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

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W.P.(C) 8982/2016

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Date of decision : 18th May, 2017

VED PAL AND ANR

..... Petitioner

Through: Ms. Anju Jain and
Mr. Hitesh Sachar, Advs.

versus

UNION OF INDIA AND ANR

..... Respondent

Through: Mr. Dev. P. Bhardwaj, CGSC
with Mr. Surender Kumar and
Mr. Satya Prakash Singh,
Advs.for
R-1/UID
Mr. Mehmood Pracha, Mr.
R.H.A. Sikander, MR. Prateek
Gupta and Mohd. Danish,
Advs.for R-3/FSSAI
Mr. Gautam Narayan, ASC
with Mr. R.A. Iyer, Adv.for
GNCTD.

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W.P.(C) 2166/2017

COMMUNITY AGAINST DRUNKEN DRIVING

..... Petitioner

Through: Mr. Angad Mehta, Adv.

versus

UNION OF INDIA AND ORS

..... Respondent

Through: Mr. Arun Bhardwaj, CGSC for
R-1/UID

Mr. Mehmood Pracha, Mr.
R.H.A. Sikander, MR. Prateek
Gupta and Mohd. Danish,
Advs.for R-3/FSSAI
Mr. Gautam Narayan, ASC
with Mr. R.A. Iyer, Adv.for
GNCTD.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE NAVIN CHAWLA

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. These two writ petitions have been filed in public interest complaining that even though consumption of alcohol is deleterious and is increasing rampantly, the respondents have taken insufficient steps on promoting prohibition of alcohol. Certain schemes which have been launched by the respondents have been detailed in para 7 of W.P.(C) 8982/2016. After making submissions with regard to the steps taken by different State Governments on this issue, a grievance is made with regard to the font and size of the statutory warning mentioned on liquor bottles. The petitioners also complain that the manner in which the warning is displayed renders it illegible. It is complained that certainly there is no prominent or significant warning attached to the liquor bottles, due to which the intendment of display thereof on the product packaging completely lost.

2. Placing reliance on the practice which is in vogue in foreign countries including United States of America, Argentina, Malaysia, Mexico, South Africa, Thailand, France, Ireland, New Zealand and Canada, the writ petitioners in W.P.(C) No.8982/2016 have made the following prayers :

“a) Appropriate writ, order or direction in the nature of mandamus, thereby directing the respondents to increase the size of statutory warnings on the liquor bottles and packages;

b) Direct the respondents to come up with a policy and plan about the nature, size and contents of the mandatory statutory warnings on the liquor bottles, packaging, points of sale, and other locations like schools, hospitals, and other public places cautioning citizens on the ill effects of alcohol;

c) To increase amount of expenditure on prohibition and welfare programmes for the alcohol addicts in proportion to the revenues earned in the form of Excise Duty from the sale of liquor;

d) Pass such other and further order which the Hon’ble Court may deem fit and proper in the fact and circumstances of the above case.”

3. The petitioner in W.P.(C) No.2166/2017 seeks the following prayers :

“A. Pass an appropriate writ in the nature of mandamus or any other appropriate writ thereby directing the respondents to mandate all alcohol producers, manufacturers, suppliers, distributors, sellers, etc. nationwide to print, in

sufficiently legible large font, the dangers of consuming alcohol and driving;

B.Pass an appropriate writ in the nature of mandamus or any other appropriate writ thereby directing the respondents to mandate all alcohol producers, manufacturers, suppliers, distributors, sellers, etc. nationwide to print, increase the size of existing statutory warnings on alcohol bottles.

C.Pass an appropriate writ in the nature of mandamus or any other appropriate writ thereby directing the respondents to mandate all alcohol producers, manufacturers, suppliers, distributors, sellers, etc. nationwide to also print pictorial statutory warnings on alcohol bottles.

D. Pass an appropriate writ thereby directing the respondents to come up with an exhaustive legislation qua the nature, size, and contents of mandatory statutory warnings on alcohol bottles.

E.Pass an appropriate writ thereby mandating all alcohol producers, manufacturers, suppliers, distributors, sellers, etc. nationwide to print, increase the size of statutory warnings on alcohol bottles and include a message against drinking and driving.

F.Pass any other further orders as may be required.”

4. However, we may note the reliance placed on the material from the practices followed in these foreign countries.
5. The respondents have separately filed their counter affidavits and statutory reports.

6. Mr. Gautam Narayan, learned Additional Standing Counsel appearing for the Government of NCT of Delhi-respondent no.2 herein has submitted that the government is actually concerned with the impact of alcohol consumption and the imperative necessity of discouraging its consumption and that extensive media campaigns and awareness campaigns have been initiated by the government. We are also informed that the Government of NCT of Delhi is actively engaged in setting up de-addiction and rehabilitation centres.

7. The respondent no.1 has placed before this court a short affidavit to the writ petition being W.P.(C)No.8982/2016. The same is taken on record. This short affidavit makes detailed reference to its several de-addiction programmes at a national level as well as the financial outlay on these programmes.

8. We are further informed that the Food Safety and Standards Authority of India (FSSAI hereafter) has notified a draft of Food Safety and Standards (Alcoholic Beverages Standards) Regulation which is in the process of finalisation.

9. Mr. Mehmood Pracha, learned counsel representing the FSSAI which has been impleaded as party/respondent no.3 in W.P.(C) 2166/2017 has submitted that on 5th September, 2016, a draft of the proposed regulation was notified in the Official Gazette and objections and suggestions were invited from members of the public.

10. It appears that the petitioners in both these writ petitions did not make objections or participated in the hearings.

11. It cannot be denied that issues flagged by the writ petitioners and the above prayers are really in the realm of policy making which are beyond the jurisdiction of this court in exercise of its extraordinary powers under Article 226 of the Constitution of India.

12. As on date, the aforesaid proposed regulation is still in the draft stage and has not been finalised so far. Given the nature of the submissions made in these writ petitions and the prayers sought, it would be appropriate if these writ petitions are treated as objections or suggestions filed before the FSSAI as if they were received pursuant to the notification dated 5th September, 2016 and a view taken thereon while finalising the regulations.

Learned counsel for the petitioners also have no objection to such course of action being adopted.

13. In view of the above, it is directed as follows :

- (i) The Food Safety and Standards Authority of India shall treat W.P.(C) Nos. 8982/2016 and 2166/2017 as objections and suggestions made to it pursuant to the public notice dated 5th September, 2016.
- (ii) It shall be the responsibility of both these petitioners to ensure that a copy of their petition is delivered to the

Chief Executive Officer of the Food Safety and Standards Authority of India within one week from today. Subject to the service of the copy of the writ petitions, a hearing shall be afforded by the concerned authority to the petitioners or their authorised representatives in terms of the spirit of the public notice dated 5th September, 2016.

- (iii) It shall be the responsibility of the Chief Executive Officer of the Food Safety and Standards Authority of India to notify the date and time of the hearing to the petitioners.
- (iv) Needless to state the material placed by the petitioners shall be considered before taking a final view on the proposed regulation.
- (v) The respondents shall take steps for finalising the regulations and notifying them within the earliest possible time.

These writ petitions are disposed of in the above terms.

Dasti.

ACTING CHIEF JUSTICE

NAVIN CHAWLA, J

MAY 18, 2017/kr