



1

WP-21317-2019

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF
WRIT PETITION No. 21317 of 2019

PREM PRAKASH

Versus

UNION OF INDIA AND OTHERS

.....
Appearance:

Petitioner is present in person.

Shri Ishan Soni - Advocate for Respondents.

.....
Reserved on : 03.07.2025

Pronounced on : 23.07.2025
.....

ORDER

Per. Vinay Saraf, J

1. Instant writ petition is filed under Article 226 of the Constitution of India by the petitioner, who is Proprietor of Material Testing Laboratory namely 'Venus Testing and Research Laboratory' at Bina, District-Sagar seeking following reliefs :

i) Summon the entire relevant records pertaining to imposition of condition in the Laboratory Recognition Scheme, the Bureau of India Standard has contravened the provision of Bureau of Indian Standard Act, 1986 by imposing a condition as the laboratories which are accredited by an accreditation body that is not a member of 'Asia Pacific Laboratory Accreditation Corporation'/'International Laboratory Accreditation Corporation



(ILAC/APLAC)' cannot get recognized under the 'Laboratory';

ii) Hon'ble Court may kindly be pleased to hold that imposition of such a condition in the 'Laboratory Recognition Scheme', 'Bureau of Indian Standard' has contravened the provisions of Section 4 of the Act as the laboratories which are accredited by an accreditation body that is not a member of 'Asia Pacific Laboratory Accreditation Corporation'/'International Laboratory Accreditation Corporation (ILAC/APLAC)' cannot get recognized under the 'Laboratory is arbitrary, unjust and opposed to settled principles of law;

iii) Any other order/orders, direction/directions may also be passed;

iv) Cost of the petition may also kindly be awarded.

2. Bureau of Indian Standard (in short 'BIS') has framed Laboratory Reorganization Scheme including a condition that the laboratory should have accreditation to IS/ISO/IEC-17025 in respective field of testing such as mechanical, electrical, chemical or microbiological and the accreditation body should be a full member of 'Asia Pacific Laboratory Accreditation Corporation' (hereinafter referred to as 'APLAC') and/ or 'International Laboratory Accreditation Corporation' (hereinafter referred to as 'ILAC').

3. The petitioner has challenged the aforesaid condition in the present petition mainly on the ground that in the Bureau of Indian Standards Act, 1986 and the rules formulated thereunder, there is no provision for obtaining the accreditation certificate from a body, which is full member of APLAC or ILAC and, therefore, there is no justification in imposing such a condition in the scheme and the same is in contravention of the provision of Section 4 of BIS Act.



4. With the consent of the parties, final arguments were heard on 03.07.2025. The petitioner appeared in person and argued the matter for the purpose of final disposal.

5. Petitioner submits that in BIS Act, there is no provision that the accrediting body must be a member of APLAC or ILAC and, therefore, the condition enumerated in the scheme is liable to be quashed. He further submits that he applied to the respondents for providing the details of APLAC and ILAC in RTI Act, but no details are available with BIS despite that the condition has been imposed. He further submits that he preferred a petition under Section 19 of the Competition Act, 2002, which was rejected by order dated 29.06.2017 and the appeal preferred by the petitioner assailing the said order was also dismissed by the National Company Law Appellate Tribunal by order dated 02.05.2019. The SLP preferred by the petitioner was also dismissed on 05.08.2019.

6. The petitioner submits that BIS is a National Standard Body of India working under the aegis of Union of India and empowered to formulate the schemes for the purpose of Laboratory Recognition however, in the scheme, the condition to obtain the accreditation of IS/ISO/IEC-17025 from the institute which is the member of APLAC and ILAC is arbitrary and these associations are not having any office in the country and the legal identity of these associations are not known. He further submits that the accreditation bodies are charging exorbitant fees for providing the accreditation of IS/ISO/IEC-17025. He further submits that the said condition has been included in the scheme only for the purpose of benefitting the accreditation



bodies those are members of APLAC or ILAC. He further submits that by imposing such a condition, the fundamental rights of the petitioner have been infringed. He prays for quashment of the said condition.

7. Learned counsel appearing on behalf of respondents submits that under the BIS Act, Bureau of Indian Standard is established, which is a National Standards Body of India for the harmonious development of activities of standardization, conformity assessment and quality assurance of goods, articles, processes, system and services and for matters connected therewith or incidental thereto.

8. From bare reading of BIS Act, it appears that the Bureau may establish, maintain or recognize testing laboratories for the purpose of conformity assessment and quality assurance. He further submits that for the purpose of maintaining the high standards of laboratories, the BIS has formulated the scheme, wherein the said condition has been included. The petitioner is not required to obtain the membership of APLAC or ILAC and the petitioner is only required to obtain the accreditation certificate from an institute, which is a member of APLAC or ILAC. Several accreditation bodies are there in the country, who are the members of APLAC and/ or ILAC. He further submits that Bureau is the body of specialist and the scheme formulated by the Bureau cannot be challenged on these grounds.

