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

+ **W.P.(C) 8798/2017 & CM No. 35975/2017**

D.A. CHETNA PRAKASHAN PVT. LTD. Petitioner

Through: Mr Avi Tandon, Mr Anish Agarwal
and Mr Aditya Shekhar, Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Ms Vipra Bhardwaj and Mr Akhilesh
Kumar, Advocates for R-1 & 3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **09.10.2017**

1. The petitioner has filed the present petition, inter alia, praying as under:-

- “(i) To issue a writ, order or direction in the nature of mandamus, directing the Respondents to re-start and allow advertisements in relation to Lucknow, Gorakhpur, Allahabad, Kanpur, Azamgarh and Faizabad editions of Swatantra Chetna and Gorakhpur, Lucknow, Allahabad and Kanpur editions of Chetna Vichardhara published by the Petitioner.
- (ii) To issue a writ, order or direction in the nature of mandamus, directing the Respondents to place the Petitioner's newspapers being Lucknow, Gorakhpur, Allahabad, Kanpur, Azamgarh and Faizabad editions of Swatantra Chetna and Gorakhpur, Lucknow, Allahabad and Kanpur editions of Chetna Vichardhara on the panel of DAVP.

- (iii) To issue a writ, order or direction in the nature of certiorari or any other appropriate writ, setting aside the condition of clarifying the reasons for drop in circulation of the publications by more than 25%.
- (iv) To issue a writ, order or direction in the nature of certiorari or any other appropriate writ, holding that the condition of clarifying the reasons for drop in circulation of the publications by more than 25% is unconstitutional, illegal, arbitrary and inoperative.
- (v) To issue a writ, order or direction in the nature of mandamus, restraining the Respondents from removing the Petitioner or any of its newspaper editions from the panel of DAVP or stopping the advertisements to any of the newspaper editions of the Petitioner (i) without giving it appropriate opportunity of being heard, (ii) without giving reasons for such removal from the panel of DAVP or (iii) without passing a reasoned order for such actions of the Respondents.
- (vi) Issue a writ, order or direction in the nature of certiorari or any other appropriate writ, order or direction setting aside the discretionary power granted to Pr. DG / DG DAVP vide Advisory File No. 14/0018/1817-MR&C of the Ministry of Information and Broadcasting dated 8.9.2017 in relation to acceptance of information regarding decrease in circulation of any newspaper.”

2. The petitioner is a publisher of newspapers in Hindi language, having several editions, which are circulated across Uttar Pradesh, Uttarakhand and New Delhi. It is stated that the petitioner has been receiving advertisements from the respondents for past several years. The petitioner had also entered into a rate contract on 01.01.2016 with DAVP and was entitled to receive orders for publishing advertisements.

3. The Ministry of Information and Broadcasting, Government of India published "The Print Media Advertisement Policy -2016 with effect from 07.06.2016". The said policy, *inter alia*, classified the newspapers on the basis of the number of copies being circulated and required that the said circulation be independently certified; the newspapers with the circulation of upto 45,000 copies per day were required to furnish authenticated figures of circulation from Audit Bureau of Circulation (ABC)/Cost Accountant/Statutory Auditor/Chartered Accountant and those newspapers with a circulation of more than 45,000 copies per day required to obtain certification from ABC or the Registrar of Newspapers for India ("RNI").

4. The aforesaid policy also recognised that it would take some time for the newspapers having a circulation of 45,000 copies per day for getting their circulation verified by ABC/RNI and therefore expressly provided that *"DAVP shall not give rates for newspapers falling in circulation bracket of 45,000 and above without RNI/ABC circulation certificate from 01.06.2017"*. In other words, the publishers were granted a period of one year to furnish the authenticated figure of circulation.

5. The petitioner has averred that in April/May 2017, it informed DAVP about the fact that circulation of the newspapers published by it had dropped below 45,000 copies per day. The learned counsel for the petitioner states that the petitioner is a publisher of fourteen publications and the present petition concerns of 10 newspapers. According to the petitioner, circulation of all the ten newspapers published by the petitioner fell by more than 25%, thus reducing their circulation to below 45,000 copies per day.

6. The Ministry of Information and Broadcasting, Government of India issued another advisory dated 05.05.2017 directing that *"in pursuance of above referred clause of the Policy, DAVP will not offer rates to newspapers in the panel with effect from 01/05/2017, which have not submitted RNI/ABC circulation verification certificate in support of their claimed circulation."*

7. It is further averred that the petitioner submitted the return in relation to the newspapers in question for the financial year 2016-17 as required under the policy.

8. It is further submitted that on 24.08.2017, the Ministry of Information and Broadcasting issued another advisory requiring the publications which have dropped by more than 25% to indicate the reasons thereof within a period of fifteen days.

9. The petitioner's principal grievance is that the respondents have stopped issuing advertisements to the petitioner without assigning any reason. The petitioner is also aggrieved by the Advisory dated 24.08.2017 whereby the publications whose reduction in circulation is more than 25% are required to clarify the reasons thereof.

10. The learned counsel for the petitioner has earnestly contended that the said condition requiring the publications to clarify the reasons on the drop of circulation within the specified time period of 15 days is arbitrary and reasonable. He submitted that the newspaper publishers do not have any control over the circulation, which mainly depends on the preference of the readers. He further submitted that a drop under circulation also cannot be the reason for withholding advertisements.

11. It is seen from the record that there are no specific reasons provided by the respondents for stopping the publication. In this view, it would be appropriate if the respondents considers the present petition as a representation and pass a reasoned order either accepting the petitioner's claim for release of advertisements (rates) or providing reasons for rejection thereof.

12. Insofar as the condition of requiring clarification regarding drop in circulation is concerned, this Court finds no infirmity with the decision of the Government of India, Ministry of Information and Broadcasting (Advisory dated 24.08.2017) directing the publishers to "*clarify the reasons for such sharp drop in circulation of their publication*". If the petitioner believes that the reduction in circulation of its publications are only on account of preference of the readers; all that is required for the petitioner is to indicate the same.

13. It is further seen that the condition requiring the publishers to indicate the reasons for reduction in the circulation has been prompted by a apprehension that certain publishers had been claiming a higher rate for advertisement by falsely claiming that the circulation of their respective publications were above 45,000. This had occasioned the Government of India to issue an advisory requiring the publishers to submit verified figures of their circulation. However, after the policy had been introduced, certain publishers (such as the petitioner) had claimed that the circulation of their publications had reduced significantly. It is in this context that such publishers have been called upon to clarify the reasons for reduction in the circulation.

14. It is thus apparent that the object of the respondents is not to penalise the newspapers which have less circulation but to ascertain whether certain newspapers had been charging higher rates on incorrect reporting of their circulation. Clearly, the respondents are entitled to satisfy themselves as to the authenticity of the circulation figures and further to verify whether any publisher had indulged in unethical conduct. Thus, this court finds no reason to infirmity with the Advisories issued by the Government of India, which are impugned in this petition. The prayers made by the petitioner regarding quashing the conditions included in the impugned Advisories - prayers (iii), (iv) and (vi) as set out in the opening paragraph - are thus without merit and are rejected.

15. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

OCTOBER 09, 2017
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