

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITIONS No. 1784, 2890, 3343, 4009, 4174, 4967, 7611, 8151, 17647, 17999, 21388, 26840, 28317, 31649, 32985, 34166, 34179, 37476, 39114, 40098 AND 42828 OF 2015

COMMON ORDER:

In all these Writ Petitions, the issue is more or less common, namely, interference by the respondent authorities with regard to the running of Hookah centres.

When these matters are taken up, it is submitted across the Bar by the learned counsel for the petitioners and the learned Assistant Government Pleader for Home that the issue raised in the present Writ Petitions is squarely covered by the common order dated 27.01.2017 in Writ Petition No.3202 of 2014 and batch, Paragraphs 15 to 20 of which read as under:

15. In view of the object and the provisions of the Act coupled with Section 149 Cr.P.C and taking into consideration the violations pointed by the respondents-police, this Court is of the view that serving of hookah in the restaurants of the petitioners without complying the provisions of the Act and the Rules and without displaying statutory and pictorial warnings and notices, amounts to violation as pointed out by the police.

16. Insofar as the interference of the police are concerned, it is pertinent to note that the provisions of Section 12 of the COTP Act confer powers to the police not below the rank of Sub Inspector of Police or any officer of the State Food or Drug Administration or any other officer, holding the equivalent rank being not below the rank of Sub Inspector of Police authorized by the Central Government or by the State Government, may, if he has any reason to suspect that any provision of this Act has been or is being contravened, enter and search in the manner prescribed at any reasonable time at factory, building, business or any other place.

17. In the light of this provision and Section 149 Cr.P.C., the contention of the learned Counsel for the petitioners that the acts of the Police amount to infringement of fundamental rights and that the police are not the competent authority, but it is only the G.H.M.C that is competent to interfere with the business of the

petitioners, who are serving Hookhas, does not have any force. Therefore, this Court is of the view that under Section 12 of the Act and Section 149 Cr.P.C., the police including the other authorities as authorized by both Central and State Governments have ample powers to inspect the business premises of the petitioners. In this regard, the learned Counsel for the petitioners has failed to place any such authority, under which, the G.H.M.C is only competent to inspect the business of the petitioners in serving Hookah.

18. In view of the foregoing discussion, this Court is of the view that the action of the respondents-police is in accordance with law and any interference by this Court with the powers of the police in this regard by exercising the powers under Section 226 of the Constitution of India, is not warranted.

19. Further, the Director General of Police, Telangana State, is directed to take appropriate action against the officers for their inaction in respect of the restaurants being used as hookah centers and also to take action against the high-handed acts of the officers, who interfered with the restaurants, which are being run without there being any violations.

20. Accordingly, all the above Writ Petitions are dismissed. No Costs. Miscellaneous petitions pending, if any, shall stand dismissed.

In view of the submission of the learned counsel and also in view of the reasons / observations made in the Order dated 27.01.2017, as excerpted supra, these Writ Petitions are also dismissed. No costs.

Miscellaneous Petitions, if any pending, shall stand closed.

CHALLA KODANDA RAM, J

26th February 2020

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