

**(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
WEDNESDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY ONE**

:PRESENT:

**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
WