

**IN THE HIGH COURT OF JUDICATURE FOR  
RAJASTHAN JAIPUR BENCH, JAIPUR**

D.B. CIVIL WRIT PETITION (PIL) NO. /2022

**PRIYANSHA GUPTA**

**VERSUS**

**UNION OF INDIA & OTHERS**

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**PETITIONER-IN-PERSON**

**IN THE HIGH COURT OF JUDICATURE FOR  
RAJASTHAN JAIPUR BENCH, JAIPUR**

D. B. Civil Writ Petition (PIL) No. /2022

**PRIYANSHA GUPTA**

**VERSUS**

**UNION OF INDIA & OTHERS**

**SYNOPSIS**

1. The present petition under Article 226 of the Constitution of India is being filed by way of public interest litigation and the petitioner has got no personal interest. The present petition is filed by the petitioner for the reason of violation of fundamental rights of the citizens to public health and clean and healthy environment as enshrined under Article 21 of the Constitution of India due to non-observance of its constitutional duty by the State as provided under Article 47. The present petition is being filed in the interest of the public at large and considering the public health at utmost priority and the present petition is confined only to the implementation and compliance of the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture,

Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 (from now on the “Act of 2019”) in their letter and spirit.

2. It is relevant to note here that the Act of 2019 was enacted in the interest of public health to protect the people from the harms of Electronic Cigarettes. However, even after the enactment of such an act, the Central, as well as the State Government, has miserably failed in implementing the prohibition of E-Cigarettes as it is widely and easily available in the market as shown in the following paragraphs. Under these circumstances, the Petitioner is seeking directions against the inaction of the Respondents whereby the Respondents have failed to discharge their duties in accordance with the provisions of the Act of 2019 henceforth adversely affecting public health and violating the fundamental rights of the persons as enshrined under Article 21 of the Constitution.

Hence, this present Petition.

**PETITIONER-IN-PERSON**

**IN THE HIGH COURT OF JUDICATURE FOR  
RAJASTHAN, JAIPUR BENCH, JAIPUR**

D.B. CIVIL WRIT PETITION (PIL) NO.                      /2022

Priyansha Gupta

**-Petitioner**

VERSUS

1. Union of India Through Secretary of Ministry of Law and Justice, Legislative Department, Government of India, Shastri Bhavan, Dr. Rajendra Prasad Road, New Delhi
2. The Home Secretary, Ministry of Home Affairs, Government of India, New Delhi
3. State of Rajasthan Through Secretary of Home Department, Government of Rajasthan, C-Scheme, Ashok Nagar, Jaipur
4. The Director, Anti-Smuggling Unit, Central Board of Indirect Taxes & Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi

5. Rajasthan Police Through its Commissioner of Police,  
Rajasthan Police Headquarter, Bari Chaupar, Jaipur

**- Respondents**

**D.B. CIVIL WRIT PETITION (PIL) UNDER ARTICLE 226  
OF THE CONSTITUTION OF INDIA READ WITH RULES  
385-A TO 385-R OF THE RULES FOR THE HIGH COURT  
OF JUDICATURE FOR RAJASTHAN, 1952**

**AND**

**IN THE MATTER OF ARTICLE 21 OF THE  
CONSTITUTION OF INDIA**

**AND**

**IN THE MATTER OF NON-IMPLEMENTATION OF AND  
FAILURE TO DISCHARGE DUTY BY THE GOVERNMENT  
UNDER THE PROVISIONS OF THE PROHIBITION OF  
ELECTRONIC CIGARETTES (PRODUCTION,  
MANUFACTURE, IMPORT, EXPORT, TRANSPORT,  
SALE, DISTRIBUTION, STORAGE AND  
ADVERTISEMENT) ACT, 2019**

**AND**

**IN THE MATTER OF NON-COMPLIANCE OF  
NOTIFICATION NO. No. 394/121/2018- Cus (AS) DATED  
01/10/2019 ISSUED BY MINISTRY OF FINANCE,**

**DEPARTMENT OF REVENUE, CENTRAL BOARD OF  
INDIRECT TAXES & CUSTOMS (ANTI-SMUGGLING  
UNIT), GOVERNMENT OF INDIA**

To,

Hon'ble The Chief Justice and his other companion Hon'ble  
Judges of the High Court of Judicature for Rajasthan,  
Jaipur Bench, Jaipur.

