
SAURAV CHAUDHARY VS. UNION OF INDIA & ANR. (2024)

SCC ONLINE DEL 4585

Deepak Singh Vivekananda Institute of Professional Studies-Technical Campus, Guru
Gobind Singh Indraprastha University (GGSIPU)¹

CASE DETAILS

CASE NAME/CASE TITLE	Saurav Chaudhary vs. Union of India & Anr.
CITATION	2024 SCC OnLine Del 4585
DATE OF JUDGMENT	July 4, 2024
COURT OF ADJUDICATION	Delhi High Court
CORAM	Justice Pratibha M. Singh

BACKGROUND OF THE CASE

Saurav Chaudhary, the petitioner, had filed a patent application which was later deemed abandoned under Section 21(1) of the Patents Act, 1970, due to non-submission of a reply to the First Examination Report (FER). The petitioner contended that this procedural lapse was not attributable to his own negligence but was caused by the failure of his patent agent to inform him about the issuance of the FER. Despite being proactive, sending multiple follow-up emails and even paying the requisite examination fees, the petitioner was never made aware of the FER in writing. The agent admitted to having only two brief phone conversations with the petitioner and failed to provide any documentary evidence of communication. Feeling aggrieved by the abandonment of his application and the lack of accountability mechanisms for patent agents, the petitioner approached the Delhi High Court seeking restoration of his application and disciplinary action against the agent. The case thus raised important questions about procedural fairness in patent prosecution, the fiduciary duties of patent agents, and the need for a codified framework to regulate professional conduct in India's intellectual property

¹ Law Student, Vivekananda Institute of Professional Studies-Technical Campus, Guru Gobind Singh Indraprastha University (GGSIPU), Department of Law, enrolled in the 5 year integrated BALLB course.

ecosystem.

FACTS OF THE CASE

Saurav Chaudhary filed a patent application (No. 201911031495) titled “Blind-Stitch Sewing Machine and Method of Blind Stitching” on 3 August 2019 through the firm M/s Delhi Intellectual Property LLP, represented by patent agent Mr. Naveen Chaklan. A request for examination was submitted on 21 February 2022. Subsequently, the First Examination Report (FER) was issued by the Patent Office on 29 April 2022, requiring a response within six months.

The petitioner claimed to have made repeated follow-ups with the patent agent and the firm on several dates, 15 March 2022, 28 August 2022, 5 November 2022, 19 November 2022, 14 December 2022, 22 December 2022, and 8 January 2023, but received no substantive reply. During this period, he discovered that the application had been marked as “deemed to be abandoned” due to non-filing of the FER response. He then engaged a new patent agent and filed a revival request on 28 January 2023.

These events prompted the petitioner to file a writ petition before the Delhi High Court seeking restoration of his patent application and accountability for the lapse caused by the original patent agent.

LEGAL ISSUES

1. Whether the petitioner’s patent application was rightly deemed abandoned under Section 21(1) of the Patents Act, 1970 due to non-filing of the reply to the First Examination Report (FER).
2. Whether the failure of the patent agent to inform the petitioner about the issuance of the FER constitutes professional misconduct or negligence.
3. Whether the petitioner, having acted diligently, can be granted relief under writ jurisdiction despite the statutory mandate of abandonment.
4. Whether the Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM) is obligated to restore the patent application and accept the reply to the FER.

5. Whether there is a need for a codified regulatory framework to govern the conduct, accountability, and disciplinary proceedings against patent agents in India.

PETITIONER'S ARGUMENTS

The petitioner argued that the abandonment of his patent application was not due to any fault or negligence on his part but was entirely attributable to the failure of his patent agent to communicate the issuance of the First Examination Report (FER). He submitted that he had been diligent throughout the prosecution process, having paid the requisite examination fees and made repeated follow-ups with the agent to ensure timely compliance.

He contended that despite sending multiple emails and reminders on specific dates, including 15 March, 28 August, 5 November, 19 November, 14 December, and 22 December 2022, there was no substantive response from the agent. The petitioner emphasized that he was never informed in writing about the FER, and the agent failed to provide any documentary evidence of having communicated this critical development.

Upon discovering that his application had been marked as “deemed to be abandoned” on the Patent Office website, the petitioner immediately contacted the agent but again received no explanation or assistance. He argued that this lack of transparency and professional accountability left him with no option but to approach the Court for relief.

The petitioner further submitted that he had engaged a new patent agent and filed a revival request on 28 January 2023, demonstrating his continued intent to pursue the application. He maintained that the lapse was procedural and not substantive, and that the abandonment should be set aside in the interest of justice.

Finally, the petitioner invoked judicial precedents to argue that in exceptional circumstances, especially where the applicant has acted diligently and the lapse is due to the agent’s fault, the High Court can exercise its writ jurisdiction to grant relief. He urged the Court to restore his application and initiate disciplinary proceedings against the erring patent agent.

