respondent

Through: Mr. Arnav Kumar, CGSC with Ms. Gitanjali Vohra, Advocate.
Mr. Sumit Nagpal, SPC with Ms. Aastha Sood, Advocate.

4.

+

C.A.(COMM.IPD-TM) 99/2022

CAPITAL VENTURES PVT LTD.

.....Appellant

Through: Mr. Akhil Sibal, Senior Advocate with Mr. Manoj Arora, Mr. Mohan Vidhani, Ms. Sapandeep, Ms. Janvi Buttan, Mr. Saurabh Kumar and Mr. Lakshya Gupta, Advocates.

versus



2025:DHC:3311



REGISTRAR OF TRADE MARKS

.....Respondent

Through: Mr. Piyush Beriwal, Mr. Nikhil Kumar Chaubey and Ms. Jyotsha Vyas, Advocates for respondent no. 1.
Mr. Arnav Kumar, CGSC with Ms. Gitanjali Vohra, Advocate.
Mr. Sumit Nagpal, SPC with Ms. Aastha Sood, Advocate.

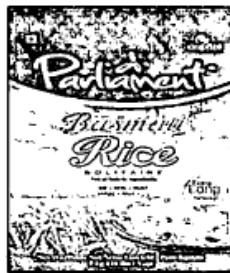
CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present appeals were received on transfer after the abolition of the erstwhile Intellectual Property Appellate Board (hereinafter 'IPAB') pursuant to the Tribunal Reforms Act, 2021.
2. These appeals have been filed under Section 91 of Trade Marks Act, 1999 (hereinafter 'Act') challenging the two orders dated 31st August 2018 and two orders dated 29th January 2020 passed by the respondent (hereinafter collectively referred to as the 'impugned orders') whereby the trade mark applications filed by the appellant have been refused.
3. The details of the trade mark applications which are the subject matter of the present appeals are as follows:

a. C.A.(COMM.IPD-TM) 5/2022



The mark bearing application no. 2736355 in class 30 was filed on a 'proposed to be used' basis. The application was




2025:DHC:3311




objected to in the examination report dated 6th October 2015 under Sections 9(1)(a) and 11 of the Act. The application was refused *vide* the impugned order dated 29th January 2020.


b. C.A.(COMM.IPD-TM) 102/2022

The mark  bearing application no. 2511784 in class 29 was filed with a user claim since 19th February 2013. The application was objected to in the examination report dated 11th April 2014 under Section 9(1)(a) of the Act. The application was refused *vide* the impugned order dated 31st August 2018.

c. C.A.(COMM.IPD-TM) 132/2022

The mark  bearing application no. 2736356 in class 30 was filed on a 'proposed to be used' basis. The application was objected to in the examination report dated 6th October 2015 under Sections 9(1)(a) and 11 of the Act. The application was refused *vide* the impugned order dated 29th January 2020.

d. C.A.(COMM.IPD-TM) 99/2022

The mark  bearing application no. 2511787 in class 35 was with a user claim since 19th February 2013. The application was objected to in the examination report dated 15th April 2014 under Section 9(1)(a) of the Act. The application was refused *vide* the impugned order dated 31st August 2018.

4. Notice to the respondent in C.A.(COMM.IPD-TM) 99/2022 was



2025:DHC:3311




issued on 8th February 2019 by the IPAB and notices in C.A.(COMM.IPD-TM) 5/2022, C.A.(COMM.IPD-TM) 102/2022 and C.A.(COMM.IPD-TM) 132/2022 were issued to the respondent on 1st March 2023 by this Court.

5. Briefly, the undisputed facts of the present appeal are set out below:

5.1. The appellant is engaged in the well-established business of trading, marketing and retailing of various fast moving consumer goods and food items.

5.2. The appellant *bona fide* adopted the inherently distinctive marks

PARLIAMENT,  and other PARLIAMENT-formative marks including devices thereof (hereinafter 'PARLIAMENT marks') in the year 2013. The PARLIAMENT marks have been used continuously and extensively since their adoption.

5.3. The PARLIAMENT marks have accrued tremendous goodwill and reputation and have been exclusively identified and associated with the appellant and its goods and services.

5.4. The appellant has filed various trade mark applications, and have obtained registration, for the PARLIAMENT marks. A list of the appellant's trade mark registrations/ pending applications is provided in paragraph 5 of the appeal in C.A.(COMM.IPD-TM) 5/2022 and C.A.(COMM.IPD-TM) 132/2022 and in paragraph 3 of the appeal in C.A.(COMM.IPD-TM) 102/2022 and C.A.(COMM.IPD-TM) 99/2022.

5.5. The appellant, in joint venture with M/s Sanjeevani Agro Foods Private Limited, is also the registered proprietor of the mark



2025:DHC:3311



Parliament
Sanjeevani
organics

bearing no. 3612088 in class 29 and 3612089 in class 30.

5.6. The appellant is also the registered proprietor of the mark

in various countries including Australia, Hong Kong, New Zealand, United Arab Emirates, Kingdom of Saudi Arabia, Singapore, Canada, South Africa, United States of America, Mauritius and Malaysia.

