

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH
and
THE HON'BLE Mr. JUSTICE M.SUNDAR

W.P.No.41289 of 2016

Coimbatore Consumer Cause
rep. by its Secretary
K.Kathirmathiyon

Petitioner

Vs.

- 1.State of Tamil Nadu
rep. by its Secretary to
Government,
Home Department,
Fort St. George, Chennai - 9.
- 2.State of Tamil Nadu rep. by its
Secretary to Government,
Municipal Administration and Water
Supply Department,
Fort St. George, Chennai - 9.
- 3.The Transport Commissioner,
Ezhilagam, Chepauk,
Chennai - 5.
- 4.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai - 4.
- 5.The Chief General Manager,
National Highways Authority
of India, Regional Office,
Sri Tower, 3rd Floor,
DP-34 (SP), Industrial Estate,
Guindy, Chennai - 32.

- 6.ADSPOT rep. by its
Proprietor S.Gokulraj,Coimbatore.
- 7.Adinn Advertising Service Pvt.
Ltd., rep. by its
Managing Director P.Ramesh,Madurai.
- 8.Aadwell Advertising Agencies
rep. by its Proprietor
K.Kumaravel, Vellore.
- 9.Amman Adds rep. by its
Proprietor M.Karnan, Salem.
- 10.Three Star Digital
rep. by its Proprietor
M.Muthukumar, Madurai.
- 11.Forrtuner Technologist
rep. by its Proprietor R.Ragu, Erode.
- 12.M/s.Spectrum Ads rep. by its
Partner M.Mohammed Faizal, Coimbatore.
- 13.M/s.Royal Universys Webnet
Pvt. Ltd., rep. by its
Managing Director Senthil, Coimbatore.
- 14.M/s.Saai Advertising rep. by
its Proprietor Manikandan, Madurai.
- 15.Branding City Development
Company rep. by its
Partner N.Srinivasan, Salem.
- 16.Union of India,
Ministry of Road Transport
and Highways rep. by
Regional Officer,
Sasthri Bhavan, Besant Nagar,
Chennai - 90.
- 17.Skyrams Outdoor Advertisings
India Pvt. Ltd., rep. by its
Authorised Signatory G.Rammohan
- 18.Shine Outdoor Advertisings Private
Limited rep. by its Authorised
Signatorey G.Rammohan

19. Analog and Digital Labs rep. by
its Proprietor Shyam Jude

.. Respondents

(R5 impleaded vide order dated 24.11.2016
in W.P.No.41289 of 2016;
R6 to R10 impleaded vide order dated
19.01.2017 in WMP No.1368 of 2017 in
WP No.41289 of 2016;
R11 to R15 impleaded vide order dated
07.03.2017 in WMP No.5868 of 2017
in WP No.41289 of 2016;
R16 impleaded vide order dated 18.04.2017
in W.P.No.41289 of 2016
R17 to R19 impleaded vide order dated
30.10.2017 in WMP No.7686 of 2017 in
W.P.No.41289 of 2016)

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 to 4 to initiate appropriate action to remove all the advertisements at the traffic signals and other devices erected for traffic control, traffic guidance and/or traffic information in violation of the Guideline at Paragraph 9.2.8 of the policy on roadside advertisement formulated by Indian Road Congress under the Ministry of Road Transport and Highways, Government of India and Tamil Nadu Urban Local Bodies Licensing of Hoardings and Levy and Collection of Advertisement Tax Rules, 2003, in the entire State of Tamil Nadu within a time limit stipulated by this Court.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.T.N.Rajagopalan,
Govt. Pleader (I/C) for R1 to R4
Mr.Su.Srinivasan for R5
Mr.Kandhan Doraisamy
for R6 to R10 and R17 to R19
Mr.P.Valliappan for R11 to R15
Mr.V.C.Selvasekaran for R4

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This public interest litigation is with respect to the advertisements that are being made on the roads both State and National. The grievance of the petitioner is that the permission given for advertisements in traffic signals and in the right of the way in general is causing numerous accidents.

2. Though an objection has been raised on the maintainability of the writ petition, being filed at the instance of the petitioner, considering the overall public interest involved and taking note of the objections raised by the petitioner in the meetings, we accordingly reject it.

3. A comprehensive policy has been formulated by the Indian Road Congress through the guidelines on the roadside advertisements. These guidelines are being followed by the 16th respondent - national highways.

