

Karnataka High Court
Ravishankar S S vs Union Of India on 28 October, 2013
Author: Chief Justice S.N.Satyanarayana

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IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 28TH DAY OF OCTOBER 2013
PRESENT
THE HON' BLE MR.D.H.WAGHELA, CHIEF JUSTICE
AND
THE HON' BLE MR.JUSTICE S.N.SATYANARAYANA
WP No.2497/2013 (GM-RES-PIL)

BETWEEN :

RAVISHANKAR S S
AGED ABOUT 46 YEARS
VEDASHREE NILAYA
330, 2ND E MAIN,
BHUVANAGIRI, BANASWADI,
BANGALORE-560033.

... PETITIONER

(By Sri RAVISHANKAR S S, PARTY-IN-PERSON)

AND :

1. UNION OF INDIA
REPRESENTED BY
MINISTER OF HEALTH AND FAMILY WELFARE,
MINISTRY OF HEALTH AND FAMILY WELFARE,
NEW DELHI-110003.
2. UNION OF INDIA
REPRESENTED BY
MINISTER OF WOMEN AND CHILD DEVELOPMENT,
MINISTRY OF WOMEN AND CHILD DEVELOPMENT,
A-WING, SHASTRI BHAVAN,
NEW DELHI-110001.

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3. UNION OF INDIA
REPRESENTED BY
MINISTER FOR ENVIRONMENT AND FOREST,
MINISTRY OF ENVIRONMENT AND FOREST,
NEW DELHI-110001
4. UNION OF INDIA
REPRESENTED BY

MINISTER FOR SOCIAL JUSTICE AND EMPOWERMENT,
MINISTRY FOR SOCIAL JUSTICE AND EMPOWERMENT,
NEW DELHI-110001.

5. UNION OF INDIA
REPRESENTED BY
CHAIRMAN,
DIRECTORATE OF ADVERTISING
AND VISUAL PUBLICITY,
NEW DELHI-110001.
6. UNION OF INDIA
REPRESENTED BY
MINISTER OF INFORMATION AND BROADCASTING,
MINISTRY OF INFORMATION & BROADCASTING,
A-WING, SHASTRI BHAVAN,
NEW DELHI-110001.
7. STATE OF KARNATAKA
REPRESENTED BY
THE MINISTER OF HOME DEPARTMENT,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE-560001
8. STATE OF KARNATAKA
REPRESENTED BY
THE MINISTER FOR LAW JUSTICE & HUMAN RIGHTS,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE-560001

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9. THE GENERAL SECRETARY
THE ADVERTISING STANDARDS COUNCIL OF INDIA
219, BOMBAY MARKET,
78, TARDEO ROAD, MUMBAI,
MAHARASTRA-400 034
10. THE CHAIRMAN
MANAGING DIRECTOR,
INDIAN TOBACCO COMPANY LTD
(ITC LTD), VIRGINIA HOUSE,
37 J. L. NEHRU ROAD, KOLKATA
WEST BENGAL-700071
11. THE CHAIRMAN
MANAGING DIRECTOR
GODFREY PHILLIPS INDIA LTD (GPI LTD)
49, COMMUNITY CENTRE
FRIENDS COLONY
NEW DELHI-110 025

12. THE MANAGING DIRECTOR
VIRGINIA SULTHAN TOBACCO COMPANY LTD
(VST LTD), P.O.BO NO. 1804, AZAMABAD
HYDERABAD, ANDHRA PRADESH-50020

... RESPONDENTS

(By Sri KALYAN BASAVARAJ, ASG FOR R1 TO R6.
SMT. NILOUFER AKBAR, AGA FOR R7 & R8.
SMT. VIDYA VENUGOPAL, ADV.,
FOR M/S DSK LEGAL, ADVS., FOR R9.
SRI SAJJAN POOVAYYA, ADV., FOR R10.
SRI GANAPATHI HEGDE, ADV., FOR
M/S DUA ASSOCIATES FOR R11 & R12)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO

A) TO ISSUE INSTRUCTIONS TO THE GOVERNMENT TO
INITIATE IMMEDIATE ACTIONS ON SUCH CIGARETTE
COMPANIES & TO PREVENT SUCH REPEATED ILLEGAL ACTS
WHICH IS AGAINST THE LAW OF LAND & RESTRAIN SUCH
CIGARETTE COMPANIES FROM MAKING, MARKETING &

