



Interpreting Section 33: Delhi High Court Mandates Copyright Society Registration for Licensing Sound Recordings

In a recent case of *Azure Hospitality Pvt. Ltd. v. Phonographic Performance Ltd.* [FAO(OS)(COMM) 41/2025], the division bench of the Delhi High Court examined whether entities like Phonographic Performance Limited (PPL), which manages a vast repertoire of sound recordings, can continue granting public performance licenses without being registered as a copyright society under Section 33 of the Copyright Act, 1957 (“**the Act**”). PPL claimed it held the rights as an assignee under Section 18 of the Act.

Relevant provisions of the Act:

The relevant provisions of the Act, being crucial to the present judgement, are briefly explained below:

- Section 18: Assignment of copyright –

The owner of the copyright in an existing work or the prospective owner of the copyright in a future work is entitled to assign to any person the said copyright either wholly or in part, with or without any condition and either for the whole term of the copyright or for any other term.

- Section 30: Licences by owners of copyright –

A copyright owner (or future copyright owner) can grant a license to someone else, but it must be in writing, either signed by the owner or their authorized agent. If the license is for a work that does not exist yet, it becomes valid only when the work actually comes into existence; if the person who was granted such a license dies before the work is created, their legal heirs will inherit the benefits of the license, unless the license says otherwise.

- Section 33: Registration of copyright society –

No one can start or continue the business of issuing licenses for copyrighted works or other rights under the Copyright Act unless they are registered as a copyright society. However,

- Individual owners of copyright can still license their own works, but only individually and in line with any rules if they are part of a registered copyright society.
- For music and film-related works (like songs in movies or recordings), only registered copyright societies can license them.



Arguments by the Parties in brief:

- **Appellant:**
 - Azure Hospitality Private Limited, being the appellant in the present case who was sued by PPL, the respondent, for playing its copyrighted songs without obtaining license, stated that PPL was an unregistered copyright society that was attempting to bypass the legislative intent of Section 33 of the Act which aims to regulate the business of bulk copyright-holders (like PPL) granting licenses and prevent monopolization, cartelization and syndication.
 - Registration of entities like PPL was argued to be essential since unlike a *bona fide* person issuing license in respect of his copyrighted works without being exclusively engaged in the business of doing so, entities like PPL charge exorbitant amount for license, which is detrimental to the licensee's interests who has to pay the entire fee for the collection of copyrighted work even if he requires a part of it.
- **Respondent:**
 - PPL argued that it is *bona fide* owner of the sound recordings in respect of which it holds copyright and that legally, it is entitled to exploit the sound recordings, of which it is the legitimate owner, on its own terms. If a person desires to play any of the said sound recordings, the payment must be at the rate charged by PPL.

Key Highlights of the Judgment:

The Delhi High Court concluded that PPL cannot commercially license music without being registered as a copyright society under Section 33 by merely asserting ownership through assignment under Section 18. Further, given PPL's business model, the right to grant licenses under Section 30 is subordinate to the regulatory requirements of Section 33, and therefore, it must be registered as a copyright society to engage in the *business* of licensing.

- a. Lack of Registration: PPL is no longer a registered copyright society under the Act since it had voluntarily surrendered its registration and was subsequently denied re-registration.
- b. Assertion of Rights through Assignment: PPL has continued licensing music, relying on assignments under Sections 18(1) and 18(2). While the Court acknowledged that Section 30 permits a copyright owner or assignee to grant licenses, it held that Section 33(1) specifically prohibits any entity from carrying on the *business* of issuing licenses unless registered as a copyright society.
- c. Business Model Falls Under Section 33(1): Given that PPL issues bulk public performance licenses on behalf of over 400 music labels, its operations clearly amount to "*carrying on the business*" of licensing, which mandates registration under Section 33(1).



- d. Legislative Intent and Regulatory Oversight: The Court emphasized that Section 33 was enacted to guard against cartelization, monopolistic practices, and opaque tariff structures, which are risks that are heightened when dominant players like PPL function outside the regulatory framework.
- e. Parliamentary Reports Support Regulation: Reports of the Parliamentary Standing Committee, referenced during the proceedings, reinforced the legislative intent that all licensing bodies should be subject to regulatory oversight and public tariff scrutiny.
- f. Intersection between Sections 30 and 33(1) of the Act: The Court clarified that the licensing rights under Section 30 are also subject to the regulatory requirements of Section 33(1).

The Court's Reasoning:

The excerpts summarising the Court's reasoning are reproduced as under:

- “(vii) The use of the words “consistent with his obligations as a member of the registered copyright society”, contained in the proviso to Section 33(1) are of great significance. They clearly indicate that the legislature envisages any person who is granting licenses in respect of copyrighted works as being a member of a registered copyright society. It would be unrealistic and strained to read the words “consistent with his obligations as a member of the registered copyright society” as contained in the proviso to Section 33(1) as applying only to a situation in which the copyright owner happens to be such a member. Clearly, at the cost of repetition, it is clear that Section 33(1) envisages that the copyright owner, who is issuing or granting licenses in respect of the copyrighted works of which he is the owner, is a member of a registered copyright society.*
- (viii) This interpretation would also harmonise with the well-settled principle that a proviso to a section cannot derogate or detract from the ambit of the section itself. It has to be read harmoniously with the main section and cannot dilute its efficacy. The requirement of any person engaged in the business of issuing or granting licenses in respect of copyrighted works, contained in Section 33(1) cannot, therefore, be diluted, much less eviscerated, by the proviso thereto.*
- (ix) Thus, what the proviso permits is that such a member of a registered copyright society, who may also be holding copyright in respect of his own works – which expression has necessarily to be contradistinguished with the works of which he claims ownership merely as an assignee under Section 18(2) – has the right to grant licenses in respect of such works. Even so, such grant of licenses has to be consistent with the obligations of such a person as a member of the registered copyright society.*
- (x) Viewed any which way, therefore, there can be no escaping the position that issuance or grant of licenses for exploiting of works in respect of which a person claims copyright can only be done if such person is a registered copyright society or a member of a registered copyright society.”*



Conclusion

The present judgment marks a significant reaffirmation of the regulatory framework envisioned under the Copyright Act, 1957. The Delhi High Court has unequivocally held that entities like PPL, despite holding copyright through assignment under Section 18, cannot bypass the mandatory registration requirement under Section 33(1) to engage in the business of licensing. By drawing a clear distinction between individual copyright holders and bulk licensing entities, the Court has harmonized the interplay between Sections 18, 30, and 33, thereby setting a robust precedent for the governance of copyright licensing in India.

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