**MAY IT PLEASE YOUR LORDSHIPS,**

The humble petitioner, named above, most  
respectfully begs to submit as under: -

**1. Particulars of the Cause / Order against which the  
Petition is made: -**

The present petition under Article 226 of the  
Constitution of India is being filed by way of public  
interest litigation and the petitioner has got no  
personal interest. The present petition is filed by the  
petitioner for the reason of violation of fundamental  
rights of the citizens to public health and clean and  
healthy environment as enshrined under Article 21 of  
the Constitution of India due to non-observance of its

constitutional duty by the State as provided under Article 47. The present petition is being filed in the interest of the public at large and considering the public health at utmost priority and the present petition is confined only to the implementation and compliance of the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 (from now on the “Act of 2019”) in their letter and spirit.

It is relevant to note here that the Act of 2019 was enacted in the interest of public health to protect the people from the harms of Electronic Cigarettes. However, even after the enactment of such an act, the Central, as well as the State Government, has miserably failed in implementing the prohibition of E-Cigarettes as it is widely and easily available in the market as shown in the following paragraphs. Under these circumstances, the Petitioner is seeking directions against the inaction of the Respondents whereby the Respondents have failed to discharge their duties in accordance with the provisions of the Act of 2019 henceforth adversely affecting public health and violating the fundamental rights of the



persons as enshrined under Article 21 of the Constitution.

**2. Particulars of the Petitioner(s): -**

1. That the petitioner is a citizen of India and a resident of Jaipur, Rajasthan. She is also a student 4<sup>th</sup> Year, 7<sup>th</sup> Semester B.A. LL.B. (Hons.), School of Law, Bennett University. The Petitioner is proactive in raising issues of public importance and is deeply concerned about the health hazards due to the non – implementation of the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019. The petitioner craves liberty of this Hon'ble Court to argue the instant petition by herself by appearing in-person.
2. That prior to the filing of the instant public interest litigation, no other public interest litigation has been filed by the petitioner either before this Hon'ble High Court or before the Hon'ble Supreme Court of India.

### **3. Declaration and undertaking by the Petitioner:**

1. The present petition under Article 226 of the Constitution of India is being filed by way of public interest litigation and the petitioner has got no personal interest. The petition is being filed in the interest of the public at large and keeping Public Health at priority. Since the Petitioner is deeply concerned about the issue of public health, the Petitioner has preferred this instant petition for seeking directions for implementation of the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 and for other matters connected therewith or incidental thereto.
2. That the petitioner is filing the present petition in person, on her own, and not at the instance of someone else. The instant petition has been drafted and filed by the petitioner herself at her own cost and expenses.
3. That a thorough research has been conducted in the matter raised through the Public Interest

Litigation and the entire relevant material in this regard is being annexed herewith.

4. That on the basis of the research conducted by the Petitioner, the issue raised has not been dealt with or decided earlier and to the best of the Petitioners' knowledge, a similar or identical petition has not been filed earlier by her.
5. That the petitioner understands that in the course of hearing of this petition, this Hon'ble Court may require any security to be furnished towards costs or any other charges and the petitioner undertakes to comply with such requirement.

**4. Facts in brief, constituting the case:-**

- 4.1 That the Petitioner is a citizen of India and resident of Jaipur. She is also a student of 4th Year, 7th Semester B.A. LL.B. (Hons.), School of Law, Bennett University and has been raising issues concerning public health and its importance and is keenly interested in the strict compliance of the Laws of India, so far as the implementation and the compliance of the provisions The Prohibition of Electronic Cigarettes (Production, Manufacture,

Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 is considered.

A copy of the Voter Identity Card of the petitioner is annexed herewith and marked as **Annexure-P/1**.

4.2 That it is publicly evident that many young adults, youths, and even teenagers are openly using electronic Cigarettes by the name of vape openly in different public places like clubs, pubs, breweries malls, restaurants, gardens and even on college and school campuses which is highly injurious to their health and causes a grave effect to the passive smokers.

4.3 That the petitioner was astonished and amazed when she herself found out and saw with her bare eyes that the teenagers of the age between 13 to 15 were using these vapes near World Trade Park, Gaurav Towers, SMS Stadium etc. Young Adults and Youth were consuming different flavors of these vapes like in the form of mango, raspberry, blueberry *et cetra*.