RESPONDENT'S ARGUMENTS

The respondent patent agent, Mr. Naveen Chaklan, submitted that he had remained in contact with the petitioner until the filing of the patent application and had duly filed the request for

examination, which was confirmed on 15 March 2022. He claimed that after the issuance of the First Examination Report (FER) on 29 April 2022, he had communicated its existence to the petitioner through two brief phone calls, one incoming and one outgoing, though he admitted that no written communication or email was ever sent.

He further argued that no instructions were provided by the petitioner to proceed with the FER response, and therefore, he did not take any action to file it. He also contended that the petitioner had not executed a power of attorney in his favor, implying that he lacked formal authorization to act beyond the initial filing stages. This claim was countered by the petitioner's counsel, who pointed to fee payments and email correspondence as evidence of continued engagement.

On behalf of the Union of India and the Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM), it was argued that the petitioner ought to have been aware of the procedural timeline following the request for examination. The FER was publicly available on the Patent Office website, and the petitioner could have accessed it independently. Therefore, the respondents contended that the precedent cited by the petitioner, *European Union v. Union of India*, was inapplicable, as the petitioner had not demonstrated sufficient diligence beyond March 2022.

JUDGMENT OF THE COURT

The Court began by acknowledging the petitioner's diligence and proactive conduct throughout the patent prosecution process. It noted that the petitioner had paid the examination fees, sent multiple follow-up emails, and had consistently sought updates from his patent agent. Despite this, the agent failed to inform him about the issuance of the First Examination Report (FER), which ultimately led to the application being deemed abandoned under Section 21(1) of the Patents Act, 1970.

Justice Prathiba M. Singh held that the abandonment was not due to any fault of the petitioner but was a direct consequence of the patent agent's failure to discharge his professional duty. The Court found that there was no written communication from the agent regarding the FER, and the two brief phone calls cited by the agent were insufficient to meet the standard of professional care expected in such matters. The petitioner's conduct, in contrast, was found to be consistent with a genuine intent to pursue the application.

Accordingly, the Court set aside the abandonment order and directed the Patent Office to restore the application. It ordered that the reply to the FER be accepted within four weeks of restoration and that the application be processed in accordance with law. The Court also directed the Patent Office to update the status of the application on its website within two weeks.

The Court further held that the conduct of the patent agent amounted to *prima facie* professional misconduct. It emphasized that inventors rely heavily on patent agents to navigate procedural requirements, and any lapse in communication can result in irreversible prejudice. The agent's failure to inform the petitioner about the FER, despite repeated follow-ups, was deemed a serious breach of professional responsibility.

To address this, the Court directed the Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM) to initiate and conclude an enquiry against the patent agent within four months. The agent was to be given a personal hearing, and the judgment itself was to be treated as a notice for the purpose of initiating disciplinary proceedings.

Recognizing a broader systemic issue, the Court called for the formulation of a Code of Conduct for patent and trademark agents. It directed CGPDTM to draft and publish the proposed Code within two months for stakeholder consultation and to notify the final version by 31 December 2024. The Court also ordered the creation of a framework for complaints and disciplinary action, including the constitution of an *ad hoc* committee comprising two IP officials and one senior IP practitioner with at least 15 years of experience.

The Court drew upon international best practices, citing the USPTO's Rules of Professional Conduct, UK Patent Agent Regulations, and the Irish Patents Act, 1992. It also referred to the 161st Parliamentary Standing Committee Report, which recommended greater flexibility in the Patents Act to prevent harsh consequences arising from minor procedural lapses.

Lastly, the Court addressed the issue of misleading advertisements by IP service providers. It expressed concern over promotional claims such as "Trademark in 1 day" or "100% success guaranteed," and directed CGPDTM to regulate such practices. It mandated that agents disclose their registration numbers in all promotional material to ensure transparency and accountability.

RELEVANCE OF ETHICS IN LEGAL PROFESSION

The judgment reaffirms the foundational principle that legal professionals, including patent agents, owe a fiduciary duty to their clients. This duty encompasses not only procedural compliance but also transparent communication, timely updates, and safeguarding the client's legal interests. The Court's finding that the agent failed to inform the petitioner about the issuance of the First Examination Report (FER) underscores the ethical obligation to maintain clear and documented communication, a standard equally binding on advocates.

Justice Prathiba M. Singh's observation that oral communication through brief phone calls was insufficient highlights a critical ethical expectation: legal professionals must ensure that clients are adequately informed through formal, traceable means. This sets a precedent that vague or undocumented advice cannot absolve professionals of responsibility, reinforcing the duty of diligence and accountability in client representation.

By analogizing the conduct of the patent agent to advocate negligence, the Court extended the ethical framework governing lawyers to allied legal professionals. Citing precedents like *Rafiq v. Munshilal* and *Noratanmal Chouraria v. M.R. Murli*, the judgment emphasized that clients should not suffer due to the omissions of their legal representatives. This principle is central to legal ethics, affirming that professional lapses must not prejudice substantive rights.

The Court's directive to initiate disciplinary proceedings against the patent agent reflects a commitment to enforce ethical accountability. It moves beyond mere judicial censure and mandates institutional action, thereby strengthening the regulatory architecture for professional conduct. This mirrors the disciplinary mechanisms under the Advocates Act, 1961, and signals the need for parity in enforcement across legal domains.

Importantly, the judgment calls for systemic reform through the drafting of a Code of Conduct for patent and trademark agents. This initiative parallels the Bar Council of India's ethical framework and aims to codify standards of integrity, client care, and professional responsibility.

The proposed complaint mechanism and disciplinary committee structure reflect a shift toward institutionalizing ethics in intellectual property practice.

The Court's condemnation of misleading advertisements by IP service providers, such as "100% success guaranteed" or "Trademark in 1 day", further reinforces the ethical boundary

between professional service and commercial solicitation. By mandating disclosure of registration numbers and regulating promotional claims, the judgment aligns with the prohibition on advertising under Rule 36 of the Bar Council of India Rules, thereby extending ethical norms to non-advocate legal professionals.

In sum, the judgment is a doctrinal milestone in bridging the ethical expectations of lawyers and patent agents. It affirms that professional conduct is not merely procedural but deeply rooted in trust, transparency, and accountability. For legal practitioners, educators, and regulators, it offers a robust framework for reinforcing ethical standards and protecting the integrity of client representation.

ANALYSIS

The judgment in *Saurav Chaudhary v. Union of India & Anr.* serves as a pivotal moment in reinforcing the ethical obligations of legal professionals, particularly those operating in specialized domains like intellectual property. It exposes the consequences of professional indifference and elevates the conversation around client trust, procedural responsibility, and institutional accountability.

At the heart of the case lies a breakdown in the professional relationship between the petitioner and his patent agent, a failure not of law, but of duty. The agent's omission to notify the petitioner about the First Examination Report (FER) was not treated as a mere oversight; it was recognized as a breach of professional responsibility. This distinction is critical: the Court did not excuse the lapse as technical but framed it as a failure of ethical conduct.

The judgment draws attention to the necessity of formal, traceable communication in legal representation. The agent's reliance on two undocumented phone calls was deemed inadequate, setting a clear expectation that legal professionals must maintain written records and ensure clients are fully informed of procedural developments. This principle resonates across all branches of legal practice, reinforcing that casual or informal engagement cannot substitute for professional diligence.

Beyond individual accountability, the Court's directions signal a broader institutional shift. By mandating the creation of a Code of Conduct for patent and trademark agents, the judgment pushes for a structured ethical framework akin to the Bar Council's regulatory model for advocates. This move acknowledges that IP professionals, though not enrolled as lawyers,

perform quasi-legal functions and must be held to comparable standards of integrity and transparency.

The Court also tackled the issue of misleading advertising, a growing concern in the digital age. Promotional claims promising guaranteed success or expedited registration were condemned as deceptive and professionally irresponsible. This critique aligns with long-standing prohibitions on solicitation within the legal profession and extends those norms to adjacent fields, reinforcing the idea that legal services must be grounded in honesty, not marketing gimmicks.

Ultimately, the judgment reframes legal ethics not as a static code but as a living standard, responsive to evolving professional roles and client expectations. It affirms that ethical conduct is not confined to courtroom advocacy but extends to every interaction where legal expertise is entrusted. For practitioners, regulators, and scholars, this case offers a timely reminder: professionalism is measured not just by knowledge, but by character.

CONCLUSION

The *Saurav Chaudhary* judgment is not merely a corrective order, it's a judicial blueprint for reforming professional accountability in India's intellectual property regime. By restoring the petitioner's patent application and spotlighting the agent's failure, the Court transformed a routine procedural lapse into a catalyst for ethical introspection and regulatory overhaul. It recognized that the true injury lay not in missed deadlines, but in the erosion of trust between client and counsel.

What sets this decision apart is its dual focus: individual redress and systemic repair. The Court didn't stop at granting relief, it demanded institutional safeguards, disciplinary mechanisms, and a codified standard of conduct for IP professionals. In doing so, it bridged the gap between statutory compliance and ethical responsibility, reminding practitioners that technical expertise must be matched by professional integrity.

This case will likely serve as a reference point for future disputes involving agent negligence, procedural fairness, and the evolving role of legal ethics in specialized domains. More importantly, it sends a clear message: in the pursuit of justice, silence, omission, and indifference are not neutral, they are failures. And the law will not look away.