

**2025 LiveLaw (SC) 410**

**IN THE SUPREME COURT OF INDIA  
ABHAY S. OKA; J., UJJAL BHUYAN; J.**

**Writ Petition (Civil) No.645/2022; March 26, 2025**

**INDIAN MEDICAL ASSOCIATION & ANR. *versus* UNION OF INDIA & ORS.**

**Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 - Misleading medical advertisements - Supreme Court issues comprehensive directions for effective implementation of the Act, 1954, criticizing its poor enforcement over 70 years. States directed to appoint gazetted officers under Section 8 within one month, establish grievance redressal mechanisms within two months, and sensitize police on the Act's provisions. Publishers and designers of misleading advertisements held liable under Sections 3, 4, and 5. States and Union of India to report compliance by June 2025.**

**Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 – Directions - (1) Appointment of gazetted officers under Section 8 and Rule 3 of DMR Rules, 1955 within one month; (2) Sensitization of police through training academies; (3) Establishment of grievance redressal mechanisms with toll-free numbers or email within two months; (4) Immediate action on complaints by authorized officers, including FIR registration; (5) National Legal Services Authority to conduct public sensitization programs; (6) Union to develop a dashboard for tracking state actions within three months.**

*MR. Shadan Farasat, Sr. Adv. (A.C.) Mr. Mursalin Asijit Shaikh, Adv., Mr. Prannv Dhawan, Adv.,*

*For Petitioner(s): Mr. Prabhas Bajaj, Adv., Mr. Priyanshu Tyagi, Adv., Mr. Amarjeet Singh, AOR Mr. Rishav Rai, Adv.*

*For Respondent(s) : Mr. K M Nataraj, A.S.G., Mr. Gurmeet Singh Makker, AOR Mr. Sharath Nambiar, Adv., Mr. Vinayak Sharma, Adv., Mr. Rajat Nair, Adv., Mr. Kanu Agrawal, Adv., Mr. Shashank Bajpai, Adv., Mr. Ishaan Sharma, Adv., Mr. Sudarshan Lamba, AOR Mr. K.M.Nataraj, A.S.G., Mr. Sharath Nambiar, Adv., Mr. Vinayak Sharma, Adv., Mr. Rajat Nair, Adv., Ms. Kanu Agrawal, Adv., Mr. Shashank Bajpai, Adv., Mr. Ishaan Sharma, Adv., Mr. Krishna Kant Dubey, Adv., Ms. Avni Singh, Adv., Mr. Jitin Chaturvedi, AOR, Mr. Amrish Kumar, AOR, Mr. Balbir Singh, Sr. Adv., Mr. Simranjeet Singh, Adv., Mr. Gautam Talukdar, AOR Ms. Apurbha Dutta, Adv., Mr. Yajat Gulia, Adv., Mr. Naman Tandon, Adv., Ms. Vanshaja Shukla, AOR Ms. Ankeeta Appanna, Adv., Mr. Siddhant Yadav, Adv., Mr. Ajay Bahuguna, Adv., Mr. Gaurav Sharma, Sr. Adv., Mr. Prateek Bhatia, AOR Mr. Dhawal Mohan, Adv., Mr. Paranjay Tripathi, Adv., Mr. Rajesh Raj, Adv., Mr. Guntur Pramod Kumar, AOR Ms. Prerna Singh, Adv., Mr. Gautam Bhatia, Adv., Mr. Abhimanyu Tewari, AOR Ms. Eliza Bar, Adv., Mr. Chinmoy Pradip Sharma, Sr. A.A.G., Ms. Diksha Rai, AOR Ms. Nimisha Menon, Adv., Ms. Purvat Wali, Adv., Mr. Piyush Vyas, Adv., Mr. Irfan Hasieb, Adv., Mr. Krishnaji Deka, Adv., Mr. Vijay Deora, Adv., Mr. Anshul Narayan, Addl. Standing Counsel, Adv., Mr. Prem Prakash, AOR, Ms. Ankita Sharma, AOR Mr. Arjun D. Singh, Adv., Mr. Abhay Anil Anturkar, Adv., Mr. Dhruv Tank, Adv., Mr. Aniruddha Awalganekar, Adv., Ms. Surbhi Kapoor, AOR Mr. Sarthak Mehrotra, Adv., Mr. Bhagwant Deshpande, Adv., Ms. Subhi Pastor, Adv., Ms. Swati Ghildiyal, AOR Ms. Abhipsa Mohanty, Adv., Mr. Lokesh Sinhal, Sr. A.A.G., Mr. Samar Vijay Singh, AOR Mr. Nikunj Gupta, Adv., Ms. Sabarni Som, Adv., Ms. Aakanksha, Adv., Mr. Aman Dev Sharma, Adv., Mr. Maheshwaram Yadava Reddy, Adv., Ms. Ishika Gupta, Adv., Mr. Akshay Girish Ringe, AOR, Ms. Pallavi Langar, AOR Mr. Kumar Anurag Singh, Adv., Mr. Manoj Kumar, Adv., Mr. Sujeet Kumar Chaubey, Adv., Mr. D. L. Chidananda, AOR, Mr. Nishe Rajen Shonker, AOR Ms. Anu K Joy, Adv., Mr. Alim Anvar, Adv., Mr. Santhosh K, Adv., Mr. Harmeet Singh Ruprah, D.A.G., Ms. Mrinal Gopal Elker, AOR Mr. Saurabh Singh, Adv., Ms. Chhavi Khandelwal, Adv., Mr. Aaditya Aniruddha Pande, AOR Mr. Siddharth Dharmadhikari, Adv., Mr. Sourav Singh, Adv., Mr. Pukhrambam Ramesh Kumar, AOR Mr. Karun Sharma, Adv., Ms. Anupama Ngangom, Adv., Ms. Rajkumari Divyasana, Adv., ,State of Meghalaya Mr. Avijit Mani Tripathi, AOR Mr.T.K. Nayak, Adv.,Mr. Upendra Mishra, adv.,Mr. P.S. Negi, Adv., Mr. Anando Mukherjee, AOR Mr. Shwetank Singh, Adv., Ms. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv., Ms. Chubalemla Chang, Adv., Mr. Prang Newmai, Adv., Mr. Pitambar Acharya, Sr. Adv., Mr. Srisatya Mohanty, AOR Mr. Abhijit Pattanaik, Adv., State of Punjab Mr. Vivek Jain, D.A.G.,*

