

D.B. CIVIL WRIT PETITION (P.I.L.) NO.1600/2013

Date of Order :: 01.12.2014

HON'BLE MR. JUSTICE GOVIND MATHUR  
HON'BLE MR. JUSTICE PRAKASH GUPTA

Mr. Sandeep Shah, Managing Trustee, Libra India, present in person, for the petitioner  
Dr. Pushpendra Singh, Additional Advocate General, with Mr. Sajjan Singh Rathore, for the respondent No.1  
Mr. A.K. Rajvanshy for the respondent No.2  
Mr. Jagat Tatia for the respondent No.3

The Libra India, a public trust registered under the Rajasthan Public Trust Act, 1959 has preferred this petition for writ in public interest to have a direction in the nature of mandamus for the respondents to undertake a comprehensive analysis and study of the contents of cigarette, Beedi, Chilam and all other similar articles for smoking tobacco manufactured in the country, which are having serious and harmful effects on consumption. A direction is also sought to prohibit manufacturing, storage and sale of tobacco in its all forms. The petition for writ is supported by several reports submitted by the experts pointing out ill-effects of tobacco consumption, active or passive.

Mr. Sandeep Shah, Managing Trustee of the petitioner Trust, has pointed out about the contents of a report on Tobacco Control in India prepared by a committee of the Ministry of Health and Family Welfare, Government of

India, Center of Disease Control and Prevention, United States of America and World Health Organization (W.H.O.). As per the contents of the report aforesaid, the problem of tobacco is highly complex in India than in other countries in the world. It is also stated that India is having a large consequential burden of tobacco related diseases and deaths. The prevalence of tobacco used among man has been reported to be high, generally exceeding 50% from almost all parts of India, more in rural areas than in urban areas. As per the report, women and children are also having habit of consumption of tobacco and that is causing great harm to their health and other health related issues. The report also mentions about health consequences related to tobacco exposure and those are as follows :-

#### Heart and blood vessel diseases

- Atherosclerosis, coronary heart disease
- Cerebrovascular diseases
- Abdominal aortic aneurysm
- Peripheral vascular disease (may cause gangrene in the legs)
- Erectile dysfunction or impotence (atherosclerosis and endothelial dysfunction of the internal pudendal and penile arteries)

#### Cancer

- Cancers of the bladder, cervix, oesophagus, kidney, larynx, lung, oral cavity and pharynx, pancreas, stomach and leukaemia
- Precancerous lesions: Leucoplakia, erythroplakia of the oral cavity

#### Respiratory diseases

- Chronic obstructive pulmonary disease: Chronic bronchitis

- Acute respiratory illnesses: Pneumonia, bronchitis and other respiratory infections
- Respiratory effects mediated in utero: Reduced respiratory function in infants
- Respiratory effects in childhood and adolescence: Decreased physical fitness, potential retardation in the rate of lung growth and the level of maximum lung function among children and adolescents
- Respiratory effects in adulthood: Acceleration of age-related decline in lung function among adults
- Other respiratory effects: Increased cough, phlegm production, wheezing, respiratory infections and dyspnoea

#### Reproductive effects

- Foetal death and stillbirth: Sudden infant death syndrome (SIDS)
- Fertility: Delayed conception (primary and secondary infertility)
- Low birth weight: Foetal growth restriction and preterm delivery
- Pregnancy complications: Premature rupture of membranes, abruptio placentae and placenta praevia

#### Other effects

- Cataract
- Adverse surgical outcomes related to wound healing and respiratory complications
- Low bone density among postmenopausal women, and risk of hip fractures
- Peptic ulcer disease, periodontitis

As per the report, the relative risk of death due to tobacco use in cohort studies from rural India is 40% to 80% higher for any type of tobacco use; 50%–60% higher for smoking; 90% higher for reverse smoking; 15% and 30% higher for tobacco chewing in men and women, respectively; 40% higher for chewing and smoking combined. The tobacco has also been cited as a major reason for Cancer, vascular diseases, lung disease, pulmonary tuberculosis, reproductive

health outcomes, oral mucosal lesions and dental diseases, green tobacco sickness among tobacco harvesters. According to the contents of the report in the late 1980s, the number of tobacco-attributable deaths in India was estimated to be 6,30,000 per year. On conservative estimates, the tobacco-attributable deaths currently range between 8,00,000 and 9,00,000 per year. The cost of the tobacco-attributable burden of just three groups of diseases—cancer, heart disease and lung disease—was estimated as Rs.277.611 billion (US\$ 6.5 billion) in 1999. This increased to Rs.308.33 billion (US\$ 7.2 billion) in the year 2002–2003. The other details given in the Gates India Report 2009–2010 specifically mentions about young tobacco users in the State of Rajasthan. According to it, a huge number of young boys are smoking in the State of Rajasthan for a period of 5 minutes in a day and further upto 60 minutes in a day. The details are also given statewise including the State of Rajasthan about ill-effects of the tobacco in youngsters.

The facts stated in the petition for writ and the documents annexed thereto clearly indicate huge loss of human life and human health due to use of tobacco. Though the writ petition was filed in the month of February 2013, no reply has been filed despite service. Surprisingly enough, the State of Rajasthan and Union of India have also not cared to

make their representation in the matter. Looking to the seriousness of the issue agitated, we deem it appropriate to direct Dr. Pushpendra Singh, Additional Advocate General and Mr. A.K. Rajvansy to accept notices on behalf of the State of Rajasthan and the Union of India respectively. Mr. Jagat Tatia is already appearing on behalf of the respondent No.3, Chairman, Food Safety and Standards Authority of India, New Delhi. The respondents are directed to submit their stand with regard to the cause agitated in this petition for writ within a period of six weeks from today.

Put up on 14.01.2015.

[PRAKASH GUPTA], J.

[GOVIND MATHUR], J.

Pramod