4.4 That the Cambridge Dictionary 2022 defines *Vape* as “to breathe in nicotine (= the drug found in

*tobacco) or another drug as vapour rather than as smoke, especially using an e-cigarette”.*

4.5 That a "vape," or electronic cigarette, is a device that heats up a liquid to create a vapor you inhale. Some types of vaping devices include pens, e-cigarettes (like JUUL), and hookahs. Vaping devices can vary in shape, size, and color. Devices produce an aerosol byproduct from heating up a liquid that sometimes consists of flavorings and other chemicals that make vaping seem less harsh (initially at least) than smoking. This liquid delivers nicotine, marijuana, or other drugs to the user via a mouthpiece that is inhaled into the lungs and then expelled via the mouth or nose.

4.6 That the Center for Disease Control and Prevention states that E-cigarettes are sometimes called “e-cigs,” “e-hookahs,” “mods,” “vape pens,” “vapes,” “tank systems,” and “electronic nicotine delivery systems (ENDS).” Some e-cigarettes are made to look like regular cigarettes, cigars, or pipes. Some resemble pens, USB sticks, and other everyday items. Larger devices such as tank systems, or

“mods,” do not resemble other tobacco products. Using an e-cigarette is sometimes called “vaping.”

4.7 That Nicotine is a chemical that is not safe for the purposes of ingestion in any quantity. If it is not permitted as an ingredient in pesticides, it is certainly not safe to use for human consumption. E-cigarettes contain 2 % - 30 % of Nicotine and the quantity is entirely unregulated. Vaping and ENDS companies seem to be targeting the age group between 12-16 with their emphasis on 7700 different flavours such as cranberry, mango, toffee, paan, blueberry, chocolate, vanilla, banana, bubblegum, custard, coconut, caramel, kiwi, lemon, etc. Their claim that this is a healthy alternative to cigarettes ' is false and is not backed by any evidence

4.8 That in India, the use of Nicotine as an ingredient in any food item is prohibited under regulation 2.3.4. of the Food Safety and Standards (Prohibition and Restriction on Sales) Regulations, 2011 of the Food Safety and Standards Act 2006 which reads as follows:

**Regulation 2.3 Prohibition and Restriction  
on sale of certain products**

*This regulation prohibits and restrict sale of certain products as follows:*

*2.3.4: Product not to contain any substance which may be injurious to health. It is mentioned that tobacco and nicotine shall not be used as ingredient in any food products.*

4.9 That the petitioner has conducted exhaustive research on; and thoroughly examined the actions taken by the State to eradicate the problem of the usage of electronic cigarettes in the country. In this regard, attention is drawn to The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019 (“Act of 2019”) that has come into force from 18/09/2019. A copy of the Act of 2019 is annexed herewith and marked as **Annexure-P/2**.

4.10 That the Act of 2019 was enacted to completely prohibit the production, manufacture, import, export, sale, distribution, storage, and

advertisement of electronic cigarettes in the interest of public health to protect the people from harm but no proper action has been taken by the State on the implementation and compliance of the prohibiting Act of 2019. The concerned authorities have utterly failed in the prohibiting the usage, production, manufacture, import, export, sale, distribution, storage, and advertisement of electronic cigarettes.

4.11 That before the enactment of the Act of 2019, The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Ordinance, 2019 was issued considering a high level of protection for human health by putting a complete prohibition on the Electronic Nicotine Delivery Systems and the Electronic non-Nicotine Delivery System. A copy of the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Ordinance, 2019 is annexed herewith and marked as **Annexure-P/3**.



4.12 That the Statement of Objects and Reasons for passing The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Ordinance, 2019 are stated as under:-

*.....Promulgated by the President of the Seventieth Year of the Republic of India.*

*An Ordinance to prohibit the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes in the interest of public health to protect the people from harm and for matters connected therewith or incidental thereto;*

*WHEREAS India is a signatory to the World Health Organisation Framework Convention on Tobacco Control adopted in Geneva, Switzerland on 21st day of May, 2003 which came into force on the 27th day of February, 2005*

*AND WHEREAS the Conference of Parties established under article 23 of the said Convention took a decision on the 18th day of October, 2014 to invite the parties to the Convention to consider prohibiting or regulating the electronic cigarettes or the Electronic Nicotine*

