

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 162 OF 2014

Federation of Retail Traders	}	
Welfare Association	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

Mr. Siddharth Murarka for the Petitioner.

Mr. N. R. Prajapati i/b. Mr. Y. S. Bhate for
Respondent No. 1.

**CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.**

DATED :- AUGUST 14, 2015

P.C. :-

This Writ Petition under Article 226 of the Constitution of India is by a Federation stated to be of traders across Maharashtra dealing in retail trade of all products including readymade garments, accessories and other decorative products having their addresses as mentioned in the cause title. The prayers in the Writ Petition are as under:-

“(a) Necessary Writ of Prohibition or any other order be issued against the Respondents directing them not to harass traders and retailers, with regard to products which are not covered under the definition of Legal Metrology.

(b) That the Respondents be directed to first verify, whether any standard has been laid down with regard to the product and only if the same falls under the purview of standardized

products then only the seller/manufacture be issued notice for non-compliance under the said Act.

(c) Necessary Writ of Mandamus be issued declaring that in case a product is not covered under the Act of Legal Metrology, no rules even framed under the Act including maximum retail price (MRP) can be implemented.

(d) Necessary Writ of Mandamus be issued declaring that count as per the Act is irrelevant unless satisfies Section 6 and the Legal Metrology Numeration Rules 2011.

(e) Pending the final hearing and disposal of the Writ Petition the Respondents be restrained from filing any legal proceedings against any trader in relation to readymade garments, accessories and decorative items.

(f) Any other further relief may be granted in favour of the Petitioner in the interest of justice.”

2) The learned Counsel appearing for the Petitioner submits that the Legal Metrology Act, 2009 has been brought into effect and the first Respondent to this Writ Petition having commenced implementation of the Act particularly through the State Governments, that the members of the Petitioner Federation are facing difficulties, hurdles and obstacles in carrying on their business. The Petitioner has pointed out that there is no certainty and no assurance as to how the Act is being understood and will be applied. Manufacturer of a bulb for instance and which is covered by the Act cannot manufacture any bulb of the stated standards. The manufacturer allegedly cannot manufacture a bulb of 14 watts or 14.25 watts or 39 watts. What has been brought to our notice is that even if all declarations are furnished but the requisite standards and according to the authorities have not

been achieved, there would be a prosecution launched for violation of the Act, Rules and Regulations. Therefore, the argument throughout appears to be that the Act would be applied in cases where it is extremely doubtful that it would be applicable or would not be applicable at all. Throughout the Petition, several such general statements are made and without any specific instance of any trader being prosecuted or proceeded against.

3) We do not find how we can entertain a Petition and which only contains certain general statements based on the understanding of the Federation of the provisions of the entire Act. A Writ Petition raising the issue of applicability and enforcement of the Act cannot be decided without any concrete case of specific instance of a trader or a retailer or any person covered by the Act being proceeded against and thereafter prosecuted. If the Act is being invoked and wrongfully applied, then, such a categorical instance should be brought to the notice of the Court. On general assumptions and certain apprehension entertained by the Petitioner, the reliefs cannot be granted. So long as the individual and who is being proceeded against has not approached this Court nor we have any instance of the above nature, then, we do not see how we can grant any relief in this Petition. We clarify that we dispose of this Petition only because of the general statements and averments and

omnibus pleas and reliefs based thereon. By keeping open all contentions and for being raised in an appropriate case and of the nature clarified by us, we dispose of this Petition.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)