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PROMOTING ILLEGAL, DESTRUCTIVE, INHUMAN ACTS AIMED
AT ENCOURAGING SMOKING CIGARTTES AND INFLICTING
HEALTH HAZARDS, CARRYING OUT ILLEGAL
ADVERTISEMENTS WITH FALSE CLAIMS & IN CONTRARY TO
THE LAWS OF THE LAND OFFENDING MORALITY, DECENCY &
RELIGIOUS SUSCEPTIBILITIES OF PEOPLE AT LARGE, ACTING
AGAINST THE PROVISIONS OF INDIAN CONSTITUTION,
CAUSING SOCIAL TURMOIL, CREATING LAW & ORDER
PROBLEMS, AFFECTING THE WELLBEING OF THE NATION,
CREATING SOCIAL INSECURITY AMONGST PEOPLE, INJURE
PUBLIC MORALITY, GLORIFYING CIGARETTE SMOKING & ITS
MARKETING, CONDUCTING ILLEGAL PROMOTION OF
CIGARETTES & OTHER TOBACCO PRODUCTS, HURTING THE
FEELING OF RELIGIOUS SENTIMENTS, SURROGATE INDIRECT
PRODUCT PROGRAMMES & ADVERTISEMENTS AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINRY
HEARING THIS DAY, CHIEF JUSTICE MADE THE FOLLOWING:

ORDER

D.H.WAGHELA, C.J. (Oral) :

1. This petition in the nature of public interest litigation is filed by the petitioner, who is admittedly a practicing advocate. It is directed against inaction of the government authorities in the matter of enforcing the provisions of the Cigarettes and Other Tobacco Products (Prohibition of

Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (for short 'the Act') and the Rules made thereunder.

2. During the course of argument, learned counsel appearing as petitioner, party-in-person, conceded the legal position that several authorities are designated and empowered to enforce the provisions of the aforesaid law and the Rules made thereunder, and he has not made any representation before such appropriate authorities with clear statements of facts and alleged violations of particular provision. The petitioner, however, attempted to bring home the serious consequences of the spread of addiction of tobacco in one form or the other and expressed his apprehension about the future of the next generation.

3. Upon notice having been issued by previous order dated 13.02.2013, learned counsel for respondent Nos.1 to 12 have appeared and generally, fairly conceded that the aforesaid legal provisions were required to be fully and properly enforced with a view to serving the purpose and intent of the aforesaid Act. It was also submitted that the Central Government was aware and active about the requirement of enforcing mandatory provisions of the Act and the Rules made thereunder. Infact, this year itself the latest "Guidelines for Law Enforcers for effective implementation of Tobacco Control Laws, 2013" have been issued by the National Tobacco Control Programme, Ministry of Health and Family Welfare. It was further submitted that the respondents cannot have any objection to the guidelines being followed and the legal provisions being duly enforced.

4. Learned counsel Ms. Vidya Venugopal appearing for respondent No.9 submitted that the Advertising Standards Council of India was willing to take cognizance of any violation of the advertising norms and take up the matter with appropriate government agencies for stringent legal action.

5. Learned Additional Government Advocate appearing for the State Government submitted that the State Government will take the concerns expressed in the petition at the appropriate level as a representation and issue appropriate specific guidelines for the purpose of taking cognizance of violation of the provisions of the aforesaid Act and Rules made thereunder, so as to ensure punishment for violation of any of the Rules.

6. In view of the above submissions, related in brief, no further general direction is required to be issued as prayed in prayer Clause (a) to (z) in the petition. It may be pertinent to note, before parting with the present petition, that when specific offences are defined and law enforcement agencies are designated under the Act and the Rules, it is not appropriate and in the fitness of things to pray for or issue any general direction in exercise of extraordinary jurisdiction of this Court only because an individual thinks it fit to take it up as a public cause. With these observations and expecting the respondents authorities to take up the enforcement of the Act and the Rules with the earnestness that it deserves, the petition is disposed, with no order as to costs.

Sd/-

CHIEF JUSTICE Sd/-

JUDGE mv