



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
INTERIM APPLICATION (L) NO. 25644 OF 2024  
IN  
WRIT PETITION NO. 1376 OF 2024**

Novita Healthcare Pvt. Ltd.

.. Applicant/Petitioner

Versus

Union of India

.. Respondent

**Mr.Sandeep Parikh**, with *Mr.Prabhakar M. Jadhav*, Advocates for  
the Petitioner/Applicant.

**Mr.Yashodeep Deshmukh**, with *Vaidehi Pradeep*, Advocates for  
the Respondent-UOI.

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**CORAM: B. P. COLABAWALLA &  
SOMASEKHAR SUNDARESAN, JJ.**

**DATE: OCTOBER 8, 2024**

**P. C.**

1. The above Interim Application is filed seeking the following  
reliefs:-

*“a.That this Hon’ble Court be pleased to direct the office/Registry of the  
Hon’ble Bombay High Court to reconstruct the record of the  
Applicant’s Review Petition by accepting Applicant’s office copy,  
without awaiting the receipt of original proceedings.*

*b. In the alternative and without prejudice to the aforesaid prayer (a) this  
Hon’ble Court be pleased to permit the Applicant to file appropriate  
proceedings in the Commercial Division of this Hon’ble Court for  
review of the order dated 9<sup>th</sup> March, 2012 against its predecessor of  
cancelling the registered trademark.”*

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2. These reliefs are sought in a very peculiar facts. Originally, the above Writ Petition was filed inter alia seeking a direction to the Respondents to transfer the records and proceedings of the Review Petition filed by the Petitioner under Rules 23 (1) of the Intellectual Property Appellate Board (Procedure) Rules, 2003, to the Commercial Division of this Court. In the alternative, it was prayed that this Court allow the Petitioner to file a Review Petition in the Commercial Division of this Court. These reliefs were sought because the IPAB has been abolished and now the matters have to come to this Court.

3. This Writ Petition was disposed of by order dated 7<sup>th</sup> March 2024. The operative part of the order reads thus:-

*“5. In the aforesaid circumstances, we cannot countenance a situation that the proceedings as filed by the petitioner before the Appellate Board remain not adjudicated. We, accordingly propose to dispose of this petition by the following order:*

*i)The respondent is directed to forward the papers and proceedings in regard to the petitioner’s Review Petition before the Appellate Board to this Court within a period of four weeks from today;*

*(ii) In addition thereto, the petitioner is permitted to place on record of this Court a paper book of the proceedings, which be numbered by the registry of this Court on the Original Side and which shall be subject to the receipt of the original proceedings.*

6. *We may also observe that this may be a issue which may crop up in other proceedings. We would not want the parties to approach this Court praying for similar directions of this Court. The respondent is accordingly directed to forward the record of each of the pending proceedings which may pertain to the jurisdiction of this Court within a period of eight weeks from today.”*

4. The grievance in the present Petition is that, till date the original proceedings have not come to this Court from the IPAB. The learned counsel appearing on behalf of Union of India states that since the IPAB has been abolished in the year 2021 it is almost impossible to trace the original papers. He, therefore, submitted that appropriate orders be passed in the above Interim Application.

5. Considering the state of affairs as narrated above, we are of the view that the above Interim Application can be allowed in terms of prayer clause (a) reproduced above. It is accordingly so ordered.

6. Even as far as other matters are concerned, and which are covered by paragraph 6 of the order dated 7<sup>th</sup> March 2024, the concerned parties are at liberty to either reconstruct their original proceedings, and if that is not possible, then, to file fresh proceedings before the Commercial Division of this Court.

7. The Interim Application is accordingly disposed of. No order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**[SOMASEKHAR SUNDARESAN, J.]      [B. P. COLABAWALLA, J.]**