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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7099/2017 & CM Nos.29502-504/2017

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Date of decision : 18th August, 2017

INDIA AWAKE FOR TRANSPARENCY Petitioner

Through : Mr. Subhramaniam, Adv.

versus

UNION OF INDIA AND ORS Respondents

Through : Ms. Monika Arora, Adv. for R-1.

Mr. Digvijay Rai and Mr. Pulkit Tyagi, Advs. for R-3.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE P.S. TEJI

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. The writ petition seeks the following prayers :

(a) Issue a writ of certiorarified mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India directing the respondents 1,2 and 3 to forthwith act on the demand of the petitioner dated 01.06.2017 and forthwith halt all sales and serving of liquor and alcoholic beverages in domestic departure terminals of all Airports in the country.

(b) Issue a writ of certiorarified mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India directing that the 1st, 2nd and 3rd

respondents to forthwith place before the Court the files in respect of the demand dated 01.06.2017 of the petitioner together with status report of action taken thereon till date.

(c) Issue rule nisi in terms of prayers(a) and (b) above;

(d) Pass such other and further order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. We have heard Mr. Subhramaniam, Id. counsel for the petitioner on the prayer made in the writ petition which appears to be premised on an absolute presumption that consumption of alcohol necessarily results in unruly/disruptive behaviour irrespective of the quantum of the consumption.

3. Our attention is drawn by Id. counsel appearing for respondents to a circular issued in April, 2015 by the Airport Authority of India which is captioned as "*Guidance on the Safe Service of Alcohol on Board*". The relevant extract whereof reads as follows:

"3. A SAFE ENVIRONMENT FOR ALL

Depending on the airlines service policy, which often varies by the class of service, the destination or route flown, whether the service is offered on a short haul or long haul flight, the service of alcoholic beverages is provided on board as either a complimentary or for sale service. This service is relatively controllable by cabin crew. However, this can be difficult on large transport category aircraft with multiple crew members, cabins or decks.

3.1 Airport concessions and lounges

Passengers may consume alcohol before boarding their flights, either before arriving at the airport or at the airport itself while waiting for departure. It is important for airport concessions (restaurants and bars) and lounges that offer alcoholic beverages to be responsible in their service as passengers will ultimately be boarding a flight. It is important to be aware that it takes the Blood Alcohol Content (BAC) from thirty to sixty minutes to reach their highest peak and maximum effect. Therefore, within that timeframe, ground staff or cabin crew may not yet be fully aware of the effects of alcohol on a passenger.

3.2 Boarding

Cabin crew have no control over the condition of a passenger's level of intoxication at the time of the boarding of the aircraft other than to assess a passenger's condition at that point in time. Communication between the ground staff and cabin crew in these cases is of utmost importance. In obvious cases of concern, the ground staff and the crew, in consultation with the pilot-in-command, will assess the passenger's ability to travel. By carefully assessing a passenger's overall behavior, including any signs or symptoms, the ground staff and cabin crew can determine whether acceptance for carriage on board is the recommended decision or not.

Key aspects to mitigating or managing incidents are a robust, well-communicated airline policy and related procedures for unruly passenger prevention and management (this includes intoxicated passengers) and the airline staff knowing they are supported on the front line by their airline management. It is

advisable for airlines to authorize their ground staff and crew members to assess passengers of concern and when deemed necessary, to deny boarding to passengers where there are reasonable grounds to believe that their faculties are impaired by alcohol to an extent that will present a hazard to the safety of the aircraft, to persons on board (both crew or passengers) or to the passenger themselves. 5 Each situation will need to be assessed on an individual case-by-case basis and as per the airline's procedures.

If the passenger is deemed appropriate to travel, ground staff and cabin crew members should communicate this information to each other so that cabin crew members may be aware of any potential passengers of concern in order to monitor them throughout the flight. It may also be determined that nil or limited service of alcoholic beverages to these passengers is the most prudent plan of action in mitigating a possible worsening situation.

3.3 Informing passengers of the airline's alcohol policies

A published airline alcohol policy would be of benefit to assist in mitigating these types of passengers and related incidents. The airline could raise awareness and communicate the alcohol policy by:

- (i) Publishing it on the airline website;*
- (ii) Printing the policy in the airline magazines;*
- (iii) Displaying it on the inflight entertainment system.*

By having an airline alcohol policy that is well communicated and readily available, passengers and or crew can access its

content easily and on site. The goal would be for this to act as a deterrent in order to prevent the excessive abuse of consumption of alcoholic beverages. Cabin crew could also reference this publicly available policy to point an intoxicated and unruly passenger towards the policy either as a gentle reminder when trying to pace service or before they cease service to a passenger when they feel the passenger may become a safety hazard to themselves or others.

4. Mr. Subhramaniam, Id. counsel for the petitioner has placed before us a circular No.F.No.23-14/2014-AED issued by the Office of the Director General of Civil Aviation on 18th November, 2014 captioned as “*Handling of Unruly/disruptive passengers*”. Id. counsel would rely on para 4.9 of the said circular which reads as follows:”

4. Requirements for dealing with Unruly/Disruptive person.

xxx

xxx

xxx

4.9 The passenger shall also be made aware that in case his behaviour falls into one of the following categories, he/she is likely to be breaking the law and could be arrested on arrival at destination, or at any other airport where the aircraft commander may choose to land:

- *Endangering the safety of an aircraft and persons therein*
- *Drunkenness in aircraft*
- *Smoking in an aircraft*
- *Failure to obey commands of aircraft commander*
- *Acting in a disruptive manner by:*

- *the use of any threatening , abusive or insulting words towards a member of the crew;*
- *behaving in a threatening, abusive, insulting or disorderly manner towards a member of the crew;*
- *intentionally interfering with the performance of a crew member.*

5. This circular is not concerned with unruly or disruptive behaviour by a passenger which is attributable to consumption of alcohol. In fact it notes the conduct of certain passengers who behave in unruly and disruptive manner in general. It also notes as to how to deal with such conduct and it provides a standard operating procedure for the care and safety of the aircraft as well as co-passengers and the airlines who is to deal with the situation when faced with disruptive conduct of the passengers. This circular makes it clear that unruly/disruptive behaviour by passenger is not relatable only to consumption of alcohol.

6. We have put this to Id. counsel for the petitioner as to how a writ court could possibly execute a prohibition if issued in the manner as has been prayed in the writ petition. It is completely impossible to control what a passenger would imbibe or consume prior to entering the airport or even before he passes security, which is immediately before he enters the transit area leading to the aircraft. It is not as if the alcohol consumption prior thereto would not impact the conduct of a person.

7. It would be wholly impermissible for this court to issue a writ which cannot be executed.

8. It is admitted by ld. counsel for the petitioner that alcohol is served on international flights. The authorities have taken considered decisions with regard to distribution and consumption of alcohol.

9. In fact, the reliefs which have been prayed for in this writ petition are purely within the policy domain of the respondents.

We find no merit in this writ petition and pending applications, which are hereby dismissed.

ACTING CHIEF JUSTICE

P.S. TEJI, J

AUGUST 18, 2017

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