

## VERDICTUM.IN

**Court No. - 17**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 2833 of 2023

**Applicant :-** Moti Lal Yadav

**Opposite Party :-** Sri Rajiv Gowba, Cabinet Secy. Central Secrtt. Govt. Of India, New Delhi And Another

**Counsel for Applicant :-** In Person

**Counsel for Opposite Party :-** Ambrish Rai

**Hon'ble Rajeev Singh,J.**

1. Heard Shri Moti Lal Yadav, learned counsel appearing in person and Shri S.B. Pandey, learned Deputy Solicitor General of India for the respondents.

2. This application under Section 12 of the Contempt of Courts Act has been filed alleging wilful disobedience of the judgment and order dated 22.09.2022 passed on PIL No. 646 of 2022.

3. The applicant submits that the prominent persons of the country, who are holders of highest National Civilian Awards, viz. Padma Vibhushan, Padma Shri, National Filmfare Awards etc., in violation of the provisions of the Prohibition of Advertisement and Regulation of Trade and Commerce (Production, Supply and Distribution) Amendment Act, 2020, are participating in endorsements and advertisements of cigarette and tobaccos etc. Aggrieved, the applicant filed PIL No. 646 of 2022 before the writ Court with following main prayers :

"(i) issue a writ, order or direction in the nature of Mandamus directing the opposite party nos. 1 and 6 to issue any Notification or Protocol Guidelines requiring Awardees and/or celebrities not to engage themselves in such activities including advertisements/endorsements which are harmful to health of citizens;

(ii) issue a writ, order or direction in the nature of Mandamus directing the opposite party no. 3 to take appropriate action against opposite party nos. 8 to 16 by imposing heavy penalty upto Rs.50.00 lacs as per provision of Section 21(2) Consumer Protection Act, 2019 ;

(iii) issue a writ, order or direction in the nature of Mandamus directing the opposite party nos. 11 to 16 to deposit entire amount of advertisement-contract received from opposite party nos. 8 to 10 and equal amount also be deposited by opposite

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party nos. 8 to 10 in Corona Relief Fund, Government of India after summoning the relevant contract deed."

4. The Division Bench of this Court disposed of the said petition vide order dated 22.09.2022 with the liberty to the applicant for making appropriate representation before the competent authority for framing of guidelines. He is also directed to take recourse to the statutory mechanism for redressal of the grievances relating to violation of consumer rights/unfair trade practices/false and misleading advertisement, under the Consumer Protection Act, 2019, by approaching the Collector/Commissioner or the Central Consumer Protection Authority. The writ Court also directed that, in case, the petitioner approaches the aforesaid authorities, his grievance shall appropriately be attended in accordance with law.

Order dated 22.09.2022 is as under :

"Sri Moti Lal Yadav, a practising lawyer of this Court by instituting these proceedings under Article 226 of the Constitution of India has raised certain issues in public interest concerning the alleged participation of celebrities, especially 'Padma Awardees', in advertisements/endorsements of certain products/items which are harmful to health of public at large.

With the assertion that 'Padma Awardees' have been participating in such endorsements and advertisements, a prayer has been made seeking a direction to the Central Consumer Protection Authority of India, which is a statutory body created under the Consumer Protection Act, 2019 (hereinafter referred to as 'Act, 2019') to take appropriate action against the private respondents by imposing penalty as per the provisions contained in Section 21 (2) of the Act, 2019. Another prayer made in the petition is that certain individuals i.e. 'Padma Awardees' as named in the writ petition be directed to deposit entire amount earned by them from such advertisements and further that an equal amount be also ordered to be deposited by them in relief fund of the Government of India.

The petitioner has relied upon a judgment of Hon'ble Supreme Court in the case of Balaji Raghavan vs Union of India reported in (1996) 1 SCC 361 and has argued that Hon'ble Supreme Court in the said case had expressed its concerns about the manner in which 'Padma Awards' are conferred.

He, specifically drawing our attention to para 40 of the said judgment, has argued that Hon'ble Supreme Court had suggested that a committee at national level be constituted by the Prime Minister of India in consultation with the President of India which may include, amongst others, the Speaker of the Lok Sabha, the Chief Justice of India or his nominee and Leader of Opposition in the Lok Sabha to appropriately administer the process of conferment of 'Padma Awards'. He has also stated

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that Hon'ble Supreme Court in the said judgment had also suggested that at the State Level as well, similar committees may be formed by the Chief Minister of the State in consultation with the Governor and the said committee may include the Speaker of the Legislative Assembly, the Chief Justice of the State or his nominee and the Leader of the Opposition.

Sri Moti Lal Yadav, the petitioner has submitted that despite the aforesaid suggestion having been given by Hon'ble Supreme Court way back on 15.12.1995 till date no such committees have been formed.

