

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 645/2022

INDIAN MEDICAL ASSOCIATION & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

1. MR. SHADAN FARASAT, LEARNED ADVOCATE WILL ASSIST THE COURT AS AN AMICUS CURIAE 2. MR. MURSALIN ASIJIT SHAIKH, APPLICANT-IN-PERSON WILL APPEAR IN I.A. D.NO. 95540 OF 2024 (APPLICATION FOR INTERVENTION) 3. MATTER IS LISTED IN RESPECT OF STATES OF JHARKHAND, KARNATAKA, KERALA, MADHYA PRADESH, U.T OF PODOCHERRY AND PUNJAB.

(IA No. 110039/2024 - APPLICATION FOR PERMISSION

IA No. 132998/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 139081/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 110769/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 133550/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 140252/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 110011/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 130554/2022 - CLARIFICATION/DIRECTION

IA No. 137201/2024 - CLARIFICATION/DIRECTION

IA No. 159883/2024 - EXEMPTION FROM FILING O.T.

IA No. 117836/2024 - EXEMPTION FROM FILING O.T.

IA No. 155193/2024 - EXEMPTION FROM FILING O.T.

IA No. 143229/2024 - EXEMPTION FROM FILING O.T.

IA No. 234824/2024 - EXEMPTION FROM FILING O.T.

IA No. 142959/2024 - EXEMPTION FROM FILING O.T.

IA No. 187046/2024 - EXEMPTION FROM FILING O.T.

IA No. 171013/2024 - EXEMPTION FROM FILING O.T.

IA No. 95540/2024 - INTERVENTION APPLICATION

IA No. 139085/2024 - INTERVENTION APPLICATION

IA No. 13659/2023 - INTERVENTION APPLICATION

IA No. 133899/2024 - INTERVENTION APPLICATION

IA No. 110768/2024 - INTERVENTION APPLICATION

IA No. 133534/2024 - INTERVENTION/IMPLEADMENT

IA No. 139082/2024 - INTERVENTION/IMPLEADMENT

IA No. 166475/2024 - INTERVENTION/IMPLEADMENT

IA No. 132997/2024 - INTERVENTION/IMPLEADMENT

IA No. 133673/2024 - INTERVENTION/IMPLEADMENT

IA No. 133537/2024 - INTERVENTION/IMPLEADMENT

IA No. 188151/2024 - PERMISSION TO FILE ADDITIONAL

DOCUMENTS/FACTS/ANNEXURES

IA No. 166477/2024 - PERMISSION TO FILE APPLICATION FOR DIRECTION

IA No. 139206/2024 - PERMISSION TO FILE APPLICATION FOR DIRECTION)

Date : 24-02-2025 This matter was called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE UJJAL BHUYAN

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Mr. Prashant Alai, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IN RE: STATE OF JHARKHAND

1. As regards the State of Jharkhand, in the latest affidavit, a stand has been taken that no manufacturer in the State has applied for grant of permission to advertise drugs under Rule 170 of the Drugs and Cosmetics Rules, 1945 (for short, "the Rules"). However, the State has not come out with a case that no advertisement which is governed by sub-Rule (2) of Rule 170 has been published in the State. It is the duty of the State to ascertain whether any such advertisement which is covered by sub-Rule (2) of Rule 170 is being published in the State without following the procedure laid down in sub-Rules (2) and (3) of Rule 170. The State of Jharkhand shall file an affidavit on these terms within a period of one month from today.

IN RE: THE STATE OF KARNATAKA

2. As regards the State of Karnataka, the first stand is that no prosecution in 25 cases of misleading advertisements was initiated because of lack of material particulars such as company number, licence number and product name. In one case, where an advertisement was published in English daily newspaper, only mobile number has been provided. According to us, these are only

excuses given by the State. They have their own police machinery, Cyber Cell etc. Therefore, it is very easy for them to find out the sources of these advertisements, provided there is will on the part of the State to do so.

3. We, therefore, direct the State Government to ascertain the names and addresses of the wrong-doers as regards these advertisements and proceed against concerned persons. The State Government to place the compliance on record within a period of one month from today.

IN RE: THE STATE OF KERALA

4. As far as the State of Kerala is concerned, the learned Amicus Curiae rightly pointed out that proper implementation is being made in the State. As of today, there is reason to issue further directions to the State of Kerala.

IN RE: THE STATE OF PUNJAB

5. As regards the State of Punjab, we are informed that a further affidavit has been filed. The learned senior counsel appointed as Amicus Curiae had no opportunity to go through the said affidavit. Therefore, the affidavit as regards the State of Punjab will be considered on the next date fixed i.e. 7th March, 2025.

IN RE: THE STATE OF MADHYA PRADESH

6. We are informed that the State of Madhya Pradesh has filed a compliance affidavit yesterday. Even compliance by the State of Madhya Pradesh will be considered on the next date i.e. 7th March, 2025.

IN RE: UNION TERRITORY OF PUDUCHERRY

7. We grant time to the Union Territory of Puducherry to file a compliance affidavit by 3rd March, 2025 which will be considered on 17th March, 2025.

IN RE: THE STATE OF ANDHRA PRADESH

8. The learned counsel appearing for the State of Andhra Pradesh submits that the presence of the Chief Secretary on 7th March, 2025 should be dispensed with.

We reject the said prayer. The reason is that even as of today, the State has not reported compliance.

9. We permit the learned Amicus Curiae to file a note on implementation of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 so that appropriate directions can be issued for its implementation on 7th March, 2025.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER