IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

COMMERCIAL MISCELLANEOUS PETITION (L) NO. 12000 OF 2026

Dr. Tarkeshwar Chandrakant Patil ...Petitioner

Versus

1. Indian Institute of Technology, Bombay
2. Controller General of Patents, Designs & Trademarks
3. Prof. Siddhartha Prakash Duttagupta
4. Ramesh Pushpagandha ...Respondents

Mr. Hiren Kamod *(Legal Aid Counsel) a/w Adv. Anees Patel (Legal Aid Counsel), Adv. Ravindra Chile (Legal Aid Counsel), Adv. Prashant Nakati, for Petitioner.*

Ms. Kajal Gupta *a/w Dheer Sampat, Shweta Singh i/b M. V. Kini & Co., for Respondent Nos. 1 & 3.*

CORAM: SOMASEKHAR SUNDARESAN, J.

RESERVED ON: AUGUST 11, 2026

PRONOUNCED ON: SEPTEMBER 8, 2026

JUDGEMENT :

Impugned Order and this Petition:

1. This Petition is essentially a statutory appeal under Section 117A of the Patents Act, 1970 ***("the Act")***, impugning an order dated July 17, 2025

*(“**Impugned Order**”)*, by which Patent Application No. 2808/MUM/2013 dated August 28, 2013 (“***Patent Application***”) for a patent has been rejected by a Deputy Controller of Patents and Designs *(“**Controller**”)*.

2. The Petitioner, Dr. Tarkeshwar Chandrakant Patil *(“**Patil**”)* is admittedly an original inventor of the proposed patent, and named as such in the Patent Application, which was filed by the Indian Institute of Technology, Bombay *(“**IITB**”)*. The invention is titled *“An Apparatus and a Method for In-Vivo Power Generation”*, essentially entailing generation of power to keep devices implanted in the human body active. The invention is based on the research conducted in the course of Patil’s association with IITB.

3. The matter in hand borders on the tragicomic. The Impugned Order is an all-round rejection of everything before the Controller. Effectively, Patil’s submissions on merits of his ownership of the invention have been rejected, while refusing to consider his submissions on the merits of Patent Application. IITB’s submissions on merits have also been rejected without even dealing with them, on the premise that IITB has not demonstrated that it is entitled to pursue the Patent Application in its name because Patil has not authorised IITB to be the applicant.

4. IITB is not at all aggrieved by the Impugned Order. It has not mounted any challenge, despite having a statutory right to appeal – in itself a pointer to

IITB's interest in asserting proprietorship over the invention. Despite refraining from appealing, IITB has actively joined issue with Patil's submissions in this Petition.

5. Patil has appealed against the refusal to recognise his ownership and refusal to entertain his submissions on merits of the invention, both of which, according to him, should culminate in the grant of a patent for the invention, in his name.

6. The Controller has not entered appearance in this Appeal – it may be entitled to stay away from an appeal on merits and abide by the outcome of the appeal. Ordinarily, quasi-judicial orders must speak for themselves. However, by staying away through the multiple listings of this Appeal, the Controller has completely evaded having to account for its inexplicable manner of conducting proceedings relating to the Patent Application.

7. For the reasons set out in this Judgement, it is necessary to not just quash and set aside the Impugned Order but also to issue directions in exercise of this Court's appellate jurisdiction (co-extensive with the Controller's jurisdiction) and pursuant to its inherent powers, to restore the Patent Application to the file of the Controller, with a declaration that the Patent Application must be processed with Patil as the applicant, directing the Controller to process and deal with the Patent Application in accordance with

law and the declarations made herein, on merits, within a period of eight weeks. It is also necessary to request the Controller General to ensure that a senior competent officer who has not hitherto been associated with the Patent Application processes the Patent Application pursuant to this Judgement, uninfluenced by any element of the earlier analysis set out in the Impugned Order.

Factual Matrix:

8. Patil joined IITB as a Research Assistant on June 17, 2008. In this role, he was an employee. Having been selected for the Ph.D. programme, Patil joined it as a student on December 30, 2010, resigning as a Research Assistant with effect from December 31, 2010. This programme was intended to culminate in a Ph.D. degree for Patil.

9. By an award letter dated March 18, 2013, Patil was awarded a Senior Research Fellowship by the Council of Scientific and Industrial Research ("***CSIR***") for research in fuel cell and biomedical applications. IITB changed his Ph.D. category from "Project Staff" to "Fellowship Awardee" with effect from April 1, 2013. Until then, his research at the Department of Electrical Engineering at IITB had been funded as project staff under IITB's Nanoelectronics project; from April 1, 2013, the funding came from CSIR. The research work, which led to the invention sought to be patented, continued as

part of the Ph.D. programme. Patil successfully defended his Ph.D. Thesis titled "*Micro/Nano-Fuel Cell for Portable Applications: A Multi-Fuel Solution*" on March 4, 2015. IITB formally awarded him the Ph.D. degree on August 8, 2015.

10. The research work carried out by Patil forms an integral part of the Doctoral Thesis successfully defended by him and has a central role in the invention covered by the Patent Application. Applications to patent the invention based entirely on Patil's doctoral thesis work, were filed first in India on August 28, 2013, and then in the United States of America ("***USA***") on May 16, 2014. USA has granted Patil, exclusively, two successive patents in respect of the invention (on a divisional application and on the parent application). However, the Patent Application filed in India has languished, mired in extraordinary proceedings played out before the Controller's office for thirteen years, as will be seen in this Judgement.

11. The Patent Application was filed by IITB, indicating Patil as the prime inventor and the co-inventors depicted as Respondent No. 3, Prof. Siddhartha Prakash Duttagupta *("**Duttagupta**")*, who was Patil's Ph.D. guide, and Respondent No. 4, Ramesh Pushpagandha *("**Pushpagandha**")*, a fellow research student.

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12. That disputes and differences cropped up between Patil and Duttagupta is writ large on the record. Duttagupta would complain that Patil has been very difficult and is harassing his colleagues over his invention while Patil would complain that Duttagupta refused to factor in the inputs of the prime inventor in IITB's response to patent authorities. The disputes were escalated up the chain in the institutional mechanism at IITB. Eventually, the Dean, Research and Development of IITB ("***Dean, R&D***"), who is the designated authority under the IP Policy to waive IITB's claims to title, executed with Patil, a worldwide assignment of all intellectual property in the invention through a Deed of Assignment dated July 3, 2017 ("***Deed of Assignment***").

13. At the heart of IITB's contentions in these proceedings is IITB's claim on how to read its Intellectual Property Policy *("**IP Policy**").* It is apparent that IITB had an IP Policy in 2003 which was revised in 2012. On behalf of IITB and Duttagupta, it is asserted that the property rights in the intellectual property underlying the Patent Application continue to remain vested in IITB and not in Patil, who in turn contends that he never gave IITB's patent attorney his consent to sign on his behalf and that IITB has in any case, assigned all its right, title and interest to Patil.

14. IITB and Duttagupta now quarrel over the interpretation of the Deed of Assignment claiming that it would not apply to the territory of India. The

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Deed of Assignment was executed when the conflicts between Patil and Duttagupta came to a head in the course of pursuing the patent application in USA. How the Controller's officials have handled this matter tells a story of how there can be scant regard to either merits of the case, or due process of law.

15. Patil has already had to knock on the doors of this Court multiple times and has been granted legal aid by the High Court Legal Services Committee. In one such intervention, a Division Bench of this Court (of which I was a member) even directed that Patil be heard in the course of the hearing on the Patent Application. Patil's right of audience granted by this Court appears to have been treated merely as a right to sit in at the hearing granted to IITB.

16. Against this backdrop, I have heard at length, submissions by Mr. Hiren Kamod, Learned Advocate on behalf of Patil, briefed by Legal Aid Counsel, Mr. Ravindra Chile, and Ms. Kajal Gupta, Learned Advocate for IITB and Duttagupta, on the merits of this Appeal. By consent of the parties the Petition was taken up for final hearing, and with the assistance of the Advocates, I have been able to examine the material on record to be able to form my judgement to adjudicate this Petition.

17. At the threshold, I must commend Mr. Kamod and Mr. Chile for their assistance in the matter, working with the same zeal as in other commercial

matters, to ensure that the justice delivery system runs its course. I must also commend Ms. Gupta for placing her perspectives with remarkable dignity and candour, despite the provocative nature of the factual matrix involved.