*Delivery Systems and the Electronic non-Nicotine Delivery Systems. Including as tobacco products, medicinal products, consumer products or other categories, as appropriate, taking into account a high level of protection for human health;*

*AND WHEREAS the Conference of Parties took a decision to urge the Parties to the Convention to consider banning or restricting advertising, promotion and sponsorship of the said Delivery Systems;*

*AND WHEREAS since these devices are injurious to health and proliferation of these products has negative impact on public health, it is expedient to prohibit the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes as enjoined by article 47 of the Constitution of India;*

*AND WHEREAS article 51 of the Constitution of India requires the State to endeavour to foster respect for international law and treaty obligations in the dealings of organised people with one another.*

*AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render necessary for him to take immediate action.*

4.13 That the government and the concerned authorities have not properly implemented the Act by failing in completely prohibiting the production, manufacture, import, export, sale, distribution, storage, and advertisement of electronic cigarettes and have utterly failed in discharging their duties. The youth and the young adults of today's India are consuming E-cigarettes on a vast level majorly in the form of vapes. For them, it is no "big deal" to get an E-cigarette or any other vaping device and the ban "doesn't matter" for them as any person can easily get an e-cigarette by a simple google search, or any online website or any *paan shop* nearby. A copy of the article

4.14 That Three Years Since, even after the prohibition on e-cigarettes, people can buy e-cigarettes from any *paan shop*. If not, they can always go on the internet and buy them. The list of some of the websites that sell e-cigarettes in the form of the vape is listed hereinunder –

a) <https://indiavapestore.com/productcategory/vape/>

b) <http://indianvapehub.com/>

- c) <https://vapehere.in/collections/vape-india>
- d) <https://vapeparadiseindia.com/>
- e) <https://www.vapefederationindia.com/>
- f) <https://vapeindiasmoke.com/collections/smoke-pen-22>
- g) <https://www.smokehouseindia.com/collections/disposable-pen>
- h) <https://vapeshopindia.co.in/>
- i) <https://shopvapourindia.in/search?q=iget&type=product>
- j) <https://terpenecentral.in/collections/dryherbvaporizers-cbdvapepen>
- k) <https://www.desertcart.in/brand/smok>
- l) [https://www.etsy.com/in/en/market/disposable\\_vape](https://www.etsy.com/in/en/market/disposable_vape)
- m) <http://indiabongs.com/index.php?route=product/category&path=97>

Whereas other than these websites there are many more websites that are selling electronic cigarettes in different forms illegally and causing a lot of hazardous problems to the public at large. A copy of the screenshots of the websites selling

e-cigarettes is annexed herewith and marked as

**Annexure-P/4.**

4.15 That as per the Act of 2019, the Sub-Inspector of the police was appointed as the Authorized Officer to take into account all the offenses that are being committed as per the provisions of the act but even after the enactment of the act, there is high consumption of electronic cigarettes amongst the public.

4.16 That an online RTI Application was filed by the petitioner on 01.06.2022 seeking clarifications with respect to the the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019 (Act No. 42 of 2019) and asked for the following details :-

1. Number of cases registered under the Act No. 42 of 2019 in the state of Rajasthan, and
2. Number of police complaints, First Information Reports, and Police Challans (if any) filed against offenses committed under Act No. 42 Of 2019 in the State of Rajasthan, and

3. No. of accused persons undergoing trial, convicted and acquitted for offences committed under the Act No. 42 Of 2019 in the state of Rajasthan; and
4. Copy of Rules, Regulations, Notifications passed/issued under the Act No. 42 of 2019 for their applicability/enforceability in the state of Rajasthan.

A copy of the online RTI Application dated 01.06.2022 is annexed herewith and marked as **Annexure-P/5**.

4.17 That thereafter, the Petitioner received three replies to the aforesaid RTI applications vide letters dated 15.06.2022, 13.06.2022, and 03.06.2022. The petitioner was quite shocked to know that despite the evident violation of the provisions of the Act of 2019 within the territory of Rajasthan, the office of Additional Director General of Police, Crime Branch Rajasthan replied that no record whatsoever has been maintained for the information sought by the petitioner. A bare perusal of the aforesaid replies evinces that the Respondent State is completely ignorant of the prohibited acts and offenses which

are openly being committed and punishable under the provisions of the Act of 2019. A copy of the replies to the aforesaid RTI applications vide letters dated 15.06.2022, 13.06.2022, and 03.06.2022 is annexed herewith and marked as **Annexure-P/6(Colly)**.