*Ms. Nupur Kumar, AOR, Mr. Shiv Mangal Sharma, A.A.G., Ms. Saubhagya Sundriyal, Adv., Ms. Nidhi Jaswal, AOR, Mr. Sameer Abhyankar, AOR Ms. Ripul Swati Kumari, Adv., Mr. Krishna Rastogi, Adv., Mr. Amit Anand Tiwari, Sr. A.A.G., Mr. Sabarish Subramanian, AOR, Mr. Sravan Kumar Karanam, AOR Mr. Kumar Abhishek, Adv., Mr. Shuvodeep Roy, AOR Mr. Deepayan Dutta, Adv., Mr. Saurabh Tripathi, Adv., Mrs. Garima Prasad, Sr. A.A.G., Ms. Sakshi Kakkar, AOR, Mr. Kunal Mimani, AOR Mr. Prashant Alai, Adv., Mr. G.M.Kawoosa, Adv., Mr. Pashupathi Nath Razdan, AOR, Mr. Aravindh S., AOR Mr. Akshay Gupta, Adv., Mr. Aadithya Aravindh, Adv., Mr. K. M. Nataraj, A.S.G., Mr. Sharath Nambiar, Adv., Mr. Vinayak Sharma, Adv., Mr. Rajat Nair, Adv., Mr. Kanu Agrawal, Adv., Mr. Priya Mishra, Adv., Mr. Shashank Bajpai, Adv., Mrs. Indira Bhakar, Adv., Mr. Mukesh Kumar Verma, Adv., Mr. Varun Chugh, Adv., Mr. Vatsal Joshi, Adv., Mr. Harish Pandey, Adv., Mr. Shashwat Parihar, Adv., Mr. Rajesh Singh Chauhan, Adv., UT of Ladakh Mr. Piyush Beriwal, Adv., UT of A & N Island Mr. Neeraj Kumar Sharma, Adv., Mr. Shreekanth Neelappa Teral, AOR Mr. Mukesh Verma, Adv., Mr. K M Nataraj, A.S.G., Mr. Mukesh Kumar Maroria, AOR, Mr. Sharath Nambiar, Adv., Mr. Vinayak Sharma, Adv., Mr. Rajat Nair, Adv., Mr. Kanu Agarwal, Adv., Mr. Shashank Bajpai, Adv., Ms. Priya Mishra, Adv., Mr. S. S. Shroff, AOR Mr. Shashank Mishra, Adv., Mr. Mohit Singh, Adv., Ms. Akshi Rastogi, Adv., Ms. Rithika Mathur, Adv., Ms. Mrinmoi Chatterjee, AOR, Mr. Prasenjit Keswani, Sr. Adv., Ms. Meghna Mishra, Adv., Mr. Debmalaya Banerjee, Adv., Mr. Rohan Sharma, Adv., Mr. Kartik Bhatnagar, Adv., Mr. Shreyansh Rath, Adv., Mr. Rohit Kumar, Adv., Ms. Liza Vohra, Adv., Mr. Upmanyu Tewari, Adv., M/S. Karanjawala & Co., AOR, Mr. Mayank Mishra, Adv., Mr. Alay Raje, Adv., Ms. Ayshwarya Chandar, AOR, Mr. Shyam Divan, Sr. Adv., Mr. R Jawaharlal, Adv., Mrs. Meghna Kumar, Adv., Mr. Sayyam Maheshwari, Adv., Mr. Mayank Kshirsagar, AOR Mr. Parth Sarathi, Adv., Mr. K. Vivek Reddy, Sr. Adv., Ms. Anjali, Adv., Mr. Mithun Shashank, Adv., Mr. Vikas Mehta, AOR, Mr. Ankur Sangal, Adv., Mrs. Sucheta Roy, Adv., Mr. Ankit Arvind, Adv., Ms. Amrit Sharma, Adv., Mr. Karun Mehta, Adv., Ms. Pratiksha Mishra, Adv., Mr. Shreyas Edupuganti, Adv., Mr. Karan Bhootra, Adv., M/S. Khaitan & Co., AOR, Mr. Rakesh Sinha, Adv., Mr. Anand Srivastava, Adv., Mr. Aashish Srivastava, Adv., Ms. Deepti Bhardwaj, Adv., Ms. Shweta Singh Parihar, AOR, Ms. Aparna Bhat, Sr. Adv., Ms. Rajkumari Banju, AOR Ms. Karishma Maria, Adv., (State of H.P.) Mr. Kartikeya Rastogi, Adv.,*

