

MOOT PROPOSITION

Statement of Facts

India is one of the developing countries situated in South Asia, with a population of more than 1.25 billion. It is rated as one of 17 mega-diverse countries with over 1,26,756 species of plants, animals, fungi and micro-organisms identified and classified. The Eastern Ghats and Western Ghats are the two identified global hot spots of Biodiversity. The rich biodiversity of India is matched with an equally rich cultural diversity and a unique wealth of traditional knowledge system, developed, preserved and practiced by millions of ethnic and indigenous people living in the rural and forest areas.

The Republic of India is also a party to the Paris Convention for the Protection of Industrial Property of 1883 as amended, the Convention on International Trade in Endangered Species of Wild Flora and Fauna of 1973, the Indigenous and Tribal Peoples Convention of 1989, and the Convention on Biological Diversity of 1992 and its 2010 Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization.

The Tongso – is a semi nomadic community and a dominant tribe habituating in the Kamlang forest in the State of Himachal Pradesh. This community is also well-known for their rich knowledge on medicinal plants of the region. They rely entirely on their flora and fauna for their survival and carry on their daily tasks without any external aid. They use every bit of natural substances that they can find and use them to the full extent. Even for medical treatment, they use their traditional methods, which are passed on orally and by practice from generation to generation. The 'Peri' plant typically found in this region of Eastern Ghats is used widely by the Tongso community for its properties of energy stimulation, increasing the blood flow and improving the stamina.

Alpha Pvt Ltd is a Pharmaceutical Company registered under Company Act 2013. It has deputed scientist Dr.Simon in Eastern Ghat area for conducting research on medicinal plants. The team of scientists along with Dr.Simon was amazed to see the properties of Peri leaves as an energy booster and they convinced the tribal people to disclose more about the plant. The scientists then carried independent research and found out the claims of tribal people to be true. The extensive experiments on the Peri leaves led them to develop a tablet named 'Novak'. The tablet was claimed to be much faster in its effect of increasing the stamina, than the raw eating of the peri leaves. Dr.Simon applied for patent for his product 'Novak' by claiming that they have invented an altogether new product from Peri leaves. The Patent was granted on 31stOctober 2022. Dr.Simon being the employee of Alpha Pvt. Ltd, the patent rights were assigned to the company as per their contractual understandings.

In 5 months after launch, Novak has become the bestselling medicine of Alpha Pvt. Ltd and has made a huge profit. Alpha Pvt. Ltd entered into a contract with the government of Hima Pradesh to set up a new unit in the vicinity of eastern ghat on 1st April 2023.

An NGO 'Unnati' working for the protection of interest of the tribal community in the Eastern Ghat came to know about the activities of Alpha Private Limited and its plan of coming of the drug 'Novak'. The NGO started awareness campaign in the state among the tribal community against the commercial exploitation and misuse of their traditional knowledge. After the announcement of the contract of factory set-up, there was a wide public outrage resulting into a protest. The tribal community at the forefront of the protest demanded cancellation of patent, cancellation of contract in the interest of the conservation of biodiversity and of the traditional knowledge system of the indigenous community.

The NGO gave a notice of post-grant opposition to patent given to 'Novak' to the controller of the Patent under section 25(2) of Patent Act on 1st July 2023. The controller rejected the claim of NGO. NGO then appealed before the High Court of Hima Pradesh and demanded the cancellation of grant of Patent for 'Novak' on various grounds that it does not satisfy the tests of 'Patentability'. The appeal is scheduled for hearing before the Hon'ble High Court of Hima Pradesh.

After noticing the huge public outcry over the contract made by the government with Alpha pharma, Government of Hima Pradesh in a press conference held on 5th July 2023, announced that it is terminating the contract of factory set-up citing the larger public interest.

Aggrieved by the arbitrary cancellation of contract by the State without any prior notice, company filed a writ under Article 226 of the Constitution before the High Court of Hima Pradesh on 31st July 2023 against the state and demanded compensation from the state for arbitrary cancellation of contract as well as for damaging its reputation in the business world. The company stated in its submission that the NGO and the state has ulterior motives behind their moves and they are unnecessarily dragging the company into litigation.

The High Court of Hima Pradesh clubbed the two cases and framed the following issues for arguments for the case of State of Hima Pradesh & NGO 'Unnati' v/s Alpha Phrama Pvt. Ltd.

A) Whether the invention of 'Novak' medicine satisfies the test of patentability under Section 3 of the Patent 1970 or not?

B) Whether the company is liable to get compensation for arbitrary cancellation of contract or not?

1. PARTIES ARE FREE TO FORMULATE ANY OTHER ISSUE THAT THEY DEEM NECESSARY.

2. THE CONSTITUTION AND LAWS OF INDIANA ARE PARI MATERIA WITH THE CONSTITUTION AND LAWS OF INDIA.

Awards

Position	Prize
Winning Team	Cash Prize 10,000/- Trophy and Certificate
Runners-up	Cash Prize Rs. 7,000/- Certificate
Best Mooter	Cash Prize Rs. 4,000/- Certificate
Best Memorial	Cash Prize Rs. 4,000/- Certificate

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**All registered participants will be granted with Certificate of
Participation.**
