

ITEM NO.1

COURT NO.11

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION(CIVIL) NO.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 : 02-04-2024 This petition 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. Priyanshu Tyagi, Adv.
Mr. Amarjeet Singh, AOR

For Respondent(s) Mr. Tushar Mehta, Solicitor General
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. Amrish Kumar, AOR
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. Vipin Sanghi, Sr. Adv.
Mr. Balbir Singh, Sr. Adv.
Mr. Arvind Nayar, Sr. Adv.

Mr. Rohit Gandhi, Adv.
Mr. Simranjeet Singh, Adv.
Mr. Gautam Talukdar, AOR
Mr. Naman Tandon, Adv.
Mr. Raushal Kumar, Adv.
Ms. Apurbaa Dutta, Adv.
Mr. Hargun Singh Katra, Adv.

Ms. Mrinmoi Chatterjee , AOR

Impleader

Mr. Abhishek Dev, Adv.
Mr. Devyendu Sorayan, Adv.

**UPON hearing the counsel the court made the following
O R D E R**

1. On the last date of hearing, notice to show cause as to why contempt proceedings be not initiated, was additionally issued to Baba Ramdev (proposed contemnor/respondent No.7) as this Court had expressed a *prima facie* opinion that he too had violated the provisions of Section 3 and 4 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954¹ read with Rule 6 of the Drugs and Magic Remedies (Objectionable Advertisements) Rules, 1955². Though notice was accepted on his behalf on the very same day, reply to the show cause notice is still not on record.
2. Both the proposed contemnors are present in Court.
3. We have perused the reply filed by proposed contemnor/respondent No.6 and are not satisfied by the explanation offered.
4. Mr. Balbir Singh, learned Senior counsel appears for the proposed

1 For short 'the Act'

2 For short 'the Rules'

contemnor/respondent No.7 and submits that the reply is ready but could not be filed on time. Copies thereof be furnished to learned counsel for the petitioners and the other respondents.

5. Mr. Balbir Singh, learned Senior counsel requests that besides the affidavit that is proposed to be filed in the course of the day, liberty be granted to file an additional/appropriate affidavit. A similar submission is made by Mr. Vipin Sanghi, learned Senior counsel appearing on behalf of the proposed contemnors/respondents No.6.

6. Last opportunity of one week is granted to the aforesaid parties to file their reply/appropriate affidavits with copies furnished to the counsel for the remaining parties.

7. Coming next to the Union of India, a detailed affidavit running into 42 pages has been filed on behalf of the Ministry of Ayush, Union of India with several annexures enclosed therewith. We may note that one of the documents that is material and has not been filed by the Union of India is the reply submitted by Divya Pharmacy to the notice dated 11th February, 2022 issued by the Union of India/State Licensing Authority, Uttarakhand.

8. Further, a perusal of the letter dated 08th March, 2024 addressed by the Union of India to the State Licencing Authority calling upon it to provide the detailed action taken by it within two days from the date of issuance of the letter itself shows that the State Licensing Authority has failed to discharge its duties, as contemplated under the Act. All that the

reply dated 12th March, 2024 addressed by the State Department to the Ministry of Ayush, Union of India mentions is that the Divya Pharmacy has been issued a warning. According to the Department, an order to be passed by this Court is awaited whereas no such direction to await any action has been passed by this Court.

9. The Act does not contemplate a warning in the teeth of gross non-compliance of the provisions of the statute. As the State Licencing Authority is not before us, it is deemed appropriate to implead it as a respondent in the present proceedings. Amended memo of parties be filed within one week.

10. The petitioners shall take necessary steps to serve the State Licencing Authority directly as also through Ms. Vanshaja Shukla, learned counsel for the State of Uttarakhand.

11. Affidavit of service shall be filed within one week. Complete set of paper book shall be furnished to the learned counsel to enable the Department to file a reply to the aspects that have been raised by this Court as also in response to the detailed affidavit filed by the Union of India.

12. List on 10th April, 2024 as 1st item. The proposed contemnors shall remain present on the next date of hearing.

(Geeta Ahuja)
Assistant Registrar-cum-PS

* Order be given dasti

(Nand Kishor)
Court Master (NSH)