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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7540/2010

WORLD LUNG FOUNDATION SOUTH ASIA.. Petitioner  
Through Mr. Santosh Kumar and Mr.  
Rajeev Katyain, Advocates.

versus

MINISTRY OF HEALTH AND FAMILY WELFARE

..... Respondent  
Through Mr. N. Waziri, Standing  
Counsel for GNCTD.  
Mr. A.S. Chandhiok, ASG  
with Mr. Jatan Singh, Mr.  
Sandeep Bajaj and Ms. Neha  
Rastogi, Advs.  
Mr. M.J.S. Rupal and Mr.  
Arvind Varma, Advs. for DU.

CORAM:  
HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE SANJIV KHANNA

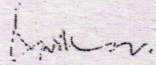
% ORDER  
30.03.2011

CM No. 4559/2011

This is an application for impleadment of Delhi University.  
It is submitted by Mr. Santosh Kumar, learned counsel for the  
petitioner that University has issued a letter to the colleges to  
appoint a Nodal Officer but despite the same certain colleges  
have not appointed the Nodal Officers to curb the menace of  
tobacco consumption by students.

W.P.(C) No.7540/2010

Page 1 of 9

  
Court Master  
High Court of Delhi  
New Delhi



In view of the aforesaid, the prayer for impleadment is allowed.

As Mr. M.J.S. Rupal has entered appearance on behalf of the University, no further notice need be issued. The application is accordingly disposed of.

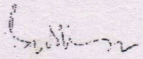
**CM No. 4560/2011**

This is an application for issuing a direction to the Delhi University to appoint Nodal Officers in 16 colleges, which find mention in paragraph 7 of the petition. Having heard Mr. Santosh Kumar, learned counsel for the petitioner and Mr. M.J.S. Rupal, it is directed that the University shall issue directions to the colleges to appoint Nodal Officers within ten days hence and the colleges shall comply with the same without any demur within ten days therefrom.

The application is accordingly disposed of.

**CM No. 4555/2011**

This is an application filed by the whole sellers of the tobacco on the ground that they are not covered under the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce,

  
Court Master  
High Court of Delhi  
New Delhi



Production, Supply and distribution) Act, 2003 (Tobacco Act, for short). Mr. A.S. Chanchiok, learned Additional Solicitor General and Mr. N. Waziri, learned Standing Counsel for GNCTD shall file their respective replies to the said application within four weeks hence. The petitioner is also given liberty to file the return to the said reply within the said period. The prayer made in the application shall be considered after the replies are filed.

**W.P.(C) No. 7540/2010**

This Court on 2<sup>nd</sup> February, 2011 has taken note of the stand of the petitioner that a study and survey was carried out by the petitioner and it was revealed that more than 323 outlets were in existence in flagrant violation of Section 6 of the Tobacco Act and the tobacco was being sold, affecting the students of more than 1023 recognized school, which could be called a catastrophic situation that could splinter the spine of the future of the nation; the students.

Keeping in view the aforesaid assertion, the Commissioner of Police, Delhi was directed to take appropriate steps so that sale of tobacco products within the prohibited area from outlets, kiosks or for that matter 'thelas' are absolutely stopped. The Commissioner of Police was directed to constitute a specialized

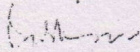


task force, which is committed to the cause. Today, an affidavit has been filed by the Deputy Commissioner of Police. In paragraphs 2 and 3 of the affidavit it has been stated as follows:-

"That in compliance of the order dated 02.02.2011 passed by this Hon'ble Court and in continuation of earlier affidavit dated 10.12.2010 filed on behalf of the Commissioner of Police, Delhi, it is most respectfully submitted that a Specialized Task Force comprising of one Inspector, one Sub Inspector and two lower subordinates (Head Constables/Constables), has been constituted in each Police Station of Delhi Police as well as in Crime Branch and IGI Airport in order to prohibit selling of tobacco products within a radius of 100- yards of any education institution. Accordingly, instructions have been issued to all Addl. CsP/DCsp Districts, IGI Airport and Crime & Railways, Delhi, vide this Hdqrs. Memo. No.4269-4279/Court Cell (DA-1)[C&T]/PHQ Dated 09.02.2011 (Annexure R-1 colly).

3. That all districts/units Deputy Commissioners of Police, have taken action against all those selling tobacco products at various centers, outlets, kiosks etc. including the list of outlets produced by the petitioner in the rejoinder affidavit, within a radius of 100 yards of any educational institutions. It has also been ensured that the tobacco products are not being sold under their jurisdiction in clandestine manner within a radius of 100 yards or educational institutions in Delhi. Further, in case any police officer found protecting any of such illegal activities shall be dealt with by departmental action."

