

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.HRISHIKESH ROY
&
THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 05TH DAY OF FEBRUARY 2019/16TH MAGHA, 1940

W.P(C).No.22096 OF 2012

PETITIONER:

S.SURESH
AGED 51 YEARS
S/O.MR V.SUKUMARAN NAIR, SAIKRIPA, 289,
P T P NAGAR, THIRUVANANTHAPURAM-695038.

BY ADVS.SRI.R.SANJITH
SMT.C.S.SINDHU KRISHNAH
SMT.K.JASMIN BABY
SMT.K.S.SUMITHA
SRI.S.GOPAKUMAR

RESPONDENTS:

1 UNION OF INDIA
REPRESENTED BY SECRETARY,MINISTRY OF HEALTH & FAMILY
WELFARE GOVERNMENT OF INDIA NIRMAN BHAVAN NEW DELHI-
110011.

2 STATE OF KERALA
REPRESENTED BY SECRETARY TO DEPARTMENT OF HEALTH AND
FAMILY WELFARE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.

R1 BY SRI.K.R.RAJ KUMAR, CENTRAL GOVERNMENT COUNSEL
R2 BY SRI.SURINE GEORGE IPE, GOVERNMENT PLEADER
SRI.P.VIJAYAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.02.2019, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T**A.K. Jayasankaran Nambiar, J.**

Heard Sri.R.Sanjith, the learned counsel for the petitioner. Also heard Sri.K.R.Raj Kumar, the learned Central Government Counsel for the 1st respondent and Sri.Surine George Ipe, the learned Government Pleader for the 2nd respondent.

2. The petitioner in the writ petition, which is filed in the nature of a 'Public Interest Litigation', is stated to be working as a media consultant with offices in New Delhi and Thiruvananthapuram. It is stated that the petitioner's media consultancy is part of the "Tobacco Free Kerala Campaign", and in the writ petition, the petitioner essentially seeks a strict implementation of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) (Amendment) Rules, 2005, G.S.R.No.345(E) dated 31.5.2005. The writ petition that was filed in the year 2012 refers to Ext.P8 study that was conducted and published in 2008, to suggest that the provisions of the 2005 Rules, referred above, have not been implemented by the statutory authorities entrusted with the Regulation of Trade in Tobacco products. Although the petitioner refers to other studies pertaining to the year 2010, there is nothing in the writ petition that would suggest that the

alleged non-implementation of the provisions of the Rules subsisted even in 2012, when the petitioner filed the writ petition, or thereafter till today. In the absence of any specific instance of violation of the provisions of the Rules, this Court also would not be in a position to assume that the provisions of the existing Rules are not being implemented by the statutory authorities concerned. Under such circumstances, reserving the right of the petitioner to move a fresh writ petition, bringing on record specific instances of violation of the Rules, in more recent times, and seeking similar reliefs as is sought in this writ petition, the present writ petition is disposed.

**Sd/-
HRISHIKESH ROY
CHIEF JUSTICE**

**Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE**

prp/5/2/19

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE IMPACT OF TOBACCO ADVERTISING AND PROMOTION ON INCREASING ADOLESCENT SMOKING BEHAVIOURS (REVIEW), LOVATO C, LINN G, STEAD LF, BEST A.

EXT.P2: COPY OF THE STUDY THE IMPACT OF TOBACCO PROMOTION AT THE POINT OF SALE: A SYSTEMATIC REVIEW. NICOTINE TOB RES. 2009 JAN; 11(1):25-35. EPUB 2009 JAN 27. PAYNTER J, EDWARDS R.

EXT.P3: COPY OF THE STUDY CIGARETTE ADVERTISING AND ADOLESCENT SMOKING HANEWINKEL R, ISENSEE B, SARGENT JD, MORGENSTERN M. CIGARETTE ADVERTISING AND ADOLESCENT SMOKING.

EXT.P4: COPY OF STUDY A LONGITUDINAL STUDY OF EXPOSURE TO RETAIL CIGARETTE ADVERTISING AND SMOKING INITIATION. PEDIATRICS. 2010 AUG; 126(2): 232-8. EPUB 2010 JUL 19. HENRIKSEN L, SCHLEICHER NC, FEIGHERY EC, FORTMANN SP.

EXT.P5: COPY OF THE STUDY CIGARETTE ADVERTISING AND TEEN SMOKING INITIATION. PEDIATRICS. 2011 FEB;127(2):E271-8. EPUB JAN 17. HANEWINKEL R, ISENSEE B, SARGENT JD, MORGENSTERN M.

EXT.P6: COPY OF THE EFFECTIVENESS OF TOBACCO MARKETING REGULATIONS ON REDUCING SMOKERS' EXPOSURE TO ADVERTISING AND PROMOTION: FINDINGS FROM THE INTERNATIONAL TOBACCO CONTROL (ITC) FOUR COUNTRY SURVEYKARIN A. KASZA 1,*, ANDREW J. HYLAND 2, ABRAHAM BROWN 3, MOHAMMAD SIAHPUSH 4, HUA-HIE YONG 5, ANN D. MCNEILL 6, LIN LI 5 AND K. MICHAEL CUMMINGS.

EXT.P7: COPY OF THE CIGARETTES AND OTHER TOBACCO PRODUCTS (PROHIBITION OF ADVERTISEMENT AND REGULATION OF TRADE AND COMMERCE, PRODUCTION , SUPPLY AND DISTRIBUTION) AMENDMENT RULES, 2006, G.S.R.NO.656(E), DATED 20.10.2006.

EXT.P8: COPY OF THE POINT OF SALE TOBACCO ADVERTISEMENTS IN INDIA 2007 CHAUDHRY S. - INDIAN JOURNAL OF CANCER.

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EXT.P9: COPY OF THE ORDER DATED 26.3.2012 IN KERALA VOLUNTARY HEALTH SERVICES VS. UNION OF INDIA & ORS., (WRIT PETITION NO.38513 OF 2010).

RESPONDENTS EXHIBITS:

NIL.

//TRUE COPY//

P.S. TO JUDGE