4.18 That it is humbly submitted that a notification dated 19.09.2019 issued by the Department of Health and Family Welfare, Ministry of Health and Family Welfare, Government of India clearly states as under :-

*..... This is to inform that the Government of India has prohibited electronic-cigarettes through promulgation of "The Prohibition of Electronic Cigarettes (production, manufacture, import, export, transport, sale, distribution, storage and advertisement) Ordinance, 2019. The salient features of the Ordinance are:*

- E-cigarettes includes all forms of Electronic Nicotine Delivery Systems. Heat Not Burn Products, e-Hookah and the like devices, by whatever name called and whatever shape. size or form it may have but does not include any*

*product licensed under the Drugs and Cosmetics Act, 1940.*

- *Production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic-cigarettes or any parts or components thereof such as refill pods, atomisers, cartridges etc, is prohibited. Online sale and advertisement have also been prohibited.*
- *Individual possession of e-cigarettes for personal use is not an offence.*
- *Punishment:*

*For production, manufacturing, import, export, transport, sale, distribution and advertisement imprisonment upto one year or fine up to rupees one lakh or both. For subsequent offence, imprisonment upto three years and fine upto rupees five lakh. It shall be a cognizable offence.*

*For storage Imprisonment upto six months or fine upto rupees fifty thousand or both.*
- *Sub-Inspector of Police is the Authorized Officer to conduct search and seizure. Other Officers can also be notified as Authorized Officer by Central/State Governments.*



- *An opportunity is provided to the owners of existing stocks of e-cigarettes on the date of commencement of the Ordinance to voluntarily declare and deposit these stocks at the nearest police station without unnecessary delay.*

*In view of the above, it is requested that necessary instructions may be issued immediately to the concerned Departments of your State/UT to take necessary measures to implement the provisions of the Ordinance. It is also requested that a month long drive may also be undertaken to ensure the implementation of the provisions of the Ordinance.*

4.19 That even after issuing such orders by the Government, there is no stoppage in the production, usage, import, export, sell of the e-cigarettes. Even the online sale of the e-cigarettes was prohibited and even after the prohibition, anyone can order e-cigarettes easily from online websites that are available after a simple google search. A copy of the Notification dated 19.09.2019 is annexed herewith and marked as **Annexure-P/7**.

4.20 That the Central Board of Indirect Taxes & Customs, Department of Revenue, Ministry of Finance had issued a Circular No. 35/2019-Customs, Notification No. F.No. 394/121/2018-Cus(AS) dated 01-10-2019 in which it directed that,

*“ Considering the adverse health impact of e-Cigarettes/ENDS and in order to prevent the initiation of nicotine through e-Cigarettes by non-smokers and youth, with special attention to vulnerable groups, the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce & Industry has issued the aforesaid Notifications to ensue that Import and Export of e-Cigarettes or any other parts or components thereof such as refill pods, atomizer, cartridges etc. including all forms of Electronic Nicotine Delivery System(ENDS), Heat not Burn Products, e-hookah and the like devices by whatever name and shape, size or form it may have, but does not include any product licensed under the Drugs and Cosmetics Act, 1940 ITC HS Code: 8543 is prohibited in accordance with the Prohibition of Electronic Cigarettes(Prohibition, Manufacture, Import,*

*Export, Transport, Sale Distribution, Storage and Advertisement) Ordinance, 2019.*

*In view of the above, it is requested that all the offices under your jurisdiction may be directed to ensure strict implementation of the aforesaid notifications so that any attempts of Import/Export of such goods can be effectively prevented.”*

4.21 That the said Notification and Circular were issued to implement the prohibiting effectively and properly by keeping a strict check on the import and export of e-cigarettes. A copy of the Notification and Circular dated 01-10-2019 is annexed herewith and marked as **Annexure-P/8.**

4.22 That the petitioner has also sent a Legal Notice dated 01.06.2022 to all the Respondent Parties regarding the instant matter however no heed has been paid to the same by the Respondents till date. A copy of the aforesaid Legal Notice dated 01.06.2022 is annexed herewith and marked as **Annexure-P/9.**

**5. Source of Information: -**

The source of information of the facts pleaded is based on the documents annexed along with the instant petition, which are either notifications or orders issued by the respondent Government.

