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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6975/2016, C.M. APPL.28628/2016**
KRISH KALRA Petitioner
Through : Appearance not given.

versus

UNION OF INDIA & ORS Respondents
Through : Sh. Amit Mahajan, CGSC with Sh.
Nitya Sharma, Advocate, for UOI.
Sh. Ashish Prasad, Ms. Mukta Dutta and Sh.
Avinash Tripathi, Advocates, for Respondent
No.2.
Ms. Radhalakshmi. R, Advocate, for Respondent
No.3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **31.05.2017**

The petitioner complains that on certain dates, i.e. on 11.05.2016, 14.05.2016 and 18.05.2016, the radio channel – *Radio One* [hereafter referred to by its name or as “the channel” or “the radio channel”], broadcast at 94.3 MHz frequency, obscene and vulgar contents. The details of the content so broadcast have been extracted in the body of the petition. It is urged that the content was objectionable as per the Grant of Permission Agreement between the channel and the Ministry of Information and Broadcasting which issues broadcast licenses in that regard. The petitioner principally is

aggrieved on that score and claims a direction against the respondents, i.e. the Union of India to cancel the Grant of Permission Agreement between itself and the second respondent – *Radio One*. The first respondent, the Central Government has, in its affidavit, indicated that the complaint with respect to the vulgarity and distasteful nature of the content broadcast was enquired into and the radio channel was issued with a warning in the manner the Central Government deemed adequate in the circumstances of the case. During the hearing, learned counsel urged that the guidelines applicable clearly indicate that the Central Government should in such circumstances, for the first offence, suspend the license for at least a month. Instead of doing so, it has preferred to merely issue a warning which is grossly inadequate. The advisory and the guidelines set out the different kinds of behaviour which can attract diverse action – which may even be penal in the sense that the broadcast channel may be asked to suspend its operations in a carpet manner depending upon the nature of the findings. In the present instance, the petitioner claims that this proceeding is in public interest. His grievance is that the penal action was inadequate.

The Court is mindful of the fact that the advisory as indeed the guidelines contained in the license agreement are not statutory. These are not to be viewed as compulsions or in any manner tying the discretion of the executive authority. The guidelines in fact are express on this. Whilst the content broadcast is undoubtedly distasteful and even vulgar, the Court is of the opinion

that there is nothing disproportionate or grossly inadequate in the response of the executive which administered the warning, having regard to the totality of circumstances. The Court's approach in such cases especially those concerning freedom of speech is one of caution. Oversensitivity by Courts in such matters should not, in effect, render them guardians of public morals – a duty which they were clearly not charged with, under the Constitution. The role of the Courts is to decide whether restrictions imposed on the heads indicated under Article 19(2) by law, are reasonable; that is not to substitute the executive's opinion with the Courts' opinion.

The writ petition is accordingly dismissed.

S. RAVINDRA BHAT, J

NAVIN CHAWLA, J

MAY 31, 2017/ajk