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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12163/2018**

PIUSH AHLUWALIA

..... Petitioner

Through Mr Dayan Krishnan, Senior Advocate
with Ms Aakashi Lodha, Mr Sanjeevi Seshndri,
Mr Adarsh Ramanujan, Mr R.V. Prabhat,

versus

UNION OF INDIA

..... Respondent

Through Mr Arun Bhardwaj, Mr Shashwat
Sharma, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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14.11.2018

CM APPL. 47208-47209/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 12163/2018 & CM APPL. 47207/2018

3. Issue notice. The learned counsel appearing for the respondent accepts notice.
4. The petitioner has filed the present petition, *inter alia*, impugning an advisory dated 28.08.2018 issued by the respondent, whereby the States/Union Territories have been advised to ensure that electronic nicotine delivery systems (ENDS) including e-Cigarettes, Head-Not-Burn Devices, Vape, e-Sheesha, e-Nicotine Flavoured Hookah and the like devices that

enable nicotine delivery are not sold, manufactured, distributed, traded, imported and advertised in their jurisdiction for the purpose and the manner as may be approved in. The said advisory also indicates that certain states have prohibited manufacture distribution and import and sale of ENDS.

5. The petitioner contends that the said advisory is violative of the petitioner's fundamental rights under Article 14, 19 and 21 of the Constitution of India inasmuch as it deprives the petitioner from exercising its discretion to use the aforesaid products. According to the petitioner, the said products are less harmful than cigarettes and are used by smokers to quit the habit of smoking. The petitioner has also referred to the study carried out by Executive Agency of the Department of Health and Social Care, Public Health England, which indicates that e-cigarettes are 95% safer than smoking Paper Roled Cigarettes (PRCs).

6. This Court does not consider that any interference with the said advisory is warranted, as the same is an advisory which is required to be considered by the State Governments/Union Territories. The said advisory is not binding and it would be open to the respective states and union territories to take an informed decision in this regard. In any event, the petitioner is at liberty to challenge any action that may be taken by the State Governments/Union Territories in accordance with law.

7. The petition is, accordingly, dismissed. The pending application is disposed of.

VIBHU BAKHRU, J

NOVEMBER 14, 2018/pkv