

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION(S)(CIVIL) NO(S). 645/2022

INDIAN MEDICAL ASSOCIATION & ANR.

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(IA No. 130554/2022 - CLARIFICATION/DIRECTION, IA No. 16915/2023 - EXEMPTION FROM FILING O.T., IA No. 13659/2023 - INTERVENTION APPLICATION)

Date : 27-02-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. P S Patwalia, Sr. Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Amarjeet Singh, AOR
Mr. Priyanshu Tyagi, Adv.
Mr. Rishav Rai, Adv.

For Respondent(s)
Mr. K M Nataraj, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. Sharath Nambiar, Adv.
Mr. Vinayak Sharma, Adv.
Mr. Rajat Nair, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Shashank Bajpai, Adv.
Mr. Ishaan Sharma, Adv.

Ms. Avni Singh, Adv.
Mr. Jitin Chaturvedi, AOR

Mr. K.m Nataraj, A.S.G.
Mr. Sharath Nambiar, Adv.
Mr. Vinayak Sharma, Adv.
Mr. Rajat Nair, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Shashank Bajpai, Adv.
Mrs. Priya Mishra, Adv.
Mr. Amrish Kumar, AOR

Mr. Vipin Sanghi, Sr. Adv.
Mr. Simranjeet Singh, Adv.
Mr. Gautam Talukdar, AOR
Mr. Rishabh Pant, Adv.
Ms. Apurba Dutta, Adv.

Ms. Mrinmoi Chatterjee , AOR

**UPON hearing the counsel, the Court made the following
O R D E R**

1. On the last date of hearing, i.e. on 21st November, 2023, after some arguments were advanced by learned Senior Counsel appearing for the petitioners, learned Additional Solicitor General appearing for the respondents no. 1 & 2 and learned Senior Counsel appearing for the respondent no.5-Patanjali Ayurved Limited, Mr. K.M. Nataraj, learned Additional Solicitor General has stated that he may be permitted to obtain instructions regarding the alleged incorrect assertions/misrepresentations in respect of various products of the respondent no.5 in the market with regard to the medicinal efficacy of the said products, as also with regard to the measures to be put in place for curbing misstatements in the media (both electronic and print).

2. At that stage, learned Senior Counsel appearing for the respondent no.5-Patanjali Ayurved Limited had assured the Court that henceforth, there shall not be any violation of any of the laws, especially relating to advertisement and branding of products manufactured and marketed by the respondent no.5-Patanjali Ayurved Limited. Further, no casual statements of claiming medicinal efficacy of any system of medicine will be released to the media in any form. This Court had bound down the respondent no.5-Patanjali Ayurved Limited to

such assurances. It was also made clear that any suit pending *inter se* between the petitioner(s) and any person and the respondent no.5-Patanjali Ayurved Limited shall not be stayed and shall continue before the concerned Courts.

3. Today, Mr. P.S. Patwalia, learned Senior Counsel appearing for the petitioners states that his briefing counsel proposes to file some newspaper advertisements in the daily newspaper "The Hindu" published on 04th December, 2023 (i.e. after the date of passing the order on 21st November, 2023) and a You Tube link and transcription of a Press Conference headed by Baba Ramdev and Acharya Balkrishna (Managing Director of the respondent no.5) conducted on 22nd November, 2023 (i.e. on the very next day of the passing of the order on 21st November, 2023).

4. It is submitted on behalf of the petitioners that the aforesaid documents amply demonstrate that the respondent no.5 is continuing to make incorrect assertions and misrepresentations in respect of its various products in the market by describing the said products as a permanent solution to such of the ailments that have been specifically listed in the Schedule appended to the Drugs and Magic Remedies (Objectionable Advertisements) Act¹, 1954 and the Schedule appended to the Drugs and Magic Remedies (Objectionable Advertisements) Rules², 1955.

5. We may note that Section 3(d) of the 1954 Act prohibits advertisement of certain products for treatment of certain diseases and disorders, including

1 For short the '1954 Act'

2 For short the '1955 Rules'

thereof diabetes (Sr. No.9), Heart Diseases (Sr. No.26), High or Low Blood Pressure (Sr. No. 27) and Obesity (Sr. No. 38) and Asthma (Appended to the 1955 Rules at Sr. No.1).

6. The aforesaid advertisement as referred to by learned Senior Counsel for the petitioners and those that form part of the documents enclosed with an anonymous letter dated 15th January, 2024, addressed to Hon'ble the Chief Justice of India with copies marked to two other Hon'ble Judges of this Court including one of us (Ahsanuddin Amanullah, J.) show that the said advertisements were issued and Press Conferences held after the order was passed on 21st November, 2023. The aforesaid documents handed over by learned Senior Counsel for the petitioners and the anonymous letter dated 15th January, 2024, are taken on record. Copies thereof have been furnished to learned counsel for the respondents.

7. *Prima facie*, this Court is of the opinion that the respondent no.5-Patanjali Ayurved Limited has violated the undertaking given by it and recorded in the order dated 21st November, 2023.

8. Issue notice as to why Contempt of Court proceedings should not be initiated against the respondent no.5 and its Managing Director-Acharya Balkrishna. Memo of parties shall be drawn by the Registry.

9. Mr. Simranjeet Singh, learned Counsel appearing on behalf of Mr. Gautam Talukdar, Advocate on Record, accepts notice on behalf of the respondent no.5-Patanjali Ayurved Limited and its Managing Director and seeks time to file a

reply.

10. Reply be filed within two weeks with a copy to learned counsel for the petitioners and other respondents.

11. Mr. K.M. Nataraj, learned Additional Solicitor General, informs the Court that though an additional affidavit has been filed, the same is not sufficient and he may be permitted to file a fresh affidavit while withdrawing the earlier affidavit dated 05th February, 2024.

12. A detailed affidavit shall be filed by the Union of India setting out the steps taken by it in terms of the order passed on 21st November, 2023. If this Court is not satisfied with the said affidavit, appropriate orders shall be passed on the next date of hearing.

13. List on 19th March, 2024 on top of the Board.

14. Till further orders, the respondent no.5-Patanjali Ayurved Limited is restrained from advertising or branding of products manufactured and marketed by it which are meant to cure the diseases/disorders/conditions specified in the 1954 Act and 1955 Rules. Respondent no.5 and its officers are also cautioned to refrain from making any statements against any system of medicine in the media (both electronic and print) in any form, as undertaken on 21st November, 2023.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)