When we enquired from the petitioner as to the concern expressed by him in the petition relates to formation of committee for selecting/choosing the individuals for conferment of 'Padma Awards' or for dis-conferment of such Awards in case Padma Awardee is not found conducting himself/herself in a manner expected of national awardee, he submits that certain individuals/ celebrities named in the writ petition though have been conferred with the award, however, they are still indulging in advertisements/endorsements which are harmful to the health of public at large and as such the petitioner's concern is that guidelines be issued for dis-conferment of the awards in case an awardee is not found conducting himself appropriately.

We have also heard Sri Surya Bhan Pandey, learned Senior Advocate/Deputy Solicitor General of India, assisted by Sri Ambrish Rai, learned counsel representing the Union of India and Sri Siddharth Dhaon, learned Additional Chief Standing Counsel representing the State-respondents.

Having regard to the issues and concerns raised in this petition, we find it appropriate to require the petitioner to approach the Government of India drawing its attention to alleged inappropriate conduct of some of the 'Padma Awardees' and also in respect of their alleged participation in harmful and misleading advertisements. In fact, we are of the considered opinion that all these issues including the issue relating to framing of any such guidelines fall in the exclusive domain of the executive/legislature and hence, it would be appropriate for the petitioner to make an appropriate representation to the Central Government in respect of such grievances expressed by him in the petition.

The consumer protection regime in our country has now been revolutionized by the Parliament which has enacted Consumer Protection Act, 2019.

Under Section 10 of the said Act, a Central Consumer Protection Authority has been established by means of notification issued on 24th July, 2020. The Central Authority even has an Investigation Wing in terms of the provision contained in Section 15 of the Act, 2019.

Section 16 confers powers upon the District Collector to enquire into or investigate complaints regarding violation of rights of consumers as a class, in respect of matters relating to violation of consumer rights. Thus, Section 16 of the Act, 2019 permits even a class action in case of not only infringement of consumer rights but also in case of unfair trade practices and even false or misleading advertisements. The District Collector may accordingly make inquiries as contemplated in Section 16 of the

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Act on a complaint received by him or on a reference which may be made to him by the Central Authority or the Commissioner.

Section 17 of the Act permits a complaint to be made to the Central Authority in respect of violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class. The Central Authority under Section 18 of the Act has been conferred with certain powers and functions which include an inquiry or investigation to be made into violations of consumer rights/unfair trade practices, either suo motu or on a complaint received or on the directions from the Central Government.

Section 21 of the Act, 2019 confers the power with the Central Authority not only to issue directions but also impose penalties against false or misleading advertisements. Thus, under the scheme of Consumer Protection Act, 2019, a complete statutory mechanism has been made available for seeking redressal of the grievances not only in case of an individual consumer but also in case of consumers as a class, in case of infringement of consumer rights, unfair trade practices, false or misleading advertisement.

Nothing in the writ petition has been indicated by the petitioner that he has approached, for framing the guidelines, as is being prayed by him in the writ petition, the competent authority in the Central Government. In the writ petition, it has also not been indicated that the petitioner has taken recourse to the statutory remedy available to the consumers as a class under Consumer Protection Act, 2019, as discussed above.

In the aforesaid circumstances, we dispose of this petition with the following directions;-

(1) For framing the guidelines as prayed for by the petitioner in the petition, he may approach the competent authority in the Central Government by way of making an appropriate representation setting forth therein all the pleas which may be available to him under law.

(2) For redressal of the grievances relating to violation of consumer rights/unfair trade practices/false and misleading advertisement, he may take recourse to the statutory mechanism for redressal of the grievances available to him under the Consumer Protection Act, 2019 by approaching the Collector/Commissioner or even the Central Consumer Protection Authority. In case the petitioner approaches the aforesaid authorities, grievances which may be raised by him shall appropriately be attended to in accordance with law, with expedition."

5. It is submitted that in pursuance of the aforesaid order, the applicant moved representation to the Authorities on 15.10.2022, on which, an order was passed by Mr. Jasbir Tiwari, Under Secretary Central Consumer Protection Authority on 12.09.2023, addressed to the applicant, mentioning that the investigation related to the advertisement in contravention of the Consumer's right is

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initiated and action against the endorsers can be initiated and they shall be punished if the allegations are found true and correct. It is also mentioned in the said order that the Central Authority is vigorously working on the issue of surrogate advertisements and subsequent to issue of notices, necessary action as per the Consumer Protection Act, 2019 is being taken by the Central Authority.

Submission of the applicant is that till today, no action has been taken. It is also submitted that though in relation to the preparation of guidelines for prevention of misleading advertisements and endorsements, the Central Consumer Protection Authority has already notified Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, which may be exploited by such advertisements, but no guidelines have been framed for dealing the cases related to the prominent persons of the Country, who are holders of several awards and are doing advertisement of tobacco etc.

6. List this case on 20.08.2024 within top 10 cases.

7. By the next date of listing, respondents shall file affidavit of compliance and place the action taken in consonance with the order dated 12.09.2023 passed by Mr. Jasbir Tiwari (supra).

8. It is also expected from the authorities that all the Policies and Guidelines are made available on the Official Website.

**Order Date :- 4.7.2024**

VKS