## **ORDER**

Today we have heard the submissions of the learned senior counsel appointed as Amicus Curiae on the issue of implementation of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (for short, 'the 1954 Act') and the Drugs and Magic Remedies (Objectionable Advertisements) Rules, 1955 (for short, 'the 1955 Rules'). We have heard the learned counsel appearing for the petitioners as well as Shri K.M. Natraj, learned ASG for the Union of India.

It is necessary to make a reference to the statement of objects and reasons of 1954 Act.

Basically, what the legislature has noted is that such advertisements drugs/magic remedies can cause great harm to the society and therefore, it is necessary to stop such undesirable advertisements and to save the ignorant and unwary masses. The basic object is to ensure that objectionable advertisements of drugs and magic remedies are not published. Section 2 defines both 'drugs' and 'magic remedies'. What is more important is the definition of 'advertisement' contained in Clause (a) of Section 2 which reads thus:

"2. Definitions.—In this Act, unless the context otherwise requires,— (a) "advertisement" includes any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light, sound or smoke;"

As rightly stated by the learned Amicus Curiae, the definition of advertisement is an inclusive definition. It includes advertisements made in any manner. For the sake of clarity, the legislature has clarified that any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light, sound or smoke, will amount to an advertisement. Thus, an advertisement is not restricted to advertisement in printed media or on television or other media. It goes to the extent of covering a notice, circular, label, wrapper or other document or any announcement made

orally or by any means of producing or transmitting light, sound or smoke. Section 3 prohibits advertisements covered by the said provision. Section 3 reads thus:

“3. Prohibition of advertisement of certain drugs for treatment of certain diseases and disorders.—Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement referring to any drug in terms which suggest or are calculated to lead to the use of that drug for—

- (a) the procurement of miscarriage in women or prevention of conception in women; or
- (b) the maintenance or improvement of the capacity of human beings for sexual pleasure; or
- (c) the correction of menstrual disorder in women; or

[(d) the diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the Schedule, or any other disease, disorder or condition (by whatsoever name called) which may be specified in the rules made under this Act: Provided that no such rule shall be made except—

(i) in respect of any disease, disorder or condition which requires timely treatment in consultation with a registered medical practitioner or for which there are normally no accepted remedies; and

(ii) after consultation with the Drugs Technical Advisory Board constituted under the Drugs and Cosmetics Act, 1940 (23 of 1940), and if the Central Government considers necessary, with such other persons having special knowledge or practical experience in respect of Ayurvedic or Unani systems of medicines as that Government deems fit.]”