<u>Analysis and Findings:</u>

18. In exercise of the appellate powers under Section 117A, this Court being clothed with the concurrent and co-extensive powers as those available to the Controller, I have no hesitation in holding that by reason of the Deed of Assignment executed by IITB in favour of Patil, IITB has no residual right, title or interest in the Patent Application. The inexorable conclusion is that Patil must be treated as the owner of the invention and the Patent Application, as if filed by Patil, must be processed and dealt with in accordance with law by the Controller in a time-bound manner. The reasons for this conclusion are set out below on the basis of the following points for determination:

A] Whether Patil has rights to the intellectual property covered by the Patent Application worldwide, including in India; and

B] Whether the Controller's conduct of proceedings calls for an intervention in exercise of the appellate jurisdiction of this Court.

19. The Controller indeed recognised Patil as the applicant on the strength of the worldwide assignment, allowing his Form 6 on November 15, 2017 and

confirming it by an order dated December 7, 2017. Within three weeks, that order was withdrawn by an order dated December 28, 2017, on the footing that IITB's own proof of right from the inventors had never been filed and that an assignment by IITB to Patil could therefore not be considered. Thereafter, the Controller's own records again twice showed Patil as the applicant, in September 2018 and October 2018, each time reverting to IITB without any order or explanation whatsoever. Patil has, in his zeal over his title to the property, recorded screenshots of the Controller's internet portal showing these changes. There is no explanation for them from the Controller.

20. Notably, the material on record contains an emphatic email dated January 8, 2018 written by one Dr. W. M. Dhumane, Officer on Special Duty to the Controller General,[1] ("***Dhumane Email***"), copying the letter to the Joint Secretary, Ministry of Commerce and Industry, Government of India, asserting that IIB has not proven its right to pursue the patent and therefore, Patil's request to have his rights recognised cannot be processed. The Impugned Order, passed seven years later, sets out this very content as the Controller's decision.

<u>Title to the Invention</u>

21. Evidently, Patil was an employee of IITB from June 17, 2008 until December 31, 2010, when he became a Ph.D. student; and a student thereafter

[1] Exhibit FF – Page 1073 of the Petition

until August 8, 2015, when he was awarded his Ph.D. degree. Throughout this period, the IP Policy applied to his work – initially the IP Policy of 2003, in his capacity as an employee and then as a student, and from May 2012, the revised IP Policy of 2012, which was in force when the invention was finalised in May 2013 and when the Patent Application was filed in August 2013. The IP Policy of 2003 was not part of the record, but pursuant to a direction from the Court, it was tendered by Ms. Gupta. All the contentions of IITB and Duttagupta are based on the IP Policy. They contend that no research student or employee can retain intellectual property and that would vest entirely in IITB. The Impugned Order adopts the same line of reasoning, as a matter of law, even without regard to the IP Policy. The Controller has expressed a firm view that Patil had been employed only to conduct research. The fruits of the research would vest in the employer and no employee can claim ownership of intellectual property, according to the Controller. Yet, the Impugned Order incoherently holds in the same breath that IITB has not demonstrated that it had authority to file and pursue the Patent Application.

22. Therefore, considering the key instruments that need to be examined to answer the first issue of ownership, it is necessary to first analyse the IP Policy of 2012, which regulates ownership, protection and commercialisation of intellectual property generated by persons associated with IITB.

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23. The term "IITB Personnel" is defined in the opening portion of Part-B of the IP Policy in the following words:

> *"Part B: The IIT Bombay Intellectual Property (IP) Policy*
>
> *This __policy is applicable__ to all the __IITB Personnel__ – __students__, __faculty__, __staff__, __researchers and others related."__*
>
> *__[Emphasis Supplied]__*

24. Clause I of Part B of the IP Policy, reads thus:

> *"I. Ownership*
>
> *__The IP policy has to be accepted and signed by all IITB Personnel__. __IITB owns all the Intellectual Property (IP) that is produced by all IITB personnel__. Refer to the detailed relevant IP Inventions Policy (Part C) and Expression Policy (Part D) for exceptions. __IITB reserves the right to apply for IP protection in India/throughout the world/specific countries for suitable protection of the IP generated__.*
>
> *__Annexure 1 gives an explanation of what constitutes significant resources."__*
>
> *__[Emphasis Supplied]__*

25. There can be no quarrel that Patil would fit the definition of the term "IITB Personnel". His capacity as an employee and thereafter as a student, are both covered by the term "IITB Personnel". Therefore, it is clear that intellectual property produced by him would ordinarily be owned by IITB, which has the right to file for protection all over the world including in India.

26. However, the opening portion of Clause I indicates that the IP Policy has to be positively accepted and signed by all "IITB Personnel". This calls for consideration because Mr. Kamod would contend that Patil was never asked to

sign the IP Policy and that in the absence of a positive signature accepting the terms of the 2012 IP Policy, Patil cannot be said to be governed by it. In particular, he would point to IITB having stipulated an IP Policy Agreement Form to bind IITB Personnel to the IP Policy. Clauses 2 and 6 of this proforma agreement provide that the IITB Personnel who signs it assigns to IITB all right, title and interest in the intellectual property of any kind whatsoever developed during the course of engagement with IITB and that all documents necessary to perfect such assignment shall be executed. The terms of such agreement are meant to have effect from the date on which the IITB Personnel commenced association with IITB. Mr. Kamod contends that Patil has not executed any agreement in this form at all and hence cannot be bound by the IP Policy.

27. Instead, Mr. Kamod submits that Patil had only signed a standard "Joining Report/Declaration-cum-Application Form" applicable to Ph.D. students, on December 30, 2010. This form contains a seven-point declaration, but conspicuous by its absence is any reference whatsoever to intellectual property generated pursuant to the research.

28. However, Ms. Gupta would point to an instrument titled "Declaration and Revenue Sharing Agreement of Technology/Knowledge by Inventor/s" dated December 11, 2013 ("***Revenue Sharing Agreement***") executed by

the parties in connection with the Patent Application. This instrument has indeed been executed by Patil, Duttagupta and Pushpagandha. Clause 3 of the Revenue Sharing Agreement reads thus:

> *"__We have read the IP Policy of IIT Bombay__, and __do hereby agree, that as per the IP policy of IIT Bombay (IP Policy), ownership rights pertaining to the "Technology / Invention" whether protected or unprotected, their Title / Claims / Demands whatsoever belong to IIT Bombay__."*

__[Emphasis Supplied]__

29. To my mind, by executing the aforesaid provision in the Revenue Sharing Agreement, Patil had confirmed being bound by the IP Policy. This is an express agreement that Patil has read the IP Policy and that right to ownership of the intellectual property belonged to IITB as provided in it. In my view, at least by December 2013, when the Revenue Sharing Agreement was executed, Patil had agreed to be bound by the IP Policy, which in turn vested the intellectual property in IITB. It would not matter that a stipulated form of an agreement to be bound by the IP Policy was not signed. The provision extracted above is an emphatic confirmation of adherence to the IP Policy, which must bind Patil and the other individuals. Clause 4 of the same instrument goes further, recording the signatories' agreement to abide by all policies and like documents that IITB may formulate from time to time pertaining to its IP policies. This provision would govern the need for

Duttagupta too to abide by the Deed of Assignment that would be executed later.

30. It is the subsequent event of the execution of the Deed of Assignment that led to Patil being assigned the intellectual property that had vested in IITB. Differences of opinion arose between Patil and IITB in the course of pursuing the patent application in USA. The United States Patent Office had issued adverse office actions and, by early 2017, the choice before IITB's attorneys was between an appeal, a request for continued examination and abandonment. The parties were presented with the prospect of giving up on some of the claims, and Patil complained that Duttagupta was willing to give them up although they were critical to the invention.

31. On June 5, 2017 and June 8, 2017, the office of the Dean, R&D informed Patil that, having regard to the feedback from the USPTO and from Duttagupta, IITB would bear no further cost of defending the application and that Patil could proceed only at his own expense. Aggrieved by the fact that IITB was prepared to let go of what Patil believed was the heart of the intellectual property, Patil escalated the issue to the Director of IITB by an email dated June 8, 2017, asking that IITB remove itself as applicant and that the other named inventors withdraw. I find that this was in accordance with the dispute resolution process set out in Clause VII of Part B of the IP Policy,

which provides for an appeal to the Director, although Ms. Gupta would contend that Patil did not avail of the stipulated mechanism.