4. A counter affidavit has been filed by the 16th respondent indicating the policy that is being followed. Paragraphs 6 and 7 of the counter affidavit being apposite are extracted hereunder:

6. I humbly submitted that the advertisement can often effectively distract the attention of drivers of motor vehicles, obstruct the view of drivers of fast moving vehicles. Considering the aforesaid a policy on road side advertisement has been formulated by Indian Road Congress vide IRC:46-1972. Further, the Ministry vide Circular No. RW/NH-33044/35/2001/S&R(R) dated 16.05.2002 has brought out that no advertisement hoardings are permitted on National Highways within the Right of Way except informatory sign of public interest such as Hospitals, Bus Station etc., or advertisement of temporary nature announcing local events such as mela, flower show etc. Also, the Ministry vide letter No. RW/NH-33044/18/2016/S&R(R) dated 07.09.2016 has directed the implementing agencies and Regional Officers to do the joint inspection of all the National Highways within their jurisdiction and send a consolidated report regarding the advertisement hoardings.

7. It is humbly submitted that the matter of removal of advertisement hoardings within the Right of Way of NH is being continuously pursued with Chief Engineer, National Highways, Chennai and also being monitored during the routine inspections of National Highways. The Chief Engineer, National Highways, Chennai vide Letter No. 134/Oppl/NH/2010 dated 18.05.2017 has mentioned that all advertisement hoardings within the National Highways Right of Ways were removed in respect of NHs entrusted with NH wing of Tamil Nadu in the jurisdiction of National Highways Division, Chennai/Vellore/Madurai/Thanjavur/Salem/Thirunelveli/Nagercoil. Regarding the National Highways in the jurisdiction of NH Division Coimbatore, it is brought out that the removal of hoardings are under

progress in the stretches from Km 157/0-162/0, Km 229/0 - 231/0 of NH-209 Coimbatore-Sathiyamangalam section and Km 320/0-332/6, Km 358/0-375/0 & Km 378/0-385/0 of NH-67 Suloor-Cunoor of section. The action taken report is annexed.

5.It appears that in the District of Coimbatore, permissions have been given to the private respondents to advertise on the traffic signals and in the State Highways. This, in our considered view, is contrary to the guidelines and the policy adopted by the 16th respondent. What is applicable to the National Highways necessarily has to be applied to the State Highways as well. Therefore, there cannot be any difference in terms of application of the policy with respect to the roads maintained by the National Highways and State Highways. Accidents do occur when permissions are granted for advertisements. This is the stand taken by the National Highways. Roads are divided as National and State Highways only for the convenience from the point of administration. After all, the user being the public is the same.

6.However, the permissions having been granted in favour of the private respondents by the administration of the Coimbatore District and two years having elapsed with 11 more months to go, we do not propose to interfere with it, as it would certainly affect their interest. After all, these respondents have put up their respective advertisements in accordance with law as it was prevailing at the relevant point of time.

7.A perusal of the guidelines would show that they are to be applied uniformly for all roads viz., National and State Highways. Therefore, the official respondents are bound to follow and give effect to the guidelines as being implemented by the 16th respondent. In such view of the matter, while there is no difficulty in permitting the private respondents to go on with the advertisements till the expiry of the licence issued to them, the official respondents concerned are hereby directed not to either renew the licence or give fresh one being contrary to the guidelines and the policy being adopted by the 16th respondent.

8.The 16th respondent is hereby directed to complete the task undertaken as submitted in its counter affidavit. Needful will have to be done within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that our direction is with specific reference to the advertisement qua right of way.

9. With the above observation and direction, the writ petition stands disposed of. No costs.

10. Respondents 1 and 2 are directed to issue an appropriate circular in terms of the order aforesaid to all the District Collectors incharge of the respective Districts.

Sd/-
Asst. Registrar (CS II)

/true copy/

Sub Asst. Registrar

mmi

To

1. The Secretary to Government,
Home Department,
Fort St. George, Chennai - 9.

2. The Secretary to Government,
Municipal Administration and Water
Supply Department,
Fort St. George, Chennai - 9.

3. The Transport Commissioner,
Ezhilagam, Chepauk,
Chennai - 5.

4. The Director General of Police,
Dr. Radhakrishnan Salai,
Chennai - 4.

5. The Chief General Manager,
National Highways Authority
of India, Regional Office,
Sri Tower, 3rd Floor,
DP-34 (SP), Industrial Estate,
Guindy, Chennai - 32.

6.The Regional Officer,
Ministry of Road Transport
and Highways,
Sasthri Bhavan, Besant Nagar,
Chennai - 90.

+ 1 cc to M/s.Muthumani Doraisami, Advocate,SR.76470
+ 1 cc to M/s.P.Valliappan, Advocate,SR.76816
+ 1 cc to Mr.S.Sathia Chandran, Advocate,SR.76816

W.P.No.41289 of 2016

VGI (CO)
NR 22/11/2017



WEB COPY