Clause 3(d) applies to diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or conditions specified in the Schedule, or any other disease, disorder or condition which may be specified in the Rules made under 1954 Act. Therefore, Section 3 deals with advertisements of certain drugs for treatment of certain diseases and disorders.

Section 4 deals with prohibition of misleading advertisements relating to drugs. Section 4 reads thus:

“4. Prohibition of misleading advertisements relating to drugs.— Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement relating to a drug if the advertisement contains any matters which—

- (a) directly or indirectly gives a false impression regarding the true character of the drug; or
- (b) makes a false claim for the drug; or
- (c) is otherwise false or misleading in any material particular.”

Thus, Section 3 contains a complete prohibition on the advertisement of certain drugs and treatment of certain diseases and disorders.

Section 4 deals with the prohibition on misleading advertisements.

Section 5 deals with prohibition of advertisement of magic remedies for treatment of certain diseases and disorders which reads thus:

“5. Prohibition of advertisement of magic remedies for treatment of certain diseases and disorders.—No person carrying on or purporting to carry on the profession of administering magic remedies shall take any part in the publication of any advertisement referring to any magic remedy which directly or indirectly claims to be efficacious for any of the purposes specified in section 3.”

Section 6 is about prohibition on import into and export from India of certain advertisements.

Section 8 is a very important provision which empowers Gazetted Officers who are authorized by the State Government to seize any advertisements which he has reason to believe contravenes any of the provisions of the 1954 Act. This provision is very important as seizure ensures that there is no further display of advertisements.

Section 7 is a penal provision which reads thus:

“7. Penalty.—Whoever contravenes any of the provisions of this Act 3 [or the rules made thereunder] shall, on conviction, be punishable—

(a) in the case of the first conviction, with imprisonment which may extend to six months, or with fine, or with both;

(b) in the case of a subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.”

By virtue of Section 9A, the offences punishable under Section 7 are made cognizable. Therefore, any contravention of the provisions of the 1954 Act or the 1955 Rules or other Rules framed thereunder amounts to committing an offence which is punishable under Section 7. Since the offence is made cognizable, it is the duty of the officer-in-charge of the police station to register a First Information Report (for short, ‘FIR’) on receipt of any information of commission of an offence under Section 7. That is the mandate in view of sub-section (1) of Section 173 of the Bharatiya Nagarik Suraksha Sanhita (for short, ‘the BNSS’).

Rule 3 of the 1955 Rules is one important provision regarding misleading advertisements to which Section 4 is applicable. This is the power of scrutiny of misleading advertisements relating to drugs.

On perusal of Sections 3, 4 and 5 of the 1954 Act, it is very clear that the prohibition is very wide. The prohibition is not restricted to advertising. It also provides that no person shall take part in the publication of any advertisements which are prohibited by Sections 3, 4 and 5 of the 1954 Act. Accordingly, this prohibition will apply to those who design advertisements and those who publish advertisements, which are prohibited under Sections 3, 4 and 5 of the 1954 Act.

Though the 1954 Act is more than 70 years old, unfortunately, there is no implementation of the 1954 Act in its true letter and spirit.

It is necessary for the State Governments to create machinery for implementation of the 1954 Act. It is also necessary that the Legal Services Authorities under the Legal Services Authorities Act, 1987 educate the masses about the provisions of the 1954 Act and warn them of drastic effects on their health in case they are lured by such prohibited advertisements. Moreover, a grievance redressal mechanism has to be created by all the States so that action can be effectively taken against prohibited advertisements, and criminal law can be set into motion.

We, therefore, issue the following directions to the States and Union Territories:

(i) The States/Union Territories shall ensure that adequate number of Gazetted Officers authorised in terms of Section 8(1) of 1954 Act are appointed within a period of one month from today;

(ii) Officers or persons authorised as referred to in Rule 3 of 1955 Rules are also appointed within a period of one month from today; and

(iii) We direct the States to sensitize the policemachinery through the Police Training Institutes in the States about the importance of the implementation of the provisions of 1954 Act and Rules framed thereunder.

(iv) The State Governments shall create a GrievanceRedressal Mechanism to enable the members of the public to lodge complaints about the objectionable advertisements prohibited under the 1954 Act. The Grievance Redressal Mechanism may provide for making complaints either through a toll free number or by e-mail. We direct the State Governments to create proper Grievance Redressal Mechanisms within a period of two months from today and give adequate publicity to the availability of Grievance Redressal Mechanism at frequent intervals.

(v) As soon as complaints are received through theGrievance Redressal Mechanism or otherwise, the same shall be immediately forwarded to the concerned officers authorised under Section 8(1) of the 1954 Act to take action under the said provision. If the officer finds that there is a contravention of the provisions of the 1954 Act, he shall, apart from taking action under Section 8, forthwith set criminal law in motion by lodging a complaint with the jurisdictional police station so that an FIR can be registered and criminal law is set in motion.

We direct the Registry to forward a copy of this order to the National Legal Services Authority so that sensitization programmes can be undertaken in the camps held by the National Legal Services Authority as well as State and District Legal Services Authorities. It is important to sensitize the members of the public about the provisions of the 1954 Act and more importantly, the harm which can be caused to them in case they rely upon the advertisements and take recourse to consuming drugs or go for magic remedies which fall under prohibited advertisements. We are sure that the National Legal Services Authority will forward a copy of this order to the State Legal Services Authorities, who in turn will take up the issue with the respective District Legal Services Authorities.

As regards the directions contained in paragraph 22 of Order dated 30<sup>th</sup> July, 2024, learned ASG states that the process is ongoing for developing a dashboard. Paragraph 22 of Order dated 30<sup>th</sup> July, 2024 reads thus:

“22. We are of the opinion that the Ministry of Ayush, UOI must set up a dashboard for all the States to furnish details of the complaints received by them and referred to another State Licensing Authority for appropriate action and the action taken by the concerned State Licensing Authority so that the data comes in public domain and can be accessed by the consumers. The aforesaid dashboard would also help in dealing with prosecutions under the DC Act in as much as lack of information on the action taken is a big deterrent for prosecution purposes and needs to be addressed on priority. Creation of a dashboard would help in addressing the aforesaid aspect as well.”

As the dashboard is not completely developed, we direct the Union of India to ensure that the dashboard is developed in such a manner that the States can upload all the information regarding the actions taken under the 1954 Act and Rules framed thereunder with all the particulars. We grant time of three months to the Union of India to do so.

We direct all the States and Union of India to report compliance with the directions issued above by the end of June, 2025. Apart from filing compliance affidavits/reports before the Court, copies thereof be forwarded to the office of the learned Amicus Curiae as well as learned counsel appearing for the petitioner.

At this stage, learned senior counsel appointed as Amicus Curiae pointed out that the following States are *prima facie* non-compliant with either of the two aspects outlined in the order of this Court dated 30<sup>th</sup> July, 2024.

The said States are as under:

- (a) Andaman & Nicobar Islands
- (b) Arunachal Pradesh
- (c) Dadra & Nagar Haveli and Daman & Diu
- (d) Haryana
- (e) Himachal Pradesh
- (f) Ladakh
- (g) Lakshadweep
- (h) Madhya Pradesh
- (i) Maharashtra
- (j) Manipur
- (k) Mizoram
- (l) Nagaland
- (m) Rajasthan
- (n) Sikkim
- (o) Telangana
- (p) Uttarakhand
- (q) Uttar Pradesh

We direct these States to report compliance with order dated 30<sup>th</sup> July, 2024 by end of April, 2025.

It is pointed out by learned Amicus Curiae that State of Himachal Pradesh is the hub of manufacturing of Ayush drugs and pharmaceutical products but so far no affidavit of compliance has been filed by the State of Himachal Pradesh.

We, therefore, direct the State of Himachal Pradesh to file affidavit of compliance with order dated 30<sup>th</sup> July, 2024 by 30<sup>th</sup> April, 2025. We direct the Registry to forward the copy of this Order to the Chief Secretary of State of Himachal Pradesh as well as AOR representing State of Himachal Pradesh in this petition.

The compliance affidavits by the aforesaid State shall be forwarded to the office of the learned Amicus Curiae so that he will be able to compile the data properly. For considering this compliance, the petition can be listed on 14<sup>th</sup> May, 2025 at 12.00 noon.

After the order was passed, the learned Advocate for the State of Himachal Pradesh appears and states that compliance affidavit has already been filed. Therefore, direction issued to the State is recalled.