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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11157/2017**

**RISING INDIA PUBLICATIONS PVT.LTD
AND ANR**

..... Petitioners

Through: Mr Ankur Yadav, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr Anurag Ahluwalia, CGSC with
Mr Brajesh Kumar, Govt. Pleader and
Mr Charitarth Bharti and Ms
Tejawita, Advocates alongwith Mr B.
P. Meena, DAVP, Media Executive
for R-1 & R-2.

**CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER
15.12.2017**

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VIBHU BAKHRU, J

CM Nos.45686/2017 & 45687/2017

1. Exemptions are allowed, subject to all just exceptions.
2. The applications stand disposed of.

CM No.45688/2017

3. For the reasons stated in the application, the same is allowed and stands disposed of.

W.P.(C) 11157/2017 & CM No. 45689/2017

4. The petitioner is a Public Limited Company registered under the Companies Act, 1956 and is engaged in the business of publishing newspapers. It is stated that the petitioner publishes two dailies, namely; Nishpaksh Samachar Jyoti (in Hindi) and Halate Watan (in Urdu).

5. These dailies are published simultaneously from Delhi, Bhopal, Guwahati, Lucknow and Varanasi. In addition, the petitioner also publishes two weekly news publications, namely; News Flame and Suman Sandhya from Varanasi and Delhi respectively.

6. The petitioner no.2 is a proprietorship concern of Mrs Suman Gupta and is also involved in publishing newspapers.

7. The petitioners state that their publications are duly empanelled with the Directorate of Advertising and Visual Publicity (hereafter 'DAVP'). The petitioners further claim that in terms of the Advertising Policy-2007, Advertising Rate Contract Agreements were entered into between the petitioners and DAVP, Ministry of Information and Broadcasting, Government of India, which are valid for a period from 01.01.2016 to 31.12.2018.

8. The petitioners have filed the present petition impugning "The Print Media Advertisement Policy of Government of India, 2016" (hereafter 'the 2016 Policy') as well as Advisory dated 05.05.2017 issued by DAVP, whereby it has been decided that with effect from 01.05.2017 not to offer rates for advertisements to newspapers, which have not submitted RNI/ABC Circulation Verification Certificate. The petitioner also impugns an order

dated 01.06.2017 (hereafter ‘the impugned order’), whereby the petitioners empanelment for advertisements on DAVP rates has been cancelled.

9. The petitioners contend that the 2016 Policy is arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

10. The learned counsel for the petitioners contended that the 2016 Policy is contrary to the Advertisement Policy dated 02.10.2007, which expressly provided that the empanelment would remain valid for the duration for which the empanelment was made. He submitted that paragraph 12 of the 2016 policy could not be applied retrospectively and to that extent, the 2016 policy is arbitrary and unconstitutional.

11. I have heard the learned counsel for the parties.

12. Before proceeding further, it would be relevant to refer to the 2016 policy impugned in this petition. The Ministry of Information and Broadcasting, Government of India published “the 2016 Policy” which came into effect from 07.06.2016. The petitioners are essentially aggrieved by clause 12 of the said policy, which requires the newspapers/journals to furnish authenticated figures of their circulation. The said clause reads as under:-

“Clause-12: The applicant newspaper/journal should furnish authenticated figures of circulation of ABC, Cost Accountant /Statutory Auditor/Chartered Accountant as per the criteria below:

up to 45000 - Cost/Chartered Accountant/ Statutory Auditor Certificate (in case of companies) in prescribed proforma/ABC Certificate.

Above 45600* -ABC /RNI certificate.

*(Since, it would take some time for the newspapers/ journals for getting their circulation verified by ABC/ RNI, it is proposed that DAVP may give one year time to newspapers in the medium category to get their circulations verified by ABC/ RNI. Consequently, DAVP shall not give rates for newspapers falling in the circulation bracket of 45,000 and above without RNI/ABC circulation verification certificate from 1.6.2017)

DAVP will take average circulation for the preceding one year as certified by RNI/ABC/Statutory Auditor/CA certificate, whichever is less. However, for Big category newspapers RNI/ABC circulation average for preceding 12 months would be taken.

NOTE 1 : The circulation based on sold copies as certified by ABC/ RNI/ CA shall be taken into account for calculating DAVP rate.

NOTE 2 : RNI circulation certificate shall be valid for a period of two years from the date of issue. In case of ABC, the current certificate shall be used for circulation verification.

NOTE 3: According to PRB Act, every edition of a newspaper is required to have a separate RNI registration number. Whenever, copies of one edition of a newspaper are printed from more than one centre and if the content of the newspaper is different they would be treated as different editions as per PRB Act. RNI shall treat them as separate entities while verifying the circulation. DAVP shall not empanel printing centre as separate editions and also not include the circulation of printing centres with that of the main edition. DAVP may encourage newspapers to get their printing centres to be registered with RNI as separate editions. However, if a newspaper, for the sake of convenience is printing its copies of an edition at more than one printing press without adding any additional content,

DAVP may take the circulations of such printing centres into consideration for giving rates of that edition.”

13. It is seen from the above that the 2016 policy has classified the newspapers on the basis of the number of copies being circulated and requires that the said circulation be independently certified. The newspapers with the circulation of upto 45,000 copies per day are 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”).

14. 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 almost one year to furnish the authenticated figures of circulation.

15. It is pointed out that the aforesaid policy was issued as several newspapers had been inflating their circulation figures to secure higher rates for advertisements published in their newspapers.

16. Plainly, the respondents cannot be faulted in their endeavour to ensure that the correct rate for advertisements are paid to the advisors and this Court finds no infirmity with the said policy.

17. The contention that the 2016 policy runs contrary to the Advertisement Policy dated 02.10.2017 is unmerited. There is no dispute that the petitioner would be entitled to be empanelled for the period as agreed in this case till 31.12.2018. However, respondents are not fettered in any manner of insisting on due verification of the claims of circulation made by the petitioner and other empanelled publications. The petitioners have no vested right to secure advertisements on the basis of circulation claimed by them without providing the necessary evidence to substantiate the same.

18. The petitioners have been afforded sufficient time to furnish the necessary certificates and apparently their empanelment has been cancelled on account of their failure to do so. Plainly, the petitioners cannot insist on claiming charges for advertisements without substantiating their circulation figures.

19. It is in the aforesaid context that the Ministry of Broadcasting, Government of India had issued an 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”*.

20. This Court finds no infirmity with the aforesaid advisory as well. As stated above, all publications were provided sufficient time to submit certificates in support of their claim circulation and, thus, the decision to cancel the petitioners’ empanelment cannot be faulted.

21. The contention that the aforesaid advisory has been issued to

newspapers only to exercise contract over the newspapers is unpersuasive.

22. The petition and the application are, accordingly, dismissed.

VIBHU BAKHRU, J

DECEMBER 15, 2017
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