

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

**W.P. No.8617 of 2009
and M.P.No.1 of 2009**

A.Sherfudeen

.. Petitioner

-VS-

- 1.The Secretary,
Ministry of Health and Family Welfare,
Nirman Bhavan, Moulana Azad Road,
New Delhi 110 011.
- 2.The Chief Secretary,
Govt. of Tamilnadu,
St. George Fort, Chennai.
- 3.The Secretary,
Ministry of Health and Family Welfare,
St. George Fort, Chennai.
- 4.The Nodal Officer,
Tamil Nadu State Tobacco Control Cell,
DMS Complex, 259, Anna Salai,
Teynampet, Chennai-6.
- 5.The Director of Public Health and
Preventive Medicine, DMS Complex,
259, Anna Salai, Teynampet, Chennai-6.
- 6.The Project Director,
Tamil Nadu Health System Project,

7th Floor, DMS Complex, 259,
Anna Salai, Teynampet, Chennai-6.

7.I.T.C.Limited

Rep. By its Chief Engineer,
37, Jawaharlal Nehru Road,
Kolkatta – 700 071.

8.The Chief Manager,
VST Industries Ltd. (Charms)
Azamabad, Hyderabad-500 020.

9.Kothari Products

Rep. By its Chief Manager,
Pan Parekh House, 24/19, Birhana
Road, Kanpur 208 001.

10.Manik Chand House

100-101, D.Kennedy Road,
Pune-411 001.

11.Baba Global Ltd.,

"Tulsi Zarda", 2-62, Sector-9,
Noida-201 301, Uttar Pradesh.

12.The Chief Manager,

"Rajinigandha Gutka", Dharampol
Satypal Group, A-85, Sector-2,
Noida 201 301, Uttar Pradesh.

13.Arasan Beedi Co.

ASD Road, Melapalayam,
Tirunelveli – 627 005.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the manufacturers to disclose the ingredients and percentage as well as the nutritious value of the tobacco products and the ill effects of the use of Cigarettes Beedis, Gutka and other products involving tobacco.

For Petitioner : Mr.Lakshmi Narayanan
for Mr.M.Deivanandham

For Respondents : Mr.Su.Srinivasan
Asst. Solicitor General for R-1
: Mr.V.R.Kamalanathan
Addl.G.P. for RR 2 to 6
: Mr.Krishna Srinivasan
for M/s S.Ramasubramanian Asso.
For RR 7 and 8
: Mr.N.Umapathi for R-13
: Not ready in notice reg. RR 10-12
* * * * *

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The writ petition filed as a public interest litigation seeks to raise an important issue arising from the non-notification of Section 7 (5) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as 'the said Act').

2.It is the case of the petitioner that tobacco products are available in the market of various forms, viz., cigarette, Cigars, Cheroots, Pipe Tobacco, Hookah Tobacco, Chewing Tobacco, Snuff Tooth Powder containing tobacco, beedi, pan masala, gutka, etc. It is

alleged that as on the date of filing of the petition more than 45% of the Indian population were using tobacco every day with or without knowing the ill-effects of the tobacco. We may not go into further details on this except that over the years, there has been a greater awareness of this problem and action has been taken both by the State Government and the Central Government from time to time to bring to the notice of the consumers the ill-effects of smoking which are manifold.

3. At this stage, after more than seven years, the aspect which is sought to be emphasized by the learned counsel for the petitioner is that there is no printing and circulation of the danger of smoking read in the context of the ingredients of the products, which was mandated by Section 7 (5) of the said Act, but the same has not been brought into force.

4. In the counter-affidavit filed by the first respondent, it has been pointed out that undisputedly, the said provision has not been brought into force though enforcement of sections mandating the depiction of tar and nicotine contents not being notified. It is averred as under:

"3. .. However, the enforcement of sections mandating depiction of tar and nicotine contents will be notified after necessary institutional capacity to test the nicotine and tar contents of the tobacco products is established. The Government is actively engaged in the process of capacity building by setting up Apex / Testing laboratory facilities in the country for testing tar and nicotine contents in all forms of tobacco products with the technical inputs from World Health Organisation and Center for Disease Control (CDC), Atlanta USA, which have the necessary technical expertise in the matter."

5.Thus, the Central Government itself admits to be actively engaged in the process of building the necessary infrastructure for detection of tar and nicotine contents. This affidavit was affirmed on 15.04.2010, i.e. more than six years ago. We are quite sure that by now necessary infrastructure would have been built over these periods of six years. This is also in the context of the same view having been taken in W.P. (Civil) No.18440 of 2004 before the Delhi High Court, which was disposed of in terms thereof on 10.12.2008. We would, thus, like to know the stage of the capacity building and as to when do they propose to notify those provisions.

6. Writ petition is, thus, disposed of with the direction to the Central Government to file an affidavit of compliance in terms aforesaid. No costs. Consequently, M.P.No.1 of 2009 stands closed.

7. List for compliance on 16.09.2016.

(S.K.K., CJ.) (R.M.D., J.)
01.08.2016

Index : Yes/No
Website : Yes/No

**Note:(1) Issue order copy by
02.08.2016.**

**(2) Mark a copy of the order
to The Section Officer,
Writ Section, for listing
the case for compliance
on 16.09.2016.**

sra

To

1. The Secretary,
Ministry of Health and Family Welfare,
Nirman Bhavan, Moulana Azad Road,
New Delhi 110 011.

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The Hon'ble Chief Justice
and
R.Mahadevan, J.

(sra)

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