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HIGH COURT OF PUNJAB AND HARYANA QUASHES PUBLIC NOTICE RELATING TO SECTION 52(1)(ZA) OF THE COPYRIGHT ACT ISSUED BY THE REGISTRAR OF COPYRIGHTS

2 June 2022

On 19 May 2022, the Hon'ble High Court of Punjab and Haryana (**P&H High Court**) delivered a judgment in the case of *Novex Communications Private Limited v. Union of India and Another*, CWP No. 28758 of 2019, wherein the Court quashed a public notice dated 27 August 2019 issued by the Registrar of Copyright interpreting Section 52(1)(za) of the Copyright Act, 1957 (**Section 52(1)(za)**).

BACKGROUND

The petitioner-company, Novex Communications Private Limited (**Novex**) is the copyright owner of a large number of sound recordings and is in the business of issuance of licenses for public performance of its sound recordings. Novex filed the present writ petition challenging the validity of a public notice dated 27 August 2019 issued by the Registrar of Copyrights (**Public Notice**) which claimed to interpret Section 52(1)(za) and held that no license was required to be obtained for the purpose of utilization of sound recordings in the course of marriage related functions.

In the present Writ Petition, Novex claimed that by interpreting / clarifying the ambit of Section 52(1)(za) in the public notice, the Registrar of Copyrights had exceeded his jurisdiction and entered the legislative domain, which is impermissible. In addition to this, Novex alleged that the public notice was violative of the provisions of the Constitution of India as it was hampering Novex's constitutional right to carry on business under Article 19(1)(g).

FINDINGS OF THE COURT

The Punjab and Haryana High Court (**P&H High Court**) held that the question of whether certain acts would fall within the exempted categories enumerated under Section 52(1) of the Copyright Act, 1957 would have to be decided as per the facts of each case and there could not be a general interpretation to the provision as given in the public notice. The P&H High Court further held that the public notice did not disclose the authority under which it was issued and could not take away the statutory right of the copyright owner to initiate civil or criminal proceedings for the infringement of copyright.

The P&H High Court held that if the interpretation as being canvassed in the public notice was followed, the same could be misused by notorious elements by playing sound recordings for commercial gains in commercial spaces and by relying on the aforesaid interpretation, the police could also refuse to take cognizance of the offence of infringement of copyright in similar cases.

Finally, the P&H High Court held that not only was the Public Notice issued in violation of the doctrine of separation of powers, but it also infringed Novex's rights under Article

19(1)(g) and was impinging upon the fundamental rights and protections granted to Novex. In view of the aforesaid findings, the P&H High Court quashed the public notice.

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