

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION NO.98 OF 2013

Dinar Yashwant Sohoni

v/s.

The State of Maharashtra & ors.

...

...Petitioner

...Respondents

...

Mr.Dinar Y. Sohono, petitioner-in-person.

...

**CORAM: MOHIT S. SHAH, C.J. &
M.S.SANKLECHA, J.****DATE : 25 FEBRUARY 2014****PC.:**

In this public interest litigation the petitioner is seeking implementation of provisions of Rule 3 of the Cigarettes and Other Tobacco Products (Display of Board by Educational Institutions) Rules, 2009 (the Rules), which reads as under:-

3. *Display of Board by Educational Institutions.*_

(1) The owner or manager of any person in-charge of affairs of the educational institution shall display and exhibit a board at a conspicuous place outside the premises, prominently stating that sale of cigarettes and other tobacco products in an area within a radius of one hundred yards of the educational institution is strictly prohibited and that it is an offence punishable under Section 24 of the Act with fine which may extend to two hundred rupees.

(2) *The distance of one hundred yards referred to in sub-rule (1), shall be measured radially starting from the outer limit of the boundary wall or fence, as the case may be, of the educational institution.*

2. Section 6 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (the Act) provides that no person shall sell, offer for sale or permit sale of cigarette of any other tobacco product-

- (a) *to any person who is under eighteen years of age, and*
- (b) *in an area within a radius of one hundred yards of any educational institution.*

Section 24 of the Act further provides that any person who contravenes the provisions of section 6 shall be guilty of an offence under this Act and shall be punishable with fine which may extend to two hundred rupees.

Section 31(1) of the Act confers powers on the Central Government to make rules to carry out the provisions of the Act.

3. Accordingly, in exercise of the aforesaid powers the aforesaid Rules of 2009 have been made by the Central Government. Rule 3 of the Rules requires the owner or manager or any person in-charge of affairs of the educational institution to display and exhibit a board at a conspicuous place outside the premises stating that sale of cigarettes and other tobacco products in an area within a radius of one

hundred yards from the outer limit of the boundry wall/fence of the educational institution is strictly prohibited and that is an offence punishable under Section 24 of the Act, with fine which may extend to two hundred rupees.

4. Perusal of the relevant provisions of the Act and the above Rules, 2009 makes it clear that the duty cast upon the owner/manager/person in-charge of affairs of the educational institution is mandatory and merely because no consequences are provided for non-compliance with the said Rule 3 does not mean that Rule 3 is of no consequence.

5. Education Department of the State Government shall accordingly issue instructions to all the educational institutions in the State to implement Rule 3 of the Cigarettes and Other Tobacco Products (Display of Board by Educational Institutions) Rules, 2009. Such instructions shall be issued well in time, so that boards are displayed by all educational institutions as per the provisions of Rule 3 of the Rules before commencement of next academic year i.e. academic year 2014-15.

CHIEF JUSTICE

(M.S.SANKLECHA, J.)