

The claimed invention did not constitute an “invention” under Section 2(1)(j) and lacked inventive step under Section 2(1)(ja) of the Patents Act, 1970, if the cited prior arts disclosed the use of the claimed ingredients. Further, the Biological Diversity Act, 2002 does not confer any power on the National Biodiversity Authority (NBA) to examine patentability

The **Delhi High Court** in the case of **Shaafi Naturcure LLP vs assistant Controller of Patents & Designs [C.A.(COMM.IPD-PAT) 109/2022] dated June 22, 2026**, has held that the claimed invention did not constitute an “invention” under Section 2(1)(j) and lacked inventive step under Section 2(1)(ja) of the Patents Act, 1970, if the cited prior arts disclosed the use of the claimed ingredients for treatment of asthma or related ailments, the complete specification did not establish synergy of the six-herb composition, and different combinations of four to five compounds also showed similar efficacy.

The Court further held that the subject application was barred under Section 3(p) because it was an aggregation or duplication of known properties of traditionally known components, and the combination fell within Guiding Principles 2 and 4 of the Traditional Knowledge Guidelines, namely, combination of plants already known for the same disease and discovering optimum/workable ranges by routine experimentation. The Court also upheld the objection under Sections 10(4)(a) and 10(4)(b), holding that the complete specification did not fully and particularly disclose the claimed invention and failed to disclose the best method of performing the invention.

The Court observed that the appellant’s reliance on the Biological Diversity Act, 2002 was misconceived, and that neither the Act nor the Rules conferred any power on the National Biodiversity Authority (NBA) to examine patentability. The NBA approval is only a regulatory requirement for access to biological resources and had no nexus with the patentability of the claimed invention, which had to be examined exclusively under the Patents Act, 1970.

The Court further observed that the complete specification did not disclose any information regarding five different variants of asthma, nor did it disclose the alleged negative effects or side effects arising from alteration of ratios or combinations of herbs, all of which were introduced for the first time through the inventor’s affidavit. Referring to *AstraZeneca AB v. Alkem Laboratories Limited* [CS (COMM) No.410/2020], the Court reiterated that post-filing evidence can only be used to confirm the existence of a technical effect already embedded in the specification and cannot be used to establish such effect for the first time.

The Court also noted inconsistencies between the complete specification and the affidavit, including that examples in the complete specification showed significant relief from asthma even with compositions containing only four ingredients, thereby undermining the appellant’s case that synergy was attributable to the six-ingredient claimed composition. The Court therefore found that the affidavit data was rightly rejected and that the claimed invention lacked demonstrated synergy or technical advancement over the cited prior arts.