5.7. The appellant applied for the subject marks in the years 2013/ 2014. The respondent issued examination reports in the subject applications raising objection under Sections 9(1)(a) and/ or 11 of the Act, to which the appellant filed its responses. The appellant was granted hearings and subsequently, it filed written submissions.

5.8. The subject applications in C.A.(COMM.IPD-TM) 102/2022 and C.A.(COMM.IPD-TM) 99/2022 were refused on 31st August 2018 under Sections 9(1)(a) and 9(1)(d) of the Act. The appellant was shocked to learn that the subject applications in C.A.(COMM.IPD-TM) 5/2022 and C.A.(COMM.IPD-TM) 132/2022 were also refused by the respondent under Sections 9(1)(a) of the Act. The main ground for refusal of the subject applications by the respondent is that the registration of the mark 'PARLIAMENT' or any mark having the same as its dominant part is not permissible under the Emblems and Names (Prevention of Improper Use) Act, 1950 (hereinafter 'Emblems and Names Act').

6. Mr. Akhil Sibal, senior counsel appearing on behalf of the appellant,



has made the following submissions:

6.1. The appellant has been granted various registrations for the mark 'PARLIAMENT' in India (*refer Annexure G of the documents filed with the rejoinder in C.A.(COMM.IPD-TM) 5/2022*).

6.2. There exist several registrations, which are currently subsisting on the Register of Trade Marks, for the mark PARLIAMENT/ PARLIAMENT-formative marks in various classes in the name of third-parties in India. The details of the thirty-party registrations for the mark PARLIAMENT/ PARLIAMENT-formative marks (*refer paragraph (ix) of the rejoinder in C.A.(COMM.IPD-TM) 5/2022*). Even during the pendency of the present appeals, several registrations for the mark 'PARLIAMENT' have been granted by the respondent.

6.3. The word 'PARLIAMENT' is not specific to the Indian Parliament/ Parliament of India but is a common noun used to describe a legislative body in several countries across the world including Australia, New Zealand, South Africa, Europe, Nepal, Sri Lanka, Malaysia, Italy, Austria, etc. The text of the Constitution of India as well as of the Emblems and Names Act in Hindi also clarifies that the word 'PARLIAMENT' is used as a common noun as the Hindi text of the Constitution of India and the Emblems and Names Act refers to the parliament as 'SANSAD'.

6.4. The word 'PARLIAMENT', in fact, has several meanings/ definitions.

6.5. The appellant is not seeking registration for the mark 'INDIAN PARLIAMENT' or 'PARLIAMENT OF INDIA'.

6.6. There exists no provision under the Emblems and Names Act



prohibiting registration of the word ‘PARLIAMENT’ and the aforesaid statute prohibits use of only a specific name of a given parliament.

7. Counsel for the respondent have made the following submissions:

7.1. The word ‘PARLIAMENT’ or any mark having the word ‘PARLIAMENT’ as its dominant part cannot be registered under Section 9(2)(d) of the Act read with Entry 17 of the Schedule of the Emblems and Names Act.

7.2. In the entire Constitution of India, the word ‘PARLIAMENT’ alone has been used to refer to the Indian Parliament. Reliance in this regard has been placed on Article 79 of the Constitution of India.

7.3. Further, in the common parlance, the word ‘PARLIAMENT’ is used by itself to describe the legislative body for the Union of India.

7.4. Merely because some registrations for the mark PARLIAMENT/PARLIAMENT-formative marks have been granted in the past, it cannot act as an estoppel against the law or a statute.

8. I have heard counsel for the parties and perused the material on record.

9. All the present appeals have been filed challenging the impugned orders passed by the respondent whereby the subject applications filed by the appellant for the aforesaid marks containing/ comprising the word ‘PARLIAMENT’ have been refused under Section 9(1)(a) and/ or 9(2)(d) of the Act.

10. To be noted, in the present appeals, taking note of the submissions of the appellant, the Predecessor Bench directed the respondent to file an affidavit explaining the circumstances surrounding the grant of earlier



registrations in the name of the appellant and two other third-parties for the mark PARLIAMENT. Paragraph 5 of the order dated 4th July 2023 is set out below:

“5. The above explanation as a submission would not be entertainable by the Court inasmuch as an affidavit would be required to be filed explaining the circumstances surrounding grant of earlier registrations to the Appellant and t[w]o other parties.”

11. Pursuant to the aforesaid directions, a short affidavit has been filed on behalf of the respondent, the relevant extracts from which are set out below:

“18. It is submitted that reliance by the Appellant on the earlier registered trademarks (as pointed out in appeal paperbooks) similar or identical to the impugned trademarks is misconceived and is in violation of the law.

20. The registration of trademarks in violation or inconsonance of an express provision of laws does not legitimize or provide a right to the Appellant to seek registration of impugned trademarks in his favor.”