32. The differences between Patil and Duttagupta over defending the claims for the patent had by then already been escalated to the Dean, R&D. On May 24, 2017, the Office of the Dean, R&D wrote to Patil inviting him to a discussion in connection with the invention and the patent applications, which took place on May 25, 2017. By an email dated June 6, 2017, Duttagupta recorded that he would consent to a waiver of his rights as an inventor only on the condition that Patil reimbursed the funds contributed by IITB towards both the Indian and the US patent applications, adding that Patil had engaged in harassment of all those involved in the patenting process. It is evident that the conflict between Patil and Duttagupta had come to a head and the Dean, R&D was resolving the issues by considering an assignment of all rights to Patil to let him pursue the applications on his own.

33. Eventually, on July 3, 2017, IITB executed the Deed of Assignment in favour of Patil, an instrument titled "*Assignment - Worldwide*", signed on behalf of IITB by Prof. P. V. Balaji, the Dean, R&D, and witnessed by Dr. Padma Satish, IITB's Chief Technical Officer, on July 3, 2017 and by a second witness on July 4, 2017. By the Deed of Assignment, IITB has explicitly recorded that the full and exclusive right, title and interest in the invention as

set forth in the patent application in the USA, as applicable *for the United States*, its territories and possessions, *and all countries foreign thereto* stood assigned, sold, and transferred for good, valuable and sufficient consideration by IITB to Patil. Pursuant to the Deed of Assignment, the U.S. applications were amended to show Patil as the sole applicant, inventor and assignee, and patents were granted in USA exclusively to Patil on December 4, 2018 (on the divisional application) and on October 6, 2020 (on the parent application).

34. The following extracts from the Deed of Assignment are noteworthy:

> "***For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged***, ***Indian Institute of Technology Bombay*** *located at Powai Mumbai 400076 (hereinafter referred to singly and collectively as* ***"ASSIGNOR"****)* ***has sold, assigned, and transferred****, and by these presents* ***hereby sells, assigns, and transfers, unto***
>
> ***Tarkeshwar Chandrakant Patil*** *residing at A-101, Jagruti Society, Next to Abhishek Nursing Home, Bhatwadi, Ghatkopar (West), Mumbai - 400084 Maharashtra, India (hereinafter referred to as* ***"ASSIGNEE"****) its successors and assigns,* ***the full and exclusive right, title and interest for the United States****, its territories and possessions* ***and all foreign countries*** *in and to this invention relating to*
>
> ***APPARATUS AND A METHOD FOR IN-VIVO POWER GENERATION***
>
> ***as set forth in the following Patent Applications:***
>
> ***United States Application No. 14/280341, filed May 16, 2014***
>
> ***as well as in and to*** *(a) all improvements and modifications of the above-identified invention or inventions, (b)* ***the above-identified applications and all other applications for Letters Patent of the United States and countries foreign thereto for above-identified invention or inventions and all improvements and modifications***

> ***thereof***, *(c) all* ***Letters Patent which may issue from said applications in the United States and countries foreign thereto***, *(d)* ***all divisions, continuations, reissues, and extensions of said applications*** *and Letters Patent, and (e)* ***the right to claim for any of said applications the full benefits and priority rights under the International Convention and any other international agreement to which the United States adheres***; *such right, title, and interest to be held and enjoyed by ASSIGNEE, its successors and assigns,* ***to the full end of the term or terms for which any and all such Letters Patent may be granted as fully and entirely as would have been held and enjoyed by ASSIGNOR had this Assignment not been made.***
>
> *ASSIGNOR HEREBY AUTHORIZES ASSIGNEE to file patent applications in any or all countries on the above-identified invention or inventions in the name of the undersigned or in the name of ASSIGNEE or otherwise as ASSIGNEE may deem advisable under the International Convention or otherwise."*
>
> *[Emphasis Supplied]*

35. The terms of the Deed of Assignment are crystal clear. All rights of IITB not only in the patent application in USA but also in other jurisdictions were assigned. There are only two jurisdictions involved – India and USA. Both stood assigned. The bitter differences between Patil and Duttagupta had been resolved by waiving the very ownership rights that IITB may claim over the work of IITB Personnel by executing the Deed of Assignment. Having signed a binding contract, IITB must necessarily allow its institutional resolution of the conflict to run its course. Instead, further conflict has been fomented.

36. IITB's assignment, acting through the Dean, R&D is consistent with the IP Policy. It is evident that the decision to grant Patil all right, title and

interest in the intellectual property over the invention, has been taken at the highest level by authority designated for this purpose. The IP Policy of 2012 is abundantly clear about the power of the Dean, R&D, making him the institutional competent authority to grant waivers to creators of inventions from the application of the 2012 IP Policy. The following extract from the 2012 IP Policy is noteworthy:

> *"**The Institute's ability to grant waivers** to the creators from **non application of the IP Policy is delegated to the Dean Research and Development (Dean R&D) at the Institute**."*
>
> *[Emphasis Supplied]*

37. Therefore, to my mind, the Deed of Assignment is well backed by due authorisation and is consistent with, and an outcome of, the institutional framework and the IP Policy. The conflicts between Duttagupta and Patil were evidently escalated at IITB. The Dean, R&D resolved these conflicts and took an informed decision to have the IP Policy waived in its application to Patil's work that led to the invention.

38. It is seen from the record that even when the Dean, R&D engaged with Duttagupta and Patil, the input given by Duttagupta was that Patil should pay Rs. 80,000 claimed to have been spent by Duttagupta personally to compensate for erroneous procedures followed by Patil in connection with an IITB-sponsored international conference travel, adding that Patil should be thankful to have escaped being charged by IITB, which could have led to

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denial of his Ph.D. degree. He wanted IITB to be reimbursed for the expenses incurred in pursuit of the patent applications. For his part, Patil denies this and also claims to have been mentally harassed, which he claims to have raised with the internal committee for over two years. Patil would claim that he is owed Rs. 72,000, which Duttagupta had said would be paid out of the funds of another project but which had never been paid. Such squabbles were before the institutional mechanism envisaged in the IP Policy, after which the decision of IITB to forego the intellectual property in the invention and assign it to Patil was taken by the Dean, R&D.

39. The Reply Affidavit of IITB and Duttagupta is filed by the Registrar of IITB on their behalf. Duttagupta has chosen not to affirm it himself. What is writ large is that the administrative set up today is routinely and mechanically filing affidavits to oppose Patil's challenge to the Impugned Order, which read with the absence of any challenge by IITB, speaks volumes about what is being done here to Patil's intellectual property after having assigned it to him worldwide. In the process, thirteen years have been spent without protection in the home country even while there is protection granted in the USA, and the technology being public, runs the risk of infringement and encroachment, with Patil having to be given legal aid for his inability to fund expensive litigation.

40. The Dean, R&D has evidently taken a decision to assign the intellectual property to Patil after consideration of all these inputs. The Deed of

Assignment has no ifs and buts – it is a complete waiver of IITB's claims to the property and a complete and comprehensive assignment of all entitlements to the invention, including any applications for patent made in USA or anywhere else in the world. Indeed, applications for patent had been made only in India and USA, and these applications stood assigned to Patil.

41. Therefore, to summarise, until the execution of the Deed of Assignment, the IP Policy applied to the parties and the property belonged to IITB. Indeed, the Revenue Sharing Agreement, executed in 2013, bound Patil to the IP Policy. In July 2017, the differences of opinion between Patil and Duttagupta stood resolved by execution of the Deed of Assignment. This was an informed decision taken at an institutional level by IITB, resulting in the formation of a binding contract enabling Patil to have full ownership of the invention. This is the very basis on which the patent in USA came to be granted exclusively to Patil. That having been done, there is no basis to hold up Patil's entitlements in India.

42. However, this was not to be. IITB and Duttagupta appear to have had seller's remorse and second thoughts after the patent was granted in USA. They have continued to interfere with the process of registration. Worse, the Controller has not conducted itself consistent with the role of a quasi-judicial authority vested with powers of a civil court. The Dhumane Email, denying Patil his rights despite the Deed of Assignment, merely reiterates the order

dated December 28, 2017 and indicates the premeditated view that had been taken way back then, which has simply been reiterated in 2025 without dealing with or accounting for why it took seven more years to say the same thing.

43. The Impugned Order is silent about the Controller's own records having shown Patil as the applicant in September and October 2018 and having reverted to IITB each time without any order. With the Controller staying away from these appellate proceedings, what considerations came to be brought to bear on the Controller is left to speculation and imagination. Patil has thereafter been made to run from pillar to post – in all, costing the invention statutory patent protection for thirteen years out of the 20-year protection available in law and that too at the hands of an institution that claims to be desirous of being declared the owner but has not even appealed the rejection of the Patent Application.

