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

\# **CNR No. DLHC010492542026**

\+ LPA 839/2026, CM APPL. 70959/2026, CM APPL. 70960/2026, CM APPL. 70961/2026, CM APPL. 70962/2026 & CM APPL. 70963/2026

PEPSICO INDIA HOLDINGS PRIVATE LIMITED.....Appellant

Through: Mr. Dayan Krishnan, Senior Advocate along with Mr. Dheeraj Nair, Mr. Angad Baxi, Ms. Avni Sharma, Mr. Aman Acharya, Ms. Aparna Singh & Mr. Devashish Vashishth, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms. Avshreya Pratap Singh Rudy, CGSC along with Ms. Usha Jamnal, Ms. Nyasa Sharma, Mr. Siddhant Nagar, Mr. Abhinav Mall & Ms. Nishtha dhall, Advocates for UoI.

Mr. Rakesh Chaudhary, Mr. Suransh Chaudhary, Mr. Jay Sharma, Mr. Gulshan Sharma, Mr. Vikas Aggarwal & Ms. Saumya Singh, Advocates for Respondent Nos.2 to 4/FSSAI.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJAY SHARMA

O R D E R

% 12.10.2026

1. We have heard the respective counsel for some time.

2. The challenge in the present Letters Patent Appeal is to an order dated 06.10.2026, wherein the learned Single Judge though, having granted interim relief in favour of the appellant-original petitioner, has clarified that

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the interim order shall not be interpreted to have permitted the petitioner, who is a bottler/contractor to further manufacture the product with the term "*Energy Drink*".

3. The sum and substance of the aforesaid observations is that there is no blanket embargo on the right of the petitioner to manufacture, either by himself or through his contractors, what is not permitted to be manufactured is the product with the label "*Energy Drink*".

4. Learned counsel for the appellant has invited our attention to the order dated 29.09.2026, which according to him was passed in an another case having similar set of facts and applicability of same rules. It is urged that the appellant is being treated discriminatorily.

5. It is further urged that learned Single Judge has not recorded the reasons as to stopping the petitioner/appellant from manufacturing the drink/product with the label "*Energy Drink*", whereas the same is permitted in the matter of W.P.(C) 14413/2026 titled as "*Red Bull India Private Limited v. Union of India and Ors*." ("**Writ Petition**").

6. As against above, the learned counsel for the respondents, apart from the preliminary objection on the maintainability of the appeal by relying on the judgment of the Hon'ble Apex Court in the matter of ***Shah Babulal Khimji v. Jayaben D. Kania and Another***, reported in (1981) 4 SCC 8: 1981 SCC OnLine SC 315, has urged that there are reasons for not granting the interim relief to the extent of permitting the appellant to manufacture the drink/product with the label "*Energy Drink*".

7. It is urged that, in fact, the reasons stated in Paragraph No. 6 are sufficient enough to inform that the case of the appellant is independently dealt with.

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8. Having considered the rival claims, we are not inclined to go into the merits of the matter at this stage of the proceedings, particularly when the matter is pending consideration before the learned Single Judge on the issue of grant/confirmation of the interim relief. What is in operation is an *ad interim* relief in the matter.

9. Rightly so, Mr. Dayan Krishnan, learned Senior Counsel for the appellant, has urged that judicial discipline warrants that, in the similar set of facts, identical relief should have been granted by the learned Single Judge.

10. Though, the learned counsel for the respondents has stated that the respondents are also taking steps in the matter, Writ Petition titled as "*Red Bull India Private Limited v. Union of India and Ors*." for modification. However, till this day, no steps are taken at their end by moving any application before the learned Single Judge to that effect.

11. In the aforesaid eventuality, we are, *prima facie*, of the view that the learned Single Judge has not recorded any specific reasons for not granting the relief in favour of the petitioner, or rather, not permitting the petitioner from bottling/manufacturing the drink with the label "*Energy Drink*" which was otherwise permitted in the matter of *Red Bull India Private Limited* (supra).

12. In the aforesaid factual background, we deem it appropriate to relegate the matter to learned Single Judge with a direction that, with respect to the observations in Paragraph No. 12 and 13 of the order dated 06.10.2026, let their reasons be recorded so as to enable this Court to deal with the issue, if so required, in the next round of litigation be taken up before this Court.

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13. Let aforesaid exercise be completed by the learned Single Judge within a period of one week from today.

With the above liberty and observation, we deem it appropriate to dispose of the present appeal, with the further clarification that we have not appreciated the merits of the matter.

14. Pending application(s), if any, also stands disposed of accordingly.

NITIN WASUDEO SAMBRE, ACJ

SANJAY SHARMA, J

OCTOBER 12, 2026*/AN/KP*

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