

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

PUBLIC INTEREST LITIGATION NO.70 OF 2013

Ms Geetanjali Tapan Dutta	...Petitioner
vs.	
Public Health Department, Maharashtra	
State and Others	...Respondents

Ms. Geetanjali Tapan Dutta, the Petitioner party in person.
Ms. Geeta Shastri, AGP for Respondent Nos. 2 and 8.
Mr. Arjun Gupta i/b. Nishith Desai Associates, for Respondent No. 4.
Mr. Venkatesh Dhond, Senior Advocate a/w. Mr. Narayan Sahu and
Mr. Chirag Dave i/b. Legasis Partners, for Respondent No. 5.
Mr. Navroz Seervai, Senior Advocate a/w. Mr. Kunal Katariya i/b.
AZB and Partners, for Respondent No. 6.
Ms. Shruti Katakey i/b. Chitnis & Co., for Respondent No. 7.
Mr. Anil C. Singh, Additional Solicitor General a/w. Mr. D.P. Singh, Mr.
G.r. Sharma and Mr. Yash Momaya, for Respondent No. 9 -UOI.

CORAM : SHANTANU S. KEMKAR &
PRAKASH D. NAIK, JJ.

DATE : DECEMBER 14, 2016

P.C.:

- . Parties through their counsel.
2. Through this Petition, the Petitioner has prayed for the following reliefs:

(a) This Court in exercise of its inherent Civil Jurisdiction under Article 226 and Article 227 of the Constitution of India, be pleased to hear the Petition on its merits and be pleased to issue a Writ of Mandamus directing the Respondent Nos. 1, 2 and 3 to frame appropriate guidelines and/or regulations

and/or rules and/or laws as required regarding the mandatory sealing of all the aforesaid consumer products being skin care products, hair care products, personal hygiene products and such other cosmetic products, with are being manufactured and/or sold within the State of Maharashtra and thereby protect and safeguard the Interest of the Consumers.

(b) This Court be pleased to direct the Respondent Nos. 4 to 7 companies and such other companies involved in the business of manufacturing and/or selling of all the skin care products, hair care products, personal hygiene products and such other cosmetic products, within the State of Maharashtra, to strictly follow the appropriate guidelines and/or regulations and/or rules and/or laws with regard to mandatory sealing of the aforesaid consumer products, as framed by the Respondent No. 1 to 3 authorities.

(c) Any interim or ad-interim relief as this Court may deem fit and proper according to the necessity and circumstances of this case be granted.

(d) Such other and further reliefs as the Court deems fit according to the necessity and circumstances of this case be granted.

3. In reply the Respondents have raised various objections including the objection about the maintainability of the Writ Petition, as according to the Respondents, the High Court under Article 226 of the Constitution of India has no jurisdiction to direct the executive to exercise the power by way of subordinate legislation pursuant to power delegated by the legislature to enact a law in a particular manner.

4. After arguing for some time, learned counsel for the Petitioner on instruction made a prayer that this Petition may be directed to be treated as Representation to the Ministry of Health and Family Welfare, Government of India. The learned Additional Solicitor General appearing for Respondent No. 9 – UOI fairly stated that this Petition will be treated as a Representation and the same will be considered and appropriate decision will be taken on it as expeditiously as possible.

5. In view of the aforesaid, this Petition is disposed of by directing Respondent No. 9 – UOI to treat this Petition as a Representation and after considering the same take appropriate decision on it in accordance with law as expeditiously as possible preferably within six months from the date of receipt of copy of this order. Needless to say that this Court has not commented upon the merits of the matter.

6. The Petition is disposed of as such.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)