44. Without being distracted by the conduct of the Controller and simply going by the sheer conclusive documentary evidence forming part of the record, it is abundantly clear that Patil is the recognised owner of the invention sought to be patented. It is remarkable that he is a protected patentee in USA but the home country's statutory framework to grant the same protection has been mired in tragic circumstances. The effect on a scientist who has been remarkably frustrated for a prolonged period of

thirteen years is seen from a video of a hearing held by the Controller on December 11, 2024, a recording of which has been obtained by Patil in exercise of his rights under the Right to Information Act, 2005 ("***RTI Act***"). The bristling hearing reveals the outcome of having on hand a bitter and frustrated scientist whose repeated attempts at securing his legitimate rights have been set at naught.

45. Faced with the Deed of Assignment bringing to an end IITB's interest in the invention, Ms. Gupta would present an interpretation of the Deed of Assignment that would need the Court to hold that despite it being a *worldwide assignment*, it applied only to USA and not to India. Worse, the contention is that countries foreign to USA cannot include India and would only cover all countries other than India that are foreign to USA. This is wholly absurd and inflicts serious violence not just to the language of a legally binding instrument but also to plain logic and reason. The absurdity of the proposition is that IITB would need to justify a stance that the invention can be fully and freely exploited in USA by Patil but, in India, the patent protection must be available to IITB and not to Patil.

46. I am afraid this cannot be countenanced. Evidently, Patil was wrong to contend that the IP Policy did not apply to him because he did not sign the stipulated proforma agreement to bind himself to it. However, Patil is entirely right in contending that the Deed of Assignment granted him full ownership of

the invention. Indeed, it is because the IP Policy applied in full force as a comprehensive framework including all its terms that the property vested in IITB, which then vested it entirely in Patil by executing the Deed of Assignment, a position that is consistent with the Dean, R&D being the designated authority to waive the applicability of the IP Policy in any situation. By executing the Deed of Assignment, the Dean, R&D waived the inherent position in the IP Policy that all intellectual property of invention pursuant to research by IITB Personnel vested in IITB.

47. The Deed of Assignment overtook everything the parties had done until then. The parties were meant to achieve closure of their conflict. However, Patil has been systematically frustrated in the pursuit of his entitlements flowing from the Deed of Assignment. The extent to which he has been frustrated at the hands of a state-owned institution is discernible from the second segment of this Judgement, which would indicate the manner of conduct of the proceedings by the Controller.

48. At this stage, before parting with the first point for determination, I must also touch upon the element of CSIR having any interest in the intellectual property. Ms. Gupta would also point to an undertaking dated March 21, 2013 *(“**CSIR Undertaking**”)* executed by Patil with CSIR when the CSIR-SRF Fellowship was granted to Patil. Among others, the CSIR Undertaking provided for a declaration that if the results of any research were

such that they could be commercially exploited by securing a patent, the exploitation rights would rest exclusively with CSIR.

49. The invocation by IITB of the CSIR Undertaking is evidently in conflict with IITB's own position that it is the owner of the invention in reliance on its IP Policy. It appears to be simply an attempt to scuttle Patil's ownership. However, as facts transpired in this case, it was Patil who tried to get CSIR to intervene when he felt undermined by IITB in its handling of the applications for the patents. After multiple reminders, CSIR declined to intervene, stating that the application had been filed in the name of IITB alone and that CSIR had no right to interfere in its prosecution, leaving Patil to deal with IITB on his own.

50. By an email dated June 8, 2018, CSIR has explicitly stated that it does not have any right to interfere in the prosecution of the Patent Application which had been filed in the name of IITB. This effectively makes it clear that notwithstanding the contents of the CSIR Undertaking, CSIR is not interested in the intellectual property in question and did not perceive any stake or interest in it. Put differently, CSIR had given the CSIR Undertaking the go-by and left it to IITB to pursue on its own. Evidently, CSIR ceded ground to IITB which was the Applicant for the patent both in India in August 2013 and in the USA in May 2014. This is consistent with CSIR's own Office Memorandum dated July 29, 2011 (placed on record by IITB itself), by which

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CSIR revised its guidelines to provide that a publicly funded institution to which a fellow is attached may seek patent rights at its own cost, in which event all rights vest exclusively with that institution and are governed by its IP Policy, with CSIR stepping in only where the institution is not in a position to do so. Therefore, what is clear is that CSIR did not assert any title to Patil's inventive research work. CSIR left the institutional claims to ownership to IITB, which in turn had put in place the IP Policy of 2012, which in turn empowered the Dean, R&D to waive the applicability of the IP Policy to any research work product, in exercise of which power, the Deed of Assignment was executed in Patil's favour.

51. At the oral hearing as well as in the Reply Affidavit, it is stated on behalf of IITB and Duttagupta that a foreign registration in USA cannot override contractual obligations voluntarily undertaken in India. This is disingenuous because it is not the grant of registration in USA that led to IITB giving up its right to the invention. It is IITB's own solemnly executed Deed of Assignment as a means of resolution of the conflict between Patil and Duttagupta that led to a worldwide assignment of the invention to Patil that predates the grant of patent in USA. The grant of patent in USA exclusively to Patil is a consequence of that contractual binding commitment executed by IITB for assignment worldwide.

52. Yet another ground cited by Ms. Gupta is Clause 13 contained in Part-C of the IP Policy, to contend that the ingredients for waiver are not met in this case. The provision reads thus:

> *"13. Ownership exemption*
>
> *The possibility of exemption to ownership is given in the following cases and IITB reserves the right to revise these exemptions on a case to case basis.*
>
> *1. If the inventor/creator is not related with IITB.*
>
> *2. If the inventor/creator has not used significant resources of IITB. The inventor(s)/creator(s) are to submit the lack of using significant resources (as described in Annexure 1) for exemption purposes.*
>
> *3. If IITB is not interested to take forward the disclosed invention / creation towards IP protection or through prior specific agreement.*
>
> *In case of IITB not protecting an IP, the inventor(s) / creator(s) are provided with the permission to protect the same in countries of their choice."*
>
> *[Emphasis Supplied]*

53. While there has been considerable debate in the pleadings about whether there has been use of "significant resources" of IITB and the meaning of the term as set out within the IP Policy, a plain reading of Clause 13 would show that the Deed of Assignment is aligned with Clause 13 of the IP Policy. IITB was clearly not interested in taking forward the invention and creating intellectual property protection to assign it worldwide, aligning the case with Clause 13(3) extracted above and the language thereafter, since IITB gave

permission to Patil to protect the same in countries of his choice. Therefore, the conduct before the Controller solely to frustrate the operation of the Deed of Assignment is totally untenable, unfair and is simply not justifiable.

54. The reliance on the 2012 IP Policy to raise disputes about whether there has been use of "significant resources" of IITB for exemptions to be granted, is also of no use. The IP Policy takes care to point out that usage of library facilities, internet connectivity, occasional use of office equipment and office staff does not constitute use of "significant" resources. The IP Policy also provides that if the inventor does not use funds provided by IITB in connection with the activity resulting in generation of the intellectual property, it would follow that there was no significant use of IITB's resources. Whether that is so on the facts of this case – Patil's research having been funded under IITB's own project until March 2013 and by CSIR thereafter, and Clause 12 of Part C vesting title in IITB "regardless of the source of funding" where significant IITB resources are used – is a debate that need not be resolved. All these controversies are irrelevant since IITB has consciously executed the Deed of Assignment. The duly designated competent authority, the Dean, R&D has granted a waiver from the very application of the IP Policy and perfected such waiver by executing the unconditional worldwide assignment of all right, title and interest in the invention, in favour of Patil.

55. Therefore, I have no doubt in my mind that Patil is the sole and absolute owner of the invention in question. The rights of the co-inventors vested in IITB in terms of the IP Policy. IITB has consciously vested all the right, title and interest in favour of Patil by way of the Deed of Assignment. There is no rational basis to contend that such an absolute assignment is valid for USA and countries foreign thereto, but excludes India. The Deed of Assignment cannot be resiled from, and certainly not by the Controller writing its own worldview on rights of employers over employees' inventions, in utter disregard of the positive execution of the Deed of Assignment that IITB has consciously and admittedly executed in favour of Patil. Even the contest over the interpretation of the Deed of Assignment has to be rejected since the provisions are so explicit in their terms that there can be no quarrel on how every right in the invention was conveyed for every jurisdiction in the world, including India, and indeed in every jurisdiction where applications had been filed, which are at this stage, USA and India.