**6. Nature And Extent Of Injury Caused Apprehended**

6.1 The petition is being filed in the interest of Public at large and with a view to examine and inspect the compliance of the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019.

6.2 That a thorough research has been conducted in the matter raised through the Public Interest Litigation and the entire relevant material in this regard is being annexed herewith.

6.3 That to the best of the Petitioners' knowledge and research, the issue raised was not dealt

with or decided and that a similar or identical petition was not filed earlier by him.

6.4 That the petitioner has understood that while hearing of this petition, the court may require any security to be furnished towards costs or any other charges and the petitioner shall comply with such requirement.

**7. GROUND: -**

7.1 Because facts mentioned here-in-above, would reveal that the Government of Rajasthan, which is primarily responsible for implementing the provisions of the Act of 2019, is not working diligently, and have utterly failed to discharge their legal duty conferred upon by law.

7.2 Because 'Life' in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery through life. It has a much wider, including, including the right to live with human dignity, Right to livelihood, Right to health, Right

to pollution-free air, etc. The right to life is fundamental to our very existence, without which we cannot live as human beings and includes all those aspects of life, which make a man's life meaningful, complete, and worth living.

7.3 That it is a well settled proposition of law as declared by The Hon'ble Supreme Court that the Directive Principles of the State Policies should be read harmoniously with Fundamental Rights as provided under the Constitution of India. Hence, it is the constitutional duty of the State to observe and abide by the Directive Principles so as to protect the Fundamental Rights of the citizens. Because Article 47 of the Constitution of India provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health. Article 47 of the Constitution of India suggests and asserts that public health is the primary duty of the State. The non-implementation of the ban on electronic Cigarettes has led to many harmful effects.

7.4 Because the Central Government and the State Government forms the executive organs of the State at Union and State level respectively. It is the constitutional duty of these executive organs to implement and execute the laws enacted by the Parliament. However, in the case of the Act of 2019, it is clearly evident that both the Central and the State Governments have failed to discharge their duties, henceforth, eventually resulting in adverse effects on public health at large and violation of Fundamental Rights of citizens an enshrined under Article 21 of the Constitution of India.

7.5 Because it is surprising that even after enactment of the Act in question way back in the year 2019, neither the Central Government nor the State Government has formulated any Rule or Regulation for its implementation till date. Such casual and lackadaisical approach on the part of the said governments clearly evinces their lethargy and disinterest in implementing let alone effective implementation of the Act of 2019.

7.6 That the right to life guaranteed under Article 21 of the Constitution of India embraces within its sweep

not only physical existence but the quality of life. Right to life includes the right to a decent environment, free from smoke and pollution follows by the 'quality' of life which is inherent in the guarantee offered by Article 21. Thus, the usage of e-cigarettes is highly injurious to the life cycle and the ecosystem, hence violative of Article 21 of the Constitution of India.

7.7 That Article 47 recognizes the improvement of public health as one of the primary duties of the state. The failure in the prohibition on e-cigarettes is causing injurious health effects by creating nicotine dependence; increased risk of cardiovascular disease and stroke; Nicotine may function as tumor promotes; Chronic pulmonary inflammation, popcorn lungs, reduction of host defense; problems associated with attention, learning and anxiety disorders in adolescents; and other accidental issues like poisoning, fire and Explosions. Thus, the State is utterly failing in discharging their duties properly to keep the public health as the primary duty.



7.8 Because it is clearly evident that the prohibited e-cigarettes are being openly marketed, sold, purchased and used for direct and indirect consumption by teenagers, youth and young adults which is adversely affecting the most efficient human resources of the nation. Such a situation is not only leading to infringement of Fundamental Rights of the citizens but also promoting usage of hazardous products like e-cigarettes which has severely adverse consequences on human health.

7.9 Because it is quite shocking to learn from the RTI replies received from the office of the Additional Director General of Police, Rajasthan that despite open and clear-cut violation of the provisions of the Act of 2019 within the territorial jurisdiction of the said office, not a single case has been registered by the police in this regard.

