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

+ W.P.(C) 5371/2018 & C.M. Appl. No. 20893/2018

PROCTER & GAMBLE HOME PRODUCTS

PVT LTD

... Petitioner

Through Mr. Rajiv Nayyar, Sr. Adv with Mr.
Satvik Varma, Mr. Lalitaksh Joshi
and Mr. Tanveer S. Oberoi, Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through Mr. Vikas Mahajan, CGSC with Mr.
Deepak Goyal, Adv for UOI/R-1.
Mr. Sudhir Chandra, Sr. Adv with
Mr. Ajay Bhargava, Ms. Vanita
Bhargava, Mr. Ankur Sangal, Ms.
Sucheta Roy and Ms. Richa
Bhargava, Advs for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **24.05.2018**

1 The following substantive prayers have been sought in the writ
petition:

- 1. Issue a Writ or Order in the nature of Mandamus,
directing the respondent No. 1 to immediately implement
Recommendation dated 28.03.2018 of the Respondent no.*
- 2.and issue immediate directions to all TV channels to
immediately stop telecasting the advertisements of HUL's*

product - Pure Derm Anti Dandruff Shampoo containing the unsubstantiated, exaggerated and misleading claims which have been held to be in violation of the Advertising Code; and

2. Issue any other writ(s) as this Hon'ble Court may deem fit in the facts and circumstances of the present case; and

3. Direct the Respondents to bear the cost of the instant litigation;

2 Notice in this petition was issued on 18.05.2018, when, apart from anything else, Hindustan Unilever Limited (HUL) was arrayed as a party to the present proceedings.

2.1 Mr. Chandra, learned senior counsel, instructed by Mr. Ajay Bhargava, has entered appearance in the matter on behalf of HUL.

3 As would be evident upon perusal of the prayers made in the writ petition (which have been extracted above), the petitioner, in effect, seeks enforcement of the recommendation dated 28.03.2018, made by the Advertising Standard Council of India (ASCI/respondent No. 2).

4 Mr. Vikas Mahajan, who, appears for the Union of India/respondent No. 1, says that the aforementioned recommendation was not officially communicated to the said respondent and, therefore, no further steps were taken.

5 On the other hand, Mr. Chandra says that there is much to be said about the aforementioned recommendation made by ASCI/respondent No. 2.

6 Mr. Nayyar, who, appears for the petitioner, in rebuttal, says that Union of India/respondent No. 1 is duty bound to enforce the recommendation made to it by ASCI/respondent No.2. It is the submission of Mr. Nayyar that HUL had, in fact, taken recourse to the Independent Review Process (IRP), which is envisaged under the Complaints Procedure put in place by ASCI/respondent No.2 against the recommendation made by ASCI/respondent No.2. According to Mr. Nayyar, under the Complaints Procedure, once the Independent Review Panel rejects the petition of a party seeking review, such party has no choice but to adhere to the terms of the recommendation. In other words, Mr. Nayyar says that once the IRP stage is crossed, the Union of India/respondent No. 1 is duty bound to enforce the aforementioned recommendation against HUL.

7 Mr. Nayyar also adds that the petitioner had, in fact, informed Union of India/respondent No. 1 about the recommendation dated 28.03.2018 as far back as on 28.04.2018, with a follow up communication dated 08.05.2018.

8 I have heard the learned counsels for the parties and have perused the record. In my view, the obligation, if any, to carry forward the recommendation dated 28.03.2018 made by ASCI/respondent No. 2, is that of Union of India/respondent No. 1.

9 Therefore, the writ petition is disposed of with a direction to Union of India/respondent No. 1 to act in accordance with law. It will be open for Union of India/respondent No. 1 to take whatever steps that it may deem necessary to do the needful in the matter. Needless to say, the Union of India/respondent No. 1 will act with due expedition and will take relevant steps within five days from today.

10 It is made clear that none of the observations made hereinabove will impact the merits of the case.

11 Pending application shall stand closed.

12 Order dasti under signatures of the Court Master.

RAJIV SHAKDHER, J

MAY 24, 2018/A