Controller's Conduct of Proceedings:

56. This brings me to how the Controller has conducted the proceedings over the past thirteen years. The role of the Controller is squarely envisaged in the Act, with powers of a Civil Court being conferred on the Controller under Section 77 of the Act. All the material discussed above was simply

available on the file of the Controller. Such material had to be interpreted and Patil's assertion that he ought to be treated as the applicant ought to have been answered.

57. What is noteworthy is that the Impugned Order's engagement with these issues is to simply brush Patil's claims aside as claims of an employee who was given the job of conducting research, which would lead to an invention and that for such research he was paid a salary. This is uncalled for and instead, the Controller ought to have dealt with the merits on the facts writ large on the face of the record, which it has singularly failed to do.

58. The core conclusions of the Impugned Order deal with IITB not being entitled to be the applicant in the Patent Application and dismissing the Patent Application in the same breath, are extracted below.

> *"14. The case of wrongful obtainment arise in the case where the application was filed by the applicant or one other inventor/s involved without the knowledge of the inventor. Here in this case, as per the evidences discussed in para 4-10, it was clear that this application was filed with the knowledge and concern of the opponent* ***Dr Tarkeshwar C Patil*** *being the inventor no 1. Hence this case does not fall under the case of wrongful obtainment.*
>
> *15. Further the order in the case of* ***Darius Rutton Kavasmaneck vs Gharda Chemicals Ltd. & others , the Honorable Supreme Court of India,*** *has pointed out in para -9 that it is not contented that in the capacity of the Managing Director it was not the duty ot the Defendant no 2 to Invent and hence there was no fiduciary duty cast on Defendant no 2 to register the patents in favor of Defendant no 1 i.e.)*

company. Further it was stated that material evidences are lacking to establish the same.

*16. In other way, it could be understood that when the duty is not to invent the patent need not be registered in the name of the company. **Negating this , it could be understood that when the duty is to invent, i.e) when the person is employed to invent , the patent arising should be registered in the name of the company or institution. Here, sufficient documents are produced by the IITB to establish that the duty of Dr Tarkeshwar C Patil is to INVENT ONLY. Hence by the application of Doctrine of of duty to invent as per he case law as mentioned above, it is hereby concluded that the opposition u/s 25(1)(a) for wrongful obtainment was not established sufficiently by the opponent**."*

[Emphasis Supplied]

59. The decision in ***Darius Rutton Kavasmaneck v. Gharda Chemicals Ltd.***, it may be noted, is not a decision of the Supreme Court but of a Learned Single Judge (*2014 SCC OnLine Bom 1851*) and of a Learned Division Bench of this Court (*2015 SCC OnLine Bom 4813*), in which a managing director who was under no duty to invent, was held to owe no fiduciary duty to register patents in the company's name. The core question was whether a derivative action by a minority shareholder in a company seeking to have the company litigate against the majority shareholder who registered patents in his own name instead of in the name of the company, would be maintainable. It has no bearing on the instant case, where IITB, the employer, has by a written instrument assigned that title to Patil, the inventor, and that too on proper application of mind to the grievances.

60. The conclusion in the Impugned Order (the word "applicant" is IITB) reads thus:

> ***"C. Analysis of written submission on section 14 :***
>
> *1. This office has **communicated to the applicant at various instances** that the **proof of right from all the inventors has to be submitted** to this office as per section 7(2) of The Patents Act.*
>
> *2. **However proof of right from the inventor number -1 ,Dr Tarkeshwar C Patil has not been filed till date**. Hence the **ownership of the application has not been sufficiently established** by the applicant.*
>
> *3. Due to the said fact, **the arguments and written submission made by IITB has not been analyzed at this point**.*
>
> *4. During the hearings the opponent Dr Tarkeshwar C Patil has only presented his argument on his pregrant only.*
>
> ***D. Decision :***
>
> *In view of the above facts , **the pregrant opposition filed by Dr Tarkeshwar C Patil is dismissed and disposed**. No Costs.*
>
> *Further **this application is not allowed to proceed for grant since the requirement u/s 7(2) is not met. Application refused u/s 15."***
>
> ***[Emphasis Supplied]***

61. Therefore, with this expanse of time, all that the Controller has done is to state that it will not treat IITB as having proven the right to a patent because of the absence of Patil's endorsement, and also to state that Patil has no rights in the intellectual property since he was but an employee of IITB and his job was to research and invent. As a result, the Controller did not engage

with submissions on the merits of the invention, whether they were made by IITB or by Patil. The net result is that the Controller simply did not process the Patent Application and disposed of it, taking nearly twelve years to do so. Put simply, the Controller refused to recognise Patil as the applicant because IITB's proof of right from Patil had never been filed, and also refused IITB's application for the very same reason – an endorsement in IITB's favour that Patil, claiming to be the owner under IITB's own assignment, could never have been expected to give.

62. Therefore, how the Controller handled the Patent Application over thirteen years warrants examination. Based on an Application from Patil in Form-6 on October 31, 2017, to record the change of the name of the Applicant from IITB to Patil, annexing to it, the Deed of Assignment, the Controller, on November 15, 2017, amended the records reflecting Patil's name as the Applicant in relation to the Patent Application. That such a change had been effected is evident on the face of the record, as is seen from Exhibit CC, a screenshot showing the same online; Exhibit DD to the Petition, the confirmation email dated November 20, 2017; and a formal order dated December 7, 2017 (Exhibit EE to the Petition), confirming that the application in Form No. 6 had been allowed on November 15, 2017, thereby substituting IITB with Patil, as the applicant in the Patent Application.

63. Within a fortnight, by a hearing notice dated December 21, 2017, the Assistant Controller recorded that Form 6 had been "allowed inadvertently", withdrew the order dated December 7, 2017 and fixed a hearing on December 28, 2017. By an email dated December 27, 2017, Patil conveyed that he would not appear. By an order dated December 28, 2017 (which forms part of the record as an annexure to IITB's reply to the Pre-Grant Opposition, Exhibit EEE), the Assistant Controller held that the signatures of the three inventors in Form 1 were identical and hence are not those of the inventors, that IITB's proof of right under Section 7(2) of the Act had never been filed and that, since proof of right from the inventors to IITB had not been established, "further assignment from the applicant Indian Institute of Technology to assignee Dr. Tarkeshwar Patil cannot be considered". Forms 6 and 13 were disallowed and Form 8 was not processed. This is the genesis of the stalemate that has held the field ever since.

64. On January 8, 2018, the Dhumane Email was sent to Patil enclosing with it a scanned copy of a letter of the same date addressed to Patil and copied to the Joint Secretary, Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India. The Dhumane Email simply states that IITB has not established its right over the invention since it is not backed by an assignment from the inventors. The Dhumane Email states that, by the order dated December 28, 2017, the Controller had

disposed of Patil's request on the ground that, since IITB's right to file the Patent Application had not been established, no further proceedings regarding an assignment by IITB could be entertained, and that no legal or procedural infirmity was found in that order.

65. Therefore, it was stated that there would be a stalemate – IITB could not prove that it owned the patent because of Patil's rights, and the Controller would not process the recording of IITB's assignment to Patil because IITB's right was not established. What is noteworthy is that the Impugned Order passed seven years later in 2025 effectively says the same thing.

66. Throughout this period, all the material necessary to take a view has been available with the Controller. It took multiple filings in this Court for Patil to even get a seat at the table when the Controller listed the Patent Application for hearing. It is not as if the Controller took a view to dismiss the Patent Application, with or without liberty to Patil to file a fresh application asserting his rights pursuant to the Deed of Assignment. The Patent Application was kept pending while Patil was made to run from pillar to post, only for the Controller to eventually reject it in 2025, with a convenient decision not to examine IITB's submissions on the merits "at this point", a dismissal which, at the risk of repetition, IITB has not even bothered to challenge.

67. On January 12, 2018, four days after the Dhumane Email, a show-cause notice was issued by the Controller's Office to Duttagupta and Pushpagandha calling upon them to submit their opinion on Patil's Form 8 request that their names not be mentioned as inventors. No reply to these notices forms part of the record. It is apparent that they did not even desire to show cause as to why their names should not be removed. On the same day, and again on January 31, 2018, the Controller's Office wrote to IITB calling upon it to file proof of right under Section 7(2) of the Act within fifteen days. On the Impugned Order's own narration, IITB filed proof of right from Duttagupta and Pushpagandha only on May 24, 2021, and never from Patil.