9. Heard the parties and perused the record.

10. Section 10 of Bureau of Indian Standard, 1986 reads as under :

10. (1) The Bureau may exercise such powers and perform such duties as may be assigned to it by or under this Act and, in particular, such powers include the power to -

a. establish, publish and promote in such manner as may be



prescribed the Indian Standard, in relation to any article or process;

b. recognise as an Indian Standard, in such manner as may be prescribed, any standard established by any other Institution in India or elsewhere, in relation to any article or process;

c. specify a Standard Mark to be called the Bureau of Indian Standards Certification Mark which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard;

d. grant, renew, suspend or cancel a licence for the use of the Standard Mark;

e. levy fees for the grant or renewal of any licence;

f. make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without a licence;

g. seek recognition of the Bureau and of the Indian Standards outside India on such terms and conditions as may be mutually agreed upon by the Bureau with any corresponding institution or organisation in any country;

h. establish, maintain and recognise laboratories for the purposes of standardisation and quality control and for such other purposes as may be prescribed;

i. undertake research for the formulation of Indian Standards in the interests of consumers and manufacturers;

j. recognise any institution in India or outside which is engaged in the standardisation of any article or process or the improvement of the quality of any article or process;

k. provide services to manufacturers and consumers of articles or processes on such terms and conditions as may be mutually agreed upon;

l. appoint agents in India or outside India for the inspection, testing and such other purposes as may be prescribed;

m. establish branches, offices or agencies in India or outside;

n. inspect any article or process, at such times and at such places as may be prescribed in relation to which the Standard Mark is used or which is required to conform to the Indian Standard by this



Act or under any other law irrespective of whether such article or process is in India or is brought or intended to be brought into India from a place outside India;

o. coordinate activities of any manufacturer or association of manufacturers or consumers engaged in standardisation and in the improvement of the quality of any article or process or in the implementation of any quality control activities;

p. perform such other functions as may be prescribed.

(2) The Bureau shall perform its functions under this section in accordance with, and subject to, such rules as may be made by the Central Government.

11. Rule 15 and 32 of Indian Standard Rules, 2018 reads as under :

Establishment of Indian Standards.-(1) *The Bureau shall establish Indian Standards in relation to any goods, article, process, system or service and shall reaffirm, amend, revise or withdraw Indian Standards so established as may be necessary, by a process of consultation with stakeholders who may include representatives of various interest such as consumers, regulatory and other government bodies, industry, testing laboratories or calibration laboratories, scientists, technologists and members of the Committee of the Bureau:*

Provided that where a standard is being established on the request of the Central Government or the regulator, which is emerging from or has an impact on national policy, the Central Government or the concerned regulator shall be consulted to ensure that the standard is consistent with such policy:

Provided further that any Indian Standard established by the erstwhile Indian Standards Institution and the Bureau of Indian Standards established under Bureau of Indian Standards Act, 1986 (63 of 1986) before the date of commencement of the Act or the rules or regulations made thereunder, shall be deemed to have been established under the provisions of the Act or under these rules or regulations made under Section 39 of the Act.

(2) All Indian Standards, their revisions, amendments and withdrawal shall be established by notification in the Official Gazette.

32. Establishment, maintenance and recognition of laboratories.-(1) *The laboratories established and maintained by the Bureau shall -*

(a) carry out testing of samples in relation to conformity assessment schemes or Bureau;



(b) carry out research and development investigations or testing for collecting data for evolving and revising Indian Standards and for quality assessment studies;

(c) provide support services to industries for quality improvement on such terms and conditions as may be laid down by the Bureau from time to time; and

(d) carry out such other functions as may be necessary to fulfil the objectives of the Bureau.

(2) The Bureau may recognise any laboratory in India or outside India for carrying out testing of samples in relation to conformity assessment and such other functions as the Bureau may assign to it.

(3) The Bureau may issue guidelines for recognition, suspension or withdrawal, revocation or renewal, of recognition of laboratories.

(4) The Bureau shall maintain a record of laboratories recognised by it for testing samples of articles or processes in relation to the relevant Indian Standards.

12. Section 10, Rule 15 and Rule 32 provide that BIS is the statutory body to establish, publish and promote Indian Standard in relation to any article or process and for recognizing as an Indian Standard. Any Standard in relation to any article or process may be fixed by BIS. Similarly, BIS is empowered to establish Indian Standard specifications in relation to any goods, articles, process, system or services and shall reaffirm, amend, revise or withdraw Indian Standards so established as may be necessary, by a process of consultation with stakeholders who may include representatives of various interests such as consumers, regulatory and other government bodies, industry testing laboratories or calibration laboratories, scientists, technologists and members of the Committees of the Bureau.

13. The Bureau of Indian Standards has been set up under the BIS Act,



1986 with the objective of harmonious development of the activities of standardization, marking and quality certification of goods, and matter connected therewith or incidental thereto.

14. In the present matter, the scheme formulated by the BIS as Laboratory Organization Scheme is under challenge which provides to ensure quality in the laboratory services by outside laboratories which would provide product certification under its Product Certificate Scheme. Thus, the activity under consideration is being carried out by the BIS Rules made thereunder.

15. BIS is exercising its power to perform such duties and assigned under the Act for maintaining and recognition of laboratories for the purpose of standardization and quality control and for such other purposes as prescribed under the Act.

16. The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authority examining the correctness, suitability and appropriateness of the policy, nor Courts are advisors to the executive on matters of policy which the executive is entitled to formulate. Legality of the policy and not the wisdom or soundness of policy may be the subject of judicial review.

17. The Apex Court in the matter of *Balco Employees Union (Regd.) Vs. Union of India and Ors. (2002) 2 SCC 333* considering the scope of judicial intervention in the policy matter has held that for taking of policy decision in commercial matter, the government is empowered to decide to take its policy decision.



18. The impugned scheme must be undoubtedly based on an exhaustive study by experts. The scheme has been formulated for the purpose of increasing the standard of Indian Laboratories and, therefore, the scheme is neither arbitrary nor in violation of the fundamental rights of the petitioner and the same is in consonance with the powers of the Bureau.

19. In view of the specific power entrusted on Bureau of Indian Standard under BIS Act and Rules made thereunder, we are of the opinion that BIS has not acted in an arbitrary manner including a condition for the purpose of recognition of Testing Laboratories that the accreditation certificate should be obtained from a body which is full member of Asia Pacific Laboratory Accreditation Corporation and/ or International Laboratory Accreditation Corporation.

20. Consequently, the petition sans merit and is hereby dismissed. No order as to costs.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

Shub