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

+ W.P.(C) 16925/2022

SHIV VINAYAK GUPTA & ANR. Petitioner

Through: Mr. Shiv Vinayak Gupta and Mr.
Anubhav Tyagi, Petitioner in person.

versus

UNION OF INDIA AND ORS Respondent

Through: Mr. Santosh Kumar Tripathi,
Standing Counsel with Mr. Arun
Panwar, Mr. Tapes Raghav, Mr.
Pradyumn Rao and Ms. Mahak
Rankawat, Advocates for
Respondent/ GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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12.12.2022

CM APPL. 53653/2022

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 16925/2022 & CM APPL. 53654/2022

3. The Petitioners before this Court have filed this present Writ Petition stating that they are advocates enrolled with Bar Council of Delhi in the year 2021 and 2020 respectively, and they are aggrieved due to the inaction on the part of Delhi Police in implementing the statutory provisions as

contained in the Prohibition of Electronic Cigarettes (Prohibition, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019 (hereinafter to be referred as '*the Act, 2019*').

The Petitioners have prayed for the following reliefs:

“A) Issue appropriate Orders, Directions, Writs in the form of Mandamus or any other Writ directing Respondent No. 4 to forthwith seize the entire contraband of the illegal stock of e-cigarettes and other related substances within the jurisdiction of this Hon'ble Court and/or;

B) Issue appropriate Directions, Orders or Writ in the nature of Mandamus or any other Writ to Respondent No. 3 for immediately removing all the content related to e-cigarettes and other related substances from online websites and social media platforms and/or;

C) Issue appropriate Directions, Orders, Writ in the nature of Mandamus to Respondent No. 4 to initiate investigation under the matter in order to find out the root cause of the source and as to how e-cigarettes and other related substances are being illegally sold in the State of NCT of Delhi and/or;

D) Issue appropriate Directions, Orders, Writ in the form of Mandamus to Respondent No. 4 containing a 'final-warning' to perpetrators of e-cigarettes and other related substances who have failed and / or not bothered to suo -motu surrender their stock as required under Section 5 of the Act of 2019 and/or;

E) Issue appropriate directions in the form of Mandamus to Respondent No. 1 and Respondent No. 5 to create public awareness programmes and / or drives in order to protect and promote public health at large especially amongst the members of the young generation(s) and/or;

F) Issue appropriate directions to all the Respondents in order to expediently take control of the e-cigarettes industry as envisaged under Section 2 of the Act of 2019 and/or;

G) Issue appropriate directions for constitution of a Court monitored committee for reviewing the progress made by all the Respondents for effective implementation of the provisions of The Prohibition of Electronic Cigarettes (Production,

Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 and/ or;

H) Pass any other and further orders that this Hon'ble Court may find appropriate in light of justice, equity and good conscience.”

4. On the other hand, Learned Counsel appearing for Government of NCT of Delhi at the outset has stated before this Court that the raids are being conducted by the police to ensure compliance of the statutory provisions as contained under the Act, 2019. It is stated that the Police has registered FIRs and the State Machinery is certainly ensuring strict compliance of the statutory provisions of the Act, 2019. He has also stated that periodical raids are being carried out from time to time, and merely on apprehension of the Petitioner that the statutory provisions are not being followed, the question of indulgence by this Court does not arise.

5. This Court has gone through the Writ Petition and the statutory provisions as contained in the Act, 2019, and in view of the statement made at the Bar that FIRs have been registered, raids have been carried out and the Act, 2019 itself provides for a complete mechanism, this Court does not find it expedient to entertain the writ petition. Resultantly, the admission is declined.

6. However, the State is directed to ensure strict compliance of the Act, 2019 by conducting more periodical checks from time to time in all localities in Delhi.

7. The Delhi Police will also take all possible steps to ensure that sale of online cigarettes also does not take place as alleged by the Petitioner.

8. The Delhi Police will also carry out periodical checks in and around all schools and colleges to ensure that such type of E-Cigarettes are not sold

and statutory provisions of the 2019 are complied with.

9. The Respondents shall take appropriate action against the violators under statutory provisions as contained in the Act, 2019.

10. With the aforesaid, the Writ Petition/ PIL stands disposed of.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

DECEMBER 12, 2022

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