68. Be that as it may, by reason of the very same IP Policy, the Revenue Sharing Agreement and the assignment dated May 19, 2014 executed by all three inventors in favour of IITB (Annexure C to the Impugned Order), the rights of Duttagupta and Pushpagandha stood vested in IITB, the original Applicant, which enjoyed ownership to the exclusion of the others. All those rights stood assigned to Patil under the Deed of Assignment. Therefore, it stands to reason that till date these notices have not been replied to.

69. On February 21, 2018, the Controller's portal showed IITB restored as the Applicant, consistent with the order dated December 28, 2017. Thereafter, seven months later, on September 17, 2018, the Examiner of Patents wrote to both Patil and IITB's patent agent calling for a power of attorney "in name of

latest applicant name". Patil replied the same day forwarding the Forms 6, 8 and 13 already filed on October 31, 2017 along with the Deed of Assignment, asserting that he was the sole owner and that no patent agent was involved. Thereafter, the records of the Controller were promptly amended to reinstate the name of Patil as the Applicant, as is seen from the records of the Patent Office extracted as of September 17, 2018 (Exhibit NN). The Controller then emailed Patil on September 18, 2018, attaching a screenshot of its internal module which clearly showed Patil's name as the Applicant along with Patil's email, address and mobile number and this also forms part of the record (Exhibit OO).

70. Inexplicably, on October 1, 2018 the Petitioner noticed that the Controller's Office had yet again reversed the name of the Applicant from Patil to IITB. This led to another objection being raised by Patil with the Controller's Office, pointing out that the Application status was being changed without any explanation and this time, the primary email ID was shown as the Patent Attorney's email ID and Patil's email ID was altogether removed. Patil filed an online grievance about this course of conduct by the Controller's Office and then sent a reminder on October 3, 2018. Thereafter on October 8, 2018 yet again, the Controller's Office changed the Application details restoring the name of Patil as the Applicant and this time keeping Patil's email ID as an

additional email ID and retaining the Patent Agent's email ID as the primary email ID.

71. A month later, on November 8, 2018, yet again, without any order being passed and without any reasons being assigned, IITB's name was brought back as the Applicant and Patil's name was removed. This time, both the primary email ID and the additional email ID were shown as the email ID of the Patent Agent of IITB.

72. Faced with the inexplicable reversal of name of the Applicant despite the Controller originally having acted in line with the implications of the Deed of Assignment, Patil filed a Pre-Grant Opposition on June 17, 2019, invoking Sections 25(1) and 26 of the Act contending that IITB has wrongfully sought to appropriate the subject invention in the Patent Application. This was followed by another inexplicable feature of these proceedings – the First Examination Report *(“**FER**”)* was issued by the Controller on July 25, 2019, six years after the Patent Application had been filed on August 28, 2013. Patil's Pre-Grant Opposition was processed by the Controller and IITB was issued a notice on July 26, 2019.

73. On August 2, 2019, Patil filed his reply to the FER seeking alignment of the claims filed with the Controller in India with the claims for which patents had been granted to Patil in USA. The Impugned Order records that this reply

was not considered at all, on the footing that under Rule 24B of the Patents Rules, 2003 only the applicant on record, IITB, could reply to the FER – the applicant on record having been so recorded by the Controller's own reversals.

74. On October 27, 2019, Patil emailed the Controller, noting that the three-month period for filing a reply to his Pre-Grant Opposition had already elapsed, without any reply from IITB, which then filed a reply on October 28, 2019 at 22:09 hours, as Patil discovered the next day. On October 6, 2020, the second US patent was granted to Patil, again exclusively, in his capacity as the inventor, applicant and assignee – evidently pursuant to the Deed of Assignment. It is after this stage that a new saga in the conduct of these proceedings began.

75. It was only on March 10, 2021, that the Controller issued a Pre-Grant Opposition hearing notice under Section 25(1), scheduling the hearing for three months later, to June 2, 2021 by video conferencing. However, on May 24, 2021, the hearing scheduled for June 2, 2021 was adjourned in advance and rescheduled by a further two months to August 3, 2021. On August 3, 2021, a hearing was conducted. However, before any order could be passed, on November 18, 2023, the entire file was assigned to another Controller, who incidentally is the officer who passed the Impugned Order. After the reassignment, the newly designated Controller wrote to Patil on December 28,

2023, intimating that the hearing held on August 3, 2021 stood "cancelled", since a de novo hearing had to be offered after the file was allotted to the new Controller, and that there was "no written submission on record", although written submissions had been filed by IITB on August 17, 2021, to which Patil had responded on August 18, 2021. On the same day, Patil sought clarification on such intimation but did not receive any reply.

76. On January 16, 2024, the Controller issued a fresh notice of hearing on Patil's Pre-Grant Opposition, scheduling the hearing for February 16, 2024. Effectively, by this time, despite the Deed of Assignment having been executed in July 2017, Patil had been forced to file a formal Pre-Grant Opposition on June 17, 2019, the hearing of which was eventually still being scheduled in 2024, over a decade after the filing of the Patent Application, with over half of the statutory protection period already lost.

77. On February 16, 2024, a hearing under Section 25(1) of the Act was conducted. The Petitioner contends that he was not permitted to advance oral arguments. There is no *roznama* or record of proceedings that forms part of the record. On February 29, 2024, Patil filed detailed written submissions, also requesting a change of Controller under Section 73(4) of the Act.

78. Remarkably, on April 6, 2024, IITB filed an Application to amend the name of the Applicant from "Indian Institute of Technology" to "Indian Institute of Technology Bombay".

79. Since nothing moved further in the matter, on October 1, 2024, Patil filed Writ Petition (L) No. 29985 of 2024 *("**WP-29985**")* seeking a direction to the Controller to decide Patil's Pre-Grant Opposition. On November 12, 2024, a hearing notice under Section 14 of the Act was scheduled for November 27, 2024, and this notice was issued only to IITB and not to Patil whose Pre-Grant Opposition and application for substitution of name was pending. Since the upload of notices is available to be tracked on the Controller's portal, the Legal Aid Counsel then appointed for Patil by the High Court Legal Services Committee issued a notice dated November 19, 2024 to the Controller, calling upon the Controller to grant Patil an opportunity of being heard at the hearing scheduled for November 27, 2024.

80. On November 27, 2024, WP-29985 was disposed of by a Division Bench of this Court (of which I was a member) with a direction that in any hearing held by the Controller under Section 14 of the Act, Patil would also be heard. Patil contends that the hearing proceeded that day without him; the Impugned Order records that it was not conducted in view of this Court's order. Either way, the hearing was rescheduled.

81. On December 9, 2024, the Controller rescheduled the hearing to December 11, 2024 i.e. two days later. On the same date, Patil wrote an email to the Controller protesting against the short notice period even while confirming his attendance at the scheduled hearing. On December 11, 2024, the hearing was conducted and video recorded. This video recording was eventually provided to Patil after he invoked his rights under the RTI Act (application dated August 20, 2025, answered on October 1, 2025). I have examined the video recording in its entirety, which makes for tragic viewing. It tells the story of a frustrated scientist, bitter to the bone about how his invention is treated, armed with a Court order, unaware that advocacy is an art and not a science, browbeating in a bid to prevent being browbeaten, demanding to be heard first on who the owner of the invention is, and insisting that the hearing cannot simply be of IITB's submissions on merits without deciding who the real applicant should be – all in all, painting a tragic picture of the ecosystem in which intellectual property rights are dealt with.

82. In any case, the Controller's own cause list shows the status of this hearing as "cancelled". Meanwhile, on March 28, 2025, another Division Bench of this Court, disposing of Writ Petition (L) No. 1876 of 2025 ("***WP 1876***"), directed the Controller to decide Patil's Pre-Grant Opposition, after hearing him, as expeditiously as possible and in any event within eight weeks of receipt of the order, which Patil served on the Controller on April 4, 2025.

Patil has set out a screenshot as of June 7, 2025 (Exhibit NNNN) of this update of cancellation of a hearing held on December 11, 2024. WP 1876 had been filed in view of the manner in which the hearing had been conducted on December 11, 2024, seeking a direction that a hearing on Patil's Pre-Grant Opposition be conducted in letter and spirit of the earlier order dated November 27, 2024 disposing of WP 29985.