12. A perusal of the aforesaid extracts from the affidavit would show that the respondent appears to be taking a stand that if the earlier registrations are in violation of an express provision of law, it would not give a right in favour of the appellant to obtain registration for the aforesaid marks. However, neither a specific stand has been taken by the respondent that the aforesaid registrations already granted by the respondent were in violation of the Emblems and Names Act nor it has been specified whether any steps have been taken by the respondent towards cancellation of the said registrations. To be noted, Section 57(4) of the Act empowers the respondent to *suo moto* cancel/ vary/ expunge the registration of a trade mark.

13. As rightly pointed out by Mr. Sibal, registrations for the mark ‘PARLIAMENT’/ PARLIAMENT-formative marks have been granted even



during the pendency of present appeals.

14. Since the principal ground taken by the respondent is that the subject registrations are in violation of Section 9(2)(d) of the Act read with the provisions of the Emblems and Names Act, it may be useful to refer to the relevant provisions. Section 9(2)(d) of the Act is set out below:

“9. Absolute grounds for refusal of registration.—

(2) A mark shall not be registered as a trade mark if—

(d) its use is prohibited under the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950).

[emphasis supplied]

15. Sections 3 and 4 of the Emblems and Names Act are set out below:

3. Prohibition of improper use of certain emblems and names.—
Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or such officer of Government as may be authorised in this behalf by the Central Government.

4. Prohibition of registration of certain companies, etc.— (1)
Notwithstanding anything contained in any law for the time being in force, no competent authority shall—

(a) register any company, firm or other body of persons which bears any name, or

(b) register a trade mark or design which bears any emblem or name, or

(c) grant a patent in respect of any invention which bears a title containing any emblem or name, if the use of such name or emblem is in contravention of section 3.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government thereon shall be final.



[emphasis supplied]

16. A reference may also be made to Entry 17 of the Schedule of the Emblems and Names Act referred to in Section 3 of the Emblems and Names Act:

*“17. The **name of the Parliament or the Legislature of any State**, or the Supreme Court, or the High Court of any State, or the Central Secretariat of any State Government or any other Government Office or the pictorial representation of any building occupied by any of the aforesaid institutions.”*

[emphasis supplied]

17. In terms of the aforesaid provisions, there is a clear prohibition for use of emblems and names or any colourable imitation thereof, as provided in the Schedule of the Emblems and Names Act, for the purpose of any trade, business, etc. or in any trade mark or design.

18. A perusal of Entry 17 of the Schedule of the Emblems and Names Act shows that the aforesaid prohibition is in respect of '***name of the Parliament or the Legislature of any State***'. The prohibition is not in respect of the words 'PARLIAMENT' or 'LEGISLATURE' in itself. This position is clarified by other entries of the Schedule of the Emblems and Names Act such as Entries 9A, 9B, 12, 16 and 27 wherein certain names such as 'GANDHI', 'NEHRU', 'SHIVAJI', 'SHRI LAL BAHADUR SHAHTRI', 'INTERPOL', 'ASHOKA CHAKRA' and 'DHARMA CHAKRA', in particular, have been specified for the purpose of Section 3 of the Emblems and Names Act.

19. The word 'PARLIAMENT' is not unique to India as various other countries across the world such as Australia, Hong Kong, New Zealand, United Arab Emirates use the word 'PARLIAMENT' to refer to their



legislative organs.

20. Mr. Sibal correctly points out that the appellant is not seeking to use and register the mark 'INDIAN PARLIAMENT' or 'PARLIAMENT OF INDIA' or even a pictorial representation of the Indian Parliament as a part of the subject marks.

21. The fact that the word 'PARLIAMENT' has been used as a noun and not as a name in the Emblems and Names Act is also evident from the Hindi text of the Emblems and Names Act where the word 'SANSAD' in Hindi (संसद) has been used to refer to the parliament.

22. The word 'PARLIAMENT' is a common noun having a dictionary meaning. A reference may be made to some of the dictionary meanings of the word 'PARLIAMENT' pointed out by the appellant:

"in some countries, the group of (usually) elected politicians or other people who make the laws of their country"

"a formal conference for the discussion of public affairs"

"a group of owl"

23. Counsel for the respondent has placed reliance on Article 79 of the Constitution of India, which is set out below:

*"79. Constitution of Parliament: There shall be a **Parliament for the Union** which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People."*

[emphasis supplied]

24. It is evident from a reading of Article 79 of the Constitution of India set out above that reference therein has been made to constitution of '**a Parliament**' for the Union. Therefore, it cannot be said that the word 'PARLIAMENT' in itself is used to refer to the Parliament of India.

25. In view of the aforesaid discussion, I am of the view that use and



2025:DHC:3311



registration of the mark 'PARLIAMENT'/ PARLIAMENT-formative marks are not prohibited under the provisions of the Emblems and Names Act and, consequently, do not fall foul of Section 9(2)(d) of the Act.

26. Accordingly, the present appeals are allowed and the impugned orders are set aside. The respondent shall now proceed to take steps in the subject applications in accordance with the provisions of the Act and the Trade Marks Rules, 2017.

27. The Registry of this Court is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks on e-mail ID - llc-ipo@gov.in, for compliance.

AMIT BANSAL, J

APRIL 29, 2025

kd