

\$~25

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 3615/2016

RISHABH KAPUR

..... Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr.Anurag Ahluwalia, CGSC and
Ms.Nisha Sharma, Adv for UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

21.04.2017

1. The instant writ petition in the nature of Public Interest Litigation makes a prayer for a direction to the Ministry of Communication & Information Technology of the Government of India to take steps to forthwith prohibit any advertisement, directly and indirectly promoting the production/sale/consumption of cigarettes, tobacco products, liquor or other intoxicants on the internet and to direct them to frame laws in this regard.

2. In the short affidavit filed by the Ministry on record, it has been stated that the Ministry of Communication & Information Technology is not the nodal department for licensing regarding the matters relating to wireless, data and telematics services.

3. This is controverted by the petitioner, who submits that as per the website maintained by this Ministry, it is the nodal Ministry

to take the action which has been prayed for in the writ petition.

4. An extract from the website would show that the cited functions of the Ministry of Electronics & Information Technology have been notified as including policy matters relating to information technology; Electronics; and Internet (all matters other than licensing of Internet Service Provider).

5. Both sides rely on the Information (Intermediaries Guidelines) Rules, 2011. The respondents have placed Rule 3 before this Court setting out the prohibition mandated under the Rules. There is no mention of the substances which are subject matter of the writ petition.

6. The petition premised on the submission that these substances have been recognized as being harmful for health and to the society.

7. While, it may not be permissible for us to issue a direction to the respondent to frame a policy or legislate on the subject matter of the writ petition, however, there is no prohibition on the respondent to themselves consider the matter which is certainly of importance and to make a policy decision or frame guidelines or even to effect the amendments in the pending Rules.

8. It is, therefore, directed that the present writ petition be treated as a representation by the respondents who would consider the same, and if deemed appropriate, take a view, in the matter as noted above within a period of three months from today. The petitioner shall be informed about the outcome of the deliberations by the respondents. The respondents who have been impleaded

may consider the matter with any other Ministry or authority deemed necessary or appropriate to enable them taking of a holistic view.

9. It is made clear that nothing contained herein is an expression of opinion on the merits of the petitioner's contentions.

10. This writ petition is disposed of in the above terms.

Dasti.

JUSTICE

ACTING CHIEF

APRIL 21, 2017/sv

ANU MALHOTRA, J