83. Therefore, on June 12, 2025, the Controller issued another notice scheduling the Pre-Grant Opposition hearing for June 26, 2025, purporting to comply with the order of this Court dated March 28, 2025 passed in disposal of WP 1876. The hearing was conducted on June 26, 2025, with the Controller stating that the Pre-Grant Opposition hearing had already been conducted under Section 25(1) of the Act on February 16, 2024. Patil would contend that there is no speaking order or *roznama* to substantiate this assertion. Indeed, it has taken two orders by Division Benches of this Court to have the Pre-Grant Opposition to be heard.

84. Patil contends that the official causelist showing the status of the hearing as of June 26, 2025 indicates that the hearing was cancelled while the status of the hearing that had been scheduled for February 16, 2024, is indicated as "scheduled". Against this backdrop, when one examines the Impugned Order, and the narration of events of the Impugned Order it is clear

that the Controller purports to have conducted a hearing on February 16, 2024. The Impugned Order records that the hearing under Section 14 of the Act could not be taken up on that date after Patil's arguments on the Pre-Grant Opposition had consumed the time allotted, which led to the hearing being rescheduled under Section 14 to November 27, 2024, and that the hearing on the Pre-Grant Opposition had already been conducted on February 16, 2024.

85. In other words, the Controller purports to have completed the hearing under Section 25(1) on February 16, 2024, and only a hearing under Section 14 was pending when the order of this Court in WP-29985 was passed on November 27, 2024. Therefore, the Impugned Order purports to have rescheduled the hearing to December 11, 2024 and the Controller's interpretation of the Court's order is that Patil was simply allowed to attend the hearing under Section 14 and not under Section 25 of the Act. Thereafter, in view of this Court's order disposing of WP 1876, the Controller has stated that a hearing of the Pre-Grant Opposition was given afresh on June 26, 2025.

86. Even a plain narration of these facts would point to an unsatisfactory manner of handling the peculiar fact situation at hand. This is not a case of a Pre-Grant Opposition from a competitor of an applicant. This is a case of an opponent (Patil) relying on an explicit document executed by IITB (the Deed of Assignment) waiving all its rights, title and interest in the invention covered

by the Patent Application and yet pursuing the Patent Application, which led to Patil contending that IITB has wrongfully obtained the invention that it was seeking to get patented in its name. This needed an approach that handles this peculiar fact pattern.

87. However, the Controller has mechanically held that this situation would not fit a case of "wrongful obtainment" because IITB's Patent Application was not filed behind Patil's back. It is in the context of the Pre-Grant Opposition that the Controller has articulated how an employee who has been recruited to conduct research cannot be a patentee and it is the employer who would have ownership of the rights. Worse, the Deed of Assignment has been dealt with by brushing it off as an instrument executed only in the context of the application in USA. The Controller has pulled out the documentation from the records of the Patent Office in USA and appended them to the Impugned Order. Evidently, there had been an assignment by Patil, Duttagupta and Pushpagandha in favour of IITB on May 19, 2014. The application in USA was filed on May 16, 2014. This led to the intellectual property vesting in IITB. Clearly, on July 3, 2017, IITB has explicitly vested all right, title and interest in the invention worldwide in Patil's favour – I have extensively dealt with it above.

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88. The Impugned Order makes no attempt to deal with the provisions of the Deed of Assignment and engage with why the assignment of the application made in USA three years earlier was assigned with all rights to the underlying invention and in all applications made anywhere else in the world also vesting in Patil, should be read adverse to Patil. The Impugned Order simply brushes off the notion that Patil is the assignee by holding that it is possible for different persons to be the patent holders in different jurisdictions – in itself a plausible statement, but with no relevance in its application to the facts of this case. The Impugned Order holds that the Deed of Assignment does not have retrospective effect to affect prior assignments – an entirely fallacious approach since the Deed of Assignment is prospective and takes effect from its execution, particularly considering it is a reversal of the ownership, it prospectively overrides all past arrangements between the parties.

89. The Impugned Order invokes IITB's IP Policy but simply does not deal with how the Deed of Assignment is consistent with the IP Policy resulting in a waiver granted by the designated Competent Authority of IITB, namely, the Dean, R&D. One cannot help but get an impression that the Controller has thrown the kitchen sink at Patil hoping that something would stick and thereby seeking to make out a case that Patil should not get the patent. Evidently, he has been a difficult person to handle in a personal hearing, but

that cannot impact the manner of handling the merits of a case that is writ large on the face of the record. Clearly, IITB gained full title to the invention in terms of the IP Policy, and IITB assigned full title to the invention in favour of Patil, again consistent with the terms of the IP Policy. This can be the only logical, rational and indeed just outcome, and the Impugned Order suffers from complete non-application of mind to the merits of Patil's contentions relating to ownership of the invention.

90. Different Division Benches of this Court (one of which had me as a member) have had to direct the Controller to hear Patil on the merits of his objections to IITB's claim to ownership despite the assignment. The very manner of administration of the Patent Application is telling as to how due process, which is vital to handling statutory protection of intellectual property rights, has been handled. The name of the Applicant has been merrily tampered with and changed without giving reasons. The Controller's Office has forgotten the substance of issues, preferring to tie up the Patent Application in knots, letting a good thirteen years go by only to state what was asserted in the order dated December 28, 2017 and the Dhumane Email of January 2018. It took two Writ Petitions to even have the evident logic of Patil's contentions on ownership be heard and that has been dismissed with a thesis on employer-employee relationship impacting ownership without regard to the facts, and by the theory that a wrongful claim to title can only

occur if the opposing inventor is totally unaware of the Application. Put differently, if the assignor of an invention seeks to pursue an Application despite having assigned it and in the teeth of the assignment, the Controller would rule that there is no basis at all to contend that such an act of obtaining intellectual property rights is wrongful.

91. It would also be necessary to touch upon the scope of Section 14 and Section 15 of the Act, and the scope of Section 25(1)(a) of the Act. Patil's objection is under Section 25(1)(a), which reads thus:

> *25(1) **Where an application** for a patent **has been published but** a patent has **not been granted**, **any person may**, in writing, **represent by way of opposition** to the Controller **against the grant of patent** on the ground—*
>
> > *(a) **that the applicant for the patent** or the person under or through whom he claims, **wrongfully obtained the invention** or any part thereof from him or from a person under or through whom he claims;*
>
> ***[Emphasis Supplied]***

92. This provision pits the applicant and the opponent against each other. Once the Deed of Assignment was executed, the continued pursuit of the Patent Application by IITB in its own name was wrongful. Such pursuit made IITB's claim to the invention, after the Deed of Assignment, a case of wrongful obtainment. Indeed, the Deed of Assignment needs to be read and interpreted, which I have done above. The Controller has not applied her

mind to the provisions of the Deed of Assignment and its implications and has instead resorted to generic propositions as to how there can be different protectees in different jurisdictions for the same invention, without indicating how in this case, from the Deed of Assignment, an intention to bifurcate such protection is discernible.

93. The Controller has not applied her mind to the facts of the case to examine the conduct of the parties and why the assignment came about. The record clearly indicates the conflict between a Ph.D. student and his guide, which has led to a breakdown, with the guide indicating that he could have withheld even the Ph.D. and that the student should pay some compensation personally for bad decisions taken during the research. This conflict was escalated up the hierarchy at IITB and led to the Dean, R&D waiving IITB's interest in the invention. This institutional decision has to be honoured and respected and if it is mechanically ignored, that is squarely subject matter of adjudication under Section 25(1)(a). For the reasons set out above, such adjudication has fallen into error, necessitating correction in exercise of this Court's appellate jurisdiction.

94. Ms. Gupta expectedly resorted to the floodgates argument to submit on behalf of IITB that if Patil is permitted to prevail, it would lead to every scientist potentially revolting and not honouring the IP Policy. This argument

has to be rejected since in this case the IP Policy has indeed been applied and in letting it operate consistently and in compliance with its terms, IITB has waived and assigned its rights to Patil. If there are other scientists at IITB in whose favour IITB has been convinced to assign worldwide rights, indeed, IITB should honour those too. But it would be fallacious to contend that despite a clear decision and execution of that decision, such an assignee must be frustrated despite his worldwide rights. Put differently, the submission would have the effect of setting an example to any scientist who has a conflict with his supervisors that even if his rights are recognised and the property is assigned to him, he must have no hope to have a smooth registration of his rights. This is what appears to be the case in the matter at hand. Indeed, if IITB were to execute a full assignment in favour of any scientist and then resile from it, similar consequences must follow. However, where there is no such assignment as a means of resolving the conflict, it cannot be contended that honouring an express commitment made by a premier educational and research institution would harm the institution.

