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

Date of decision: 29th November, 2019

+ W.P.(C) 12613/2019

MANJINDER SINGH SIRSA Petitioner

Through: Mr. A.P.S. Ahluwalia, Sr.
Advocate with Mr. S.S. Ahluwalia
and Mr. Mohit Bangwal, Advs.

Versus

UNION OF INDIA & ORS Respondents

Through: Ms. Maninder Acharya, ASG with
Mr. Anil Soni, CGSC for
respondent no. 1
Mr. Mukesh Gupta, Standing
Counsel with Ms. Shashi Gupta
and Mr. Mayank Ahuja, Advs. for
SDMC
Mr. Ramesh Singh, Sr. Standing
Counsel with Mr. Shlok Chandra,
Mr. Ishan Agarwal, Mr. Rishabh
Tomar, Advs. and Inspector Vinay
Kumar, Licensing D.P. for
respondent nos. 2 and 4
Mr. Atul Verma, Adv. for Mr.
Sanjeev Ralli, Adv. for respondent
no. 5
Ms. Jyoti Taneja, Standing
Counsel for North Delhi Municipal
Corporation
Mr. Harish Kumar Khinchi and
Mr. Ghanshyam Thakur, Advs. for
EDMC/R-8

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

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ORDER
29.11.2019

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL. 51563/2019 (exemption)

Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 12613/2019

1. This Public Interest Litigation (PIL) has been preferred with the following prayers:-

“I. the Respondent no. 1 to prohibit the service of hookah in the non-smoking area in compliance to COTPA and Prohibition of Smoking in Public Places Rules 2008;

II. the Respondent no. 1 to implement the notification no. F. no.P- 16011/04/2016-PH-I dated 23.05.2017 as per which no services shall be allowed in any smoking area in respect of hookah as well;

III. the Respondent no. 2 for the implementation of notification dated 21.07.2017 vide no. vide order no. (F No. 7(6)/STCC/DHS/14-15/6796) passed through State Tabaco Control Cell and prohibit the Hookah Bars as Stated in letter dated 29.05.2018;

IV. Directions to Respondents no. 3 to 8 to implement effective notification no. F. no.P-16011/04/2016-PH-I dated 23.05.2017 and notification dated 21.07.2017 vide order no. (F No.7(6)/STCC/DFIS/14-15/6796) & (F No. 7(6)/STCC/DHS/14- 15/6866) dated 27.10.2017 in Jurisdiction of Delhi;

V. Pass such other or further order(s) as may be deemed fit and proper in facts and circumstances of the present case.”

2. Learned Senior Counsel appearing for the petitioner further submits that earlier the petitioner had submitted representation dated 17th July, 2017 to the respondents, ventilating the grievances made in this petition, which is annexed at page 26 of this writ petition. Nonetheless, the petitioner is ready to prefer a fresh representation for prohibition of service of hookah in non-smoking areas. Learned Senior Counsel for the petitioner submits that hookahs are freely available in restaurants and hotels, which is in contravention of the Prohibition of Smoking in Public Places Rules, 2008 and as well as in violation of the notification dated 23rd July, 2017 issued by the Government of NCT of Delhi, which is annexed at page 38 to this writ petition.

3. In view of the aforesaid submissions made by the Senior Counsel for the petitioner, we hereby direct the respondents to take action in accordance with law upon the representation, which is to be preferred afresh by the petitioner within a period of two weeks from today. As and when such representation is preferred by the petitioner, the respondents will look into the grievance of the petitioner about the easy availability of hookahs in the non-smoking area and also smoking through hookahs in violation of the aforesaid Rules, 2008 as well as and in violation of the notification dated 23rd July, 2017 (page 38 to the memo of this writ petition). The respondents shall take action, in accordance with law, rules, regulations and Government policy as applicable to the facts of the present case after giving an adequate opportunity of being heard to the concerned parties as expeditiously as possible and practicable.

4. With these observations, this writ petition is disposed of.

CM APPL. 51562/2019 (interim relief)

In view of the order passed in the writ petition, this application is disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

NOVEMBER 29, 2019

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