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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 2<sup>nd</sup> September, 2022*

+ **W.P.(C) 13163/2019 & CM APPL. 53573/2019**

**HATHKARGAH LAGHU PATANG**

**UDYOG SAMITI (REG.)** ..... Petitioner

Through: Mr. Pankaj Bhagat, Adv.

Versus

**GOVERNMENT OF NCT OF DELHI**

**AND ANR.** ..... Respondents

Through: Mr. Karn Bhardwaj, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**VIBHU BAKHRU, J. (ORAL)**

1. The petitioner has filed the present petition, *inter alia*, impugning the Notification dated 10.01.2017 (being Notification no. F. 12(508)/Env./ban on Manja/2015/64-81—hereafter ‘the impugned notification’) issued by the Department of Environment, Government of NCT of Delhi.

2. The petitioner claims that it is an association of shopkeepers dealing in sale, purchase and storage of kite flying materials including kites, thread known as ‘*Saddi*’ and “*Manja*” made of traditional cotton thread manufactured in smaller cities.

3. In terms of the impugned notification, respondent no.1 – Government of NCT of Delhi (GNCTD) had prohibited the sale,

production, storage and supply of kite flying thread made out of plastic as well as synthetic material.

4. The petitioner's grievance is that the impugned notification is couched in ambiguous terms and therefore, has the propensity to be used as an instrument of harassment to manufacturers and dealers of kite flying thread. In particular, the petitioner refers to the second direction issued in the impugned notification, which mandates that kite flying is permissible "*only with a cotton thread, free from any sharp/metallic/glass components/ adhesives/thread strengthening materials*".

5. It is contended on behalf of the petitioner that the impugned notification is arbitrary and ultra vires the Constitution of India. The petitioner also claims that the impugned notification is also contrary to the order dated 11.07.2017 passed by the National Green Tribunal (NGT). The NGT had examined the issues relating to the use of *manja*. Whereas, the NGT proscribed the use of nylon/synthetic thread (Chinese *manja*); however, it did not prohibit the manufacture of traditional cotton *manja*.

6. The learned counsel appearing for the petitioner states that in terms of the impugned notification, kite flying is permitted only with a cotton thread free from any sharp metallic/glass components/adhesive/thread strengthening material. It is contended that the language used in the notification is amenable to interpretation in wide terms. Although, there is no difficulty in using cotton thread free from sharp, metallic/glass components but the expressions 'adhesives' and 'thread strengthening material' are wide enough to include several

materials including the materials in regard to which there may be no possible objection.

7. A plain reading of the impugned notification indicates that the issue sought to be addressed by the respondents is primarily concerned with the injuries caused to persons as well as birds on account of use of thread made out of *“plastic, nylon or similar such synthetic material including popularly known “Chinese thread/manja” or any other thread coated with glass/ metallic components”*.

8. The respondents are thus, of the view that it would be desirable to proscribe the use of *manja* for the protection of humans as well as birds. It is also noticed that the Chinese *manja* or synthetic kite flying thread is non-biodegradable and thus, remains in the environment indefinitely.

9. Before addressing the controversy, it will be relevant to refer to the operative directions as set out in the impugned notification. The same reads as under:

**“Directions:-**

1. There shall be complete ban on the sale, production, storage, supply, import, and use of kite flying thread made out of nylon, plastic or any other synthetic material including popularly known as "Chinese manja" and any other kite-flying thread that is sharp or made sharp such as by being laced with glass, metal or any other sharp, materials in the National Capital Territory of Delhi.

2. Kite flying shall be permissible only with a cotton thread, free from any sharp/ metallic/glass components/ adhesives/thread strengthening materials.”

10. It is clear from the above, that the first direction relates to prohibition on sale, production, storage, supply, import, and use of kite flying thread, which is made out of nylon, plastic or any other synthetic material including Chinese *manja*. It does not include cotton thread meant for flying kites.

11. The manufacturers and dealers are also proscribed from selling any other kite flying thread, that is sharp or are made sharp by being laced with glass, metal or any other sharp materials. The petitioner has no grievance with the first direction.

12. The injuries that are caused due to use of kite flying thread are on account of thread being made sharp and to that extent, the impugned notification has clarified that neither glass nor any other sharp material would be used for sharpening the kite flying thread. Thus, no clarification in regard to the first direction is necessary.

13. Insofar as the petitioner’s grievance in regard to the second direction is concerned, the same proscribes the use of adhesive and thread strengthening material. The said direction is not applicable to the manufacturers or dealers of kite flying thread but is directed to persons engaged in kite flying.

14. Respondent no.1 has clarified that kite flying will be permitted only from cotton thread, free from any sharp/metallic/glass components/adhesives/thread strengthening materials. This is, clearly,

to ensure that the persons, who engage in kite flying, use thread that is incapable of causing any injuries. It prohibits them from taking steps to sharpen the kite flying thread by use of sharp metallic or glass components and adhesives. A person flying kites cannot modify the kite flying thread to sharpen the same for the purposes of sparring with fellow sports persons.

15. Insofar as the use of strengthening materials is concerned, this Court is of the view that the said term is very wide. In the event the respondents desire to proscribe the strengthening of the thread used for kite flying, it would be necessary for the respondents to clearly specify that dealing above a particular tensile strength of the cotton thread would be prohibited.

16. In view of the clarification that only the first direction is applicable to manufacturers and dealers of thread used for flying kites, the learned counsel does not press the challenge to the impugned notification. No further orders are required to be passed in this petition.

17. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

**VIBHU BAKHRU, J**

**AMIT MAHAJAN, J**

**SEPTEMBER 2, 2022**

‘gsr’