95. Having dealt with Section 25(1)(a) of the Act, it would be appropriate to touch upon Section 14 and Section 15 of the Act, which read thus:

> *14. **Where, in respect of an application for a patent, the report of the examiner received by the Controller is adverse to the applicant** or requires any amendment of the application, the specification or other documents to ensure compliance with the provisions of this Act or of the rules made thereunder, **the Controller, before***

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> ***proceeding to dispose of the application*** *in accordance with the provisions hereinafter appearing,* ***shall communicate as expeditiously as possible the gist of the objections to the applicant*** *and shall,* ***if so required by the applicant within the prescribed period, give him an opportunity of being heard****.*
>
> *15.* ***Where the Controller is satisfied that the application*** *or any specification or any other document filed in pursuance thereof* ***does not comply with the requirements of this Act or of any rules made thereunder****, the* ***Controller may refuse the application*** ***or may require the application****, specification or the other documents, as the case may be,* ***to be amended to his satisfaction*** *before he proceeds with the application* ***and refuse the application on failure to do so****.*
>
> ***[Emphasis Supplied]***

96. The aforesaid provisions entail dealing with the merits of the Patent Application. It is noteworthy that under Section 14 of the Act, objections have to be communicated as expeditiously as possible. In this case, the FER was communicated in 2019, six years after the Patent Application was filed and two years after having notice of the assignment of all right, title and interest in the invention underlying the Patent Application. In the interregnum, Patil was indeed recognised as the Applicant but this change was reversed more than once, each time without providing reasons. After persistent and painful pursuit by Patil, the FER was issued in 2019. While the objections relate to the Patent Application, they are on the merits of the protection that can be afforded and are agnostic as to who the applicant is.

97. The dispute over who the applicant should be had already broken out and the only logical and commonsensical sequencing of the hearings would be to determine the objection under Section 25(1)(a) of the Act and then proceed with the adjudication under Sections 14 and 15 of the Act. Indeed, each is a distinct track – Section 25(1)(a) covers a bilateral conflict between the applicant and the opponent while Section 14 and Section 15 cover an *in rem* implication of the merits of protection.

98. Indeed, an adjudication under both tracks can be made in one comprehensive final order by the Controller, who may choose to refrain from a piece-meal adjudication, first under Section 25 and then under Section 14 and Section 15. Rule 55(5) of the Patents Rules, 2003 permits a simultaneous decision on the Patent Application and on the Pre-Grant Opposition – of course, ordinarily within one month from the completion of proceedings. For this enabling provision to run a meaningful course, in a fact pattern such as the matter in hand, where there are two competing claimants to title whose interests are otherwise meant to be aligned (they both believe the patent should be granted, but differ on who is entitled to be the applicant) the Controller would need to engage with each of the claimants on the merits so that its comprehensive final order is truly meaningful.

99. If both Patil and IITB are not heard on the merits for purposes of Section 14 and Section 15 of the Act, and the Controller were to come to a view that the Patent Application must be rejected on the basis of a hearing of IITB alone, but were to come to a view that Patil was meant to be the rightful applicant, the Controller would have delivered an outcome where it has not even considered the rightful applicant's submissions on merits. On the other hand, if it were to hold in Patil's favour on his right to be the applicant, but has gone on to grant a patent on the basis of IITB truncating some of the claims in the Patent Application, it would erode Patil's vested right to have been heard on why no claim ought to have been truncated. Indeed, in this case, it was the potential truncation of claims in USA that was one of the areas of conflict between Patil and Duttagupta.

100. Therefore, while the decision under Section 25(1)(a) may be in favour of one party, a decision under Section 14 and Section 15 may end up being taken without even hearing the party who succeeds under Section 25(1)(a) of the Act. This is evidently why two different Division Benches have had to direct the Controller twice over to hear Patil on his Pre-Grant Opposition before taking a decision in the matter. The logical corollary is that if Patil's Pre-Grant Opposition were to be found acceptable, Patil's submissions on merits necessarily have to be dealt with. If the Controller does not desire to adjudicate and rule under Section 25(1)(a) as a first step, in a factual matrix

such as this case, it would need to hear both claimants on the merits under Section 14 and Section 15 of the Act so that the integrity of due process and natural justice is not compromised.

101. When Patil was given a seat at the table by the Division Benches of the High Court, he was not meant to sit there as a mute spectator. His presence at the hearing was to present his perspective on the merits of his Pre-Grant Opposition under Section 25(1)(a) as well as his perspective on merits under Section 14 of the Act, since his claim to being the rightful applicant was still open and yet to be adjudicated.

102. In any case, now that this judgement clearly rules in Patil's favour under Section 25(1)(a) of the Act, it would be necessary to direct the Controller to determine the merits of the Patent Application. In the Impugned Order, the Controller has chosen not to address the merits of submissions of either IITB or Patil. Neither has been held to be a valid applicant and neither's submission on merits has been dealt with – all after an expenditure of thirteen years.

103. This has also led to the anomaly of a premier Indian institution's scientist's work getting recognition outside India but because of the institutional breakdown in India, in adhering to a conscious assignment effected by IITB, the invention being without protection in India. The

property rights in the invention are vulnerable to being encroached on illegitimately, in much the same manner that legitimate commercial exploitation of the invention would be dissuaded because no right-minded investor would provide financial support to exploiting an invention that is fraught with controversy in its home country, despite protection being available in USA.

Summary of Conclusions and Directions:

104. To summarise the analysis above, and in exercise of this Court's appellate and inherent powers, the following conclusions are recorded and directions issued:

A] The IP Policy of 2012 applied to the invention. By executing the Revenue Sharing Agreement on December 11, 2013 and the assignment dated May 19, 2014, Patil, Duttagupta and Pushpagandha accepted the IP Policy and vested their rights in the invention in IITB. Patil's contention that the IP Policy did not bind him for want of a signed IP Policy Agreement Form is rejected;

B] The same IP Policy designates the Dean, R&D as the authority competent to grant waivers from its application. By the Deed of Assignment dated July 3, 2017, executed by the Dean, R&D after the institutional mechanism had been invoked, IITB sold, assigned and transferred to Patil the full and exclusive right, title and interest in the invention for the United States and all countries foreign thereto, in the application in USA and in all other applications for the invention anywhere in the world, and authorised him to file applications in any country in his own name. The contention that the Deed of Assignment does not extend to India is rejected. The Deed of Assignment operates prospectively from its execution; from that date Patil is the sole owner of the invention and of the Patent Application, and no question of retrospectivity arises or is relevant;

C] CSIR has no subsisting claim. Under its own Office Memorandum dated July 29, 2011, ownership of intellectual property generated by a research fellow vest in the host institution and is governed by that institution's IP Policy, and by its email dated June 8, 2018 CSIR disclaimed any right to interfere. Therefore, the CSIR Undertaking dated March 21, 2013 does not detract from Patil's title;

D] The Pre-Grant Opposition filed by Patil under Section 25(1)(a) of the Act is allowed by declaring that Patil be recognised as the inventor and applicant in the Patent Application;

E] IITB's continued pursuit of the Patent Application in its own name after July 3, 2017 was wrongful. The Impugned Order dated July 17, 2025 is quashed and set aside in its entirety;

F] The Patent Application is restored to the file of the Controller with Patil substituted as the applicant in place of IITB; Patil's Form 6 and Form 13 dated October 31, 2017 stand allowed. The Controller shall process the Patent Application on merits under Sections 14 and 15 of the Act, after hearing Patil as the applicant on the objections in the FER dated July 25, 2019 and any further objections, and shall pass a final reasoned order within eight weeks from the date of upload of this Judgement on this Court's website;

G] The Controller General is requested to assign the Patent Application to a senior officer other than the officer who passed the Impugned Order, or any other officer who has heard this matter in the past, and such officer shall proceed uninfluenced by the Impugned Order, the order dated December 28, 2017 and the Dhumane Email, and process the Patent Application in compliance and in accordance with the declarations made in this judgement;

H] The Legal Aid Counsel who have represented Patil in this Appeal are requested to represent him before the Controller, so that the merits of the Patent Application are professionally presented and do not suffer from the overhang of the long and bitter battle waged between IITB and Patil;

I] IITB, having divested itself of all right, title and interest in the invention, need not be heard in the proceedings pursuant to this Judgement, but shall extend all cooperation and execute any document that the Controller may require to give effect to the declarations made herein; and

J] Nothing in this Judgement is an expression of an opinion on merits of the Patent Application;

105. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]