7.10 Because any other grounds shall be urged at the time of arguments.

**8. Delay, if any, in filing the petition and explanation thereof:**

There is no delay whatsoever in filing the instant public interest litigation. That the Legal Notice to the Respondents was sent on 01.06.2022 and immediately thereafter on 13.07.2022 this PIL is being filed.

**9. Relief(s) prayed for:-**

It is, therefore, most respectfully prayed that your lordships may graciously be pleased to accept and allow this writ petition (PIL) and may kindly call for record and same may be perused, if this Hon'ble Court so pleases;

1. By way of issue of an appropriate writ, order or direction, the Central Government and the State Government of Rajasthan may kindly be directed to implement effectively the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 in its letter and spirit

and sale, use, consumption, possession of e-cigarettes by whatever names maybe directed to be stopped immediately in the larger interest of health of public at large;

2. By way of issue of an appropriate writ, order or direction, a high-level committee may kindly be appointed by this Hon'ble High Court to monitor and review the progress made by the Central Government and the State Government of Rajasthan in effective implementation of the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 in its letter and spirit;
3. By way of issue of an appropriate writ, order or direction, the Central Government may kindly be directed to issue such Rules/Regulations that maybe used in the proper implementation of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 in its letter and spirit;

4. By way of issue of an appropriate writ, order or direction, the Director General of Police, Rajasthan may kindly be directed to ensure that the offenders under the provisions of The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Act, 2019 are duly identified and brought to justice.
5. Any other order which this Hon'ble Court deemed just and proper in the facts and circumstances of the case may also be passed in favour of the petitioner.

Humble Petitioner-in-Person

PRIYANSHA GUPTA

**Notes: -**

- I. This is Public Interest Litigation. No vires of any Act is under challenge.
- II. No such other Public Interest Litigation has been filed by the Petitioner before this Hon'ble Court.
- III. P. F. and Notices shall be filed as per directions.
- IV. The Public Interest Litigation has been typed in my office by my private steno.
- V. Pie papers are not readily available, hence, typed on stout papers.

**PETITIONER-IN-PERSON**

**IN THE HIGH COURT OF JUDICATURE FOR  
RAJASTHAN, JAIPUR BENCH, JAIPUR**

D.B. CIVIL WRIT PETITION (PIL) NO. /2022

**PRIYANSHA GUPTA**

**VERSUS**

**UNION OF INDIA & OTHERS**

**AFFIDAVIT IN SUPPORT OF THE WRIT PETITION  
(PIL)**

I, Priyansha Gupta daughter of Shri Manish Gupta, aged about 22 years, Resident of, AB-195, Vivekanand Marg, Nirman Nagar, Jaipur, do hereby state on oath as under: -

1. That I am the petitioner in the case and am well versed with the facts and circumstances of the case.
2. That the Writ Petition (PIL) has been drafted by me.
3. That the contents para 1 to 9 including sub-paras of present Writ Petition (PIL) are true and correct to the best of my knowledge and belief.

JAIPUR  
DATED

DEPONENT

**VERIFICATION**

I, the above deponent, do hereby attest and verify that the contents of para 1 to 3 of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor any part of it is false. So may God help me.

DEPONENT

**IN THE HIGH COURT OF JUDICATURE FOR  
RAJASTHAN, JAIPUR BENCH, JAIPUR**

D.B. CIVIL WRIT PETITION (PIL) NO. /2022

**PRIYANSHA GUPTA**

**VERSUS**

**UNION OF INDIA & OTHERS**

**Affidavit in support of Documents**

I, Priyansha Gupta daughter of Shri Manish Gupta, aged about 22 years, Resident of, AB-195, Vivekanand Marg, Nirman Nagar, Jaipur, do hereby state on oath as under: -

1. That I am the petitioner in the case, and I am well versed with the facts and circumstances of the case.
2. That the annexed documents Annexure-P/1 and P/9 are true and correct photocopies of their originals. Annexure P/4 are the colour photographs of websites selling e-cigarettes. Annexures P/2, P/3, P/5 - P/8 are government documents downloaded from internet.

JAIPUR  
DATED

DEPONENT

**VERIFICATION**

I, the above deponent, do hereby attest and verify that the contents of para 1 to 2 of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor any part of it is false. So may God help me.

DEPONENT