Mr. Waziri, learned Standing Counsel for GNCTD has also

  
Court Master  
High Court of Delhi  
New Delhi



filed a chart which indicates the details of prosecution launched and the list of outlets which have been found selling tobacco products within 100 yards of educational institutions in Delhi. The chart and the list relate to February-March, 2011. On a perusal of the same, it is manifest that prosecutions have been launched against 365 persons. Learned standing counsel has also filed a chart which contains the offences which have been compounded and the money realized.

At this juncture, Mr. Santosh Kumar, learned counsel has submitted that in the meantime the petitioner has conducted a further survey and found that tobacco is being sold within 100 yards of 178 schools from 213 outlets. It is urged by him that such kind of vice may make some people rich but will destroy the ethos both educational and social into degeneration. Learned counsel would also contend that there is flagrant violation of the Tobacco Act, which is to be strictly and stringently applied without showing any kind of laxity.

In view of the aforesaid, we direct the Commissioner of Police to revamp the task force and take action against the outlets where tobacco is sold contrary to the Tobacco Act, launch prosecutions against the persons who are liable under



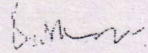
the said Act. If any vendor would cause any violation of the same, appropriate action be taken as stipulated under Section 12 of the Delhi Anti-Smoking & Non-Smoker's Health Protection Act, 1996 (1996 Act for short).

Before adjourning the matter to another date, we would also like the Commissioner of Police to take certain other appropriate actions which are in accord with the provisions of the two Acts and which also meet the objects and reasons of the said Acts and also in public interest:-

(a) The Commissioner shall collect the data pertaining to the actions taken by the task force constituted by him once a week and may depute an officer to analyze the same and thereafter proceed accordingly.

(b) If it is required to have such more task forces, he shall constitute the same as consumption of tobacco by the young students is not only hazardous to health but also create an anti-social atmosphere.

(c) The Ministry of Health and Family Welfare, the respondent No. 1 and the Chief Secretary of GNCTD shall also nominate an officer each to work in harmony and shall hold awareness camps with the help of accredited NGOs

  
Court Master  
High Court of Delhi  
New Delhi



so that the students can be apprised of the numerous deceases which one can suffer due to smoking/chewing tobacco in youth and the seeds of the disease once planted are not easily eradicated even after one abandons smoking/chewing. This awareness is necessitous as some people have an idea that one can smoke/chew for some time and if he leaves thereafter, he will not suffer from the disease without realizing its ill effects. Further both active smoking and passive smoking have the potentiality to cause more than 84 diseases which have been identified.

(d) The Nodal Officers, who have been appointed by the colleges under the Delhi University and who are going to be appointed by the colleges are directed hereinbefore, should also participate in awareness campaigns and further perform the role of loco parentis for the young and adolescent students, as when they leave home and come to school and colleges, they need their guidance.

(e) The Nodal Officers, if they come to know about any particular shop or outlet or any person is selling tobacco products as defined under the Tobacco Act, will



immediately intimate the office of the Deputy Commissioner of Police, who has created a cell, which shall take up the matter in quiet promptitude. When we say 'quiet promptitude' we do not mean the Deputy Commissioner shall act directly but may issue instructions to the concerned SHCs to take appropriate action. The very purpose is to take action against the people who do not obey the law and harbor pervert philosophy that individual interest and growth matter more than the national health. When we say so, it is not to be construed that they cannot carry on their business in respect of other items but in the said shops they cannot sell tobacco products. Needless to say, the action can be both under the Tobacco Act and 1996 Act.

- (f) The Chief Secretary of GNCTD and the respondent No.1 shall work in harmony and get such clippings telecast and further project it in the audio and print media that any violation of the law shall be visited with consequences under the Acts. Further the nature of physical and mental disorders which can occur due to consumption of tobacco shall be disseminated. The aforesaid dissemination of





information shall be done within a period of four weeks from today.

(g) The petitioner is at liberty to give any further suggestions by way of writing to Mr. Waziri as well as to Mr. Chandhiok.

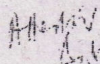
Let this writ petition be listed for further hearing on 18<sup>th</sup> May, 2011. Copy of this order will be sent to the educational institutions, namely, Guru Gobind Singh Indraprastha University, Jamia Millia Islamia University, Indian Institute of Management, Indra Gandhi Open University, University of Delhi to be circulated amongst the colleges so that they can follow the directions, which are applicable to them.

Order dasti to all concerns under signature of the Court Master.

  
CHIEF JUSTICE

  
SANJIV KHANNA, J.

MARCH 30, 2011  
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Court Master  
High Court of Delhi  
New Delhi