

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14024 of 2014

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1. M/s Oro Dental Specialty Clinic through its authorized Signatory cum Director,
Dr. Ashutosh Trivedi son of Sri Kapildeo Trivedi resident of Shanti Niketan,
besides Vishnu Palace, East Boring Canal Road, P.S. Budha Colony, District -
Patna
2. Dr. Vijay Kumar son of Late Bhawani Prasad Sinha resident of Ashiana Nagar,
Phase 1, P.S. Rajeev Nagar, District - Patna
3. Dr. Sangeeta Roy wife of Dr. Vijay Kumar resident of Ashiana Nagar, Phase 1,
P.S. Rajeev Nagar, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary (Home), Government of Bihar, Patna
3. The Principal Secretary, Department of Health, Government of Bihar, Patna
4. The Director General of Police, Bihar, Patna
5. The Additional Director General of Police, C.I.D. Bihar, Patna
6. The Food Safety Commissioner, Bihar, Patna
7. The Assistant Municipal Commissioner cum Nodal Officer, COTPA 2003,
Bihar, Patna
8. The Union of India through the Secretary, Ministry of Health and Family
Welfare, Government of India, New Delhi.

.... Respondent/s

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Appearance :

For the Petitioners : Mr. Prabhat Ranjan, Advocate

For the Respondent-State : Mr. Lalit Kishore, PAAG
Mr. Bishwa Bibhuti Kumar Singh, Advocate

For the Respondent PMC : Mr. Prasoon Sinha, Advocate

For the respondent No.8 : Dr. Punam Kumari Singh, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE

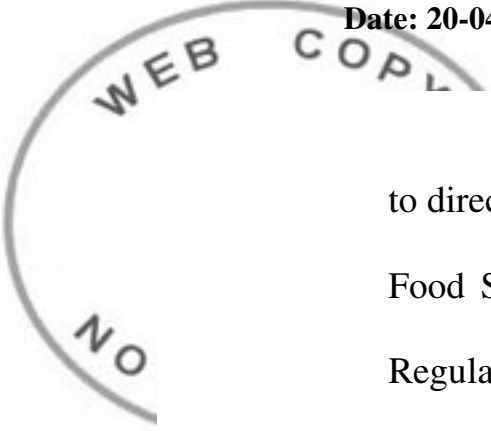
And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-04-2015



This writ petition is filed in public interest with a prayer to direct the respondents herein to enforce the Regulation 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011 (for short, 'the Regulations, 2011') made under the Food Safety and Standards Act, 2006.

The petitioners are associations of Oro Dental Specialty Clinics. They state that on account of indiscriminate consumption of tobacco products, large number of persons are suffering from cancer and other related diseases, particularly in the oral region, and after noticing the seriousness of the problems, the Government has brought into existence the present Regulations, 2011. It is stated that though meticulous standards for every food items are prescribed and addition or inclusion of tobacco or any other tobacco products is prohibited, hardly there is any control over the markets. It is pleaded that taking advantage of the inaction of the State, traders are indulging in the distribution and sale of products containing objectionable substances.

On behalf of the respondents 1, 3 and 6, a detailed counter affidavit is filed. It is stated that with a view to enforce the standards stipulated under Regulation 2.3.4 of the Regulations, 2011,

another set of Regulations have been framed by the State of Bihar banning the storage, sale, distribution and consumption of the Gutaka Pan and other tobacco containing products.

Heard Sri Prabhat Ranjan, learned counsel for the petitioners, Sri Lalit Kishore, learned Principal Additional Advocate General for the respondents-State, Sri Prasoon Sinha, learned counsel for the respondent-Patna Municipal Corporation and Dr. Punam Kumari Singh, learned counsel for the respondent-Union of India

We quite appreciate the initiative taken by the petitioners to ensure that the products, that are prohibited under the Act and Regulations made thereunder, are not sold and distributed in the State. The fact, however, remains that on its part; the State Government has issued necessary Notification framing the Regulations to enforce the Regulation 2.3.4 of the Regulations, 2011. The same is published in the Bihar Gazette on 17.11.2014.

Whatever be the anxiety of the petitioners, they must realize the fact that mere promulgation of law cannot be the end of the matter and enforcement thereof is a stupendous task, particularly when it is mostly the elite society that is addicted to tobacco and tobacco products.

It is brought to our notice that the Regulations framed

by the State are the subject matter of SLP before the Hon’ble Supreme Court and the entire matter is being monitored.

Therefore, we close the writ petition, by taking note of the commitment pleaded by the State government, to enforce the Regulations.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

Sunil/-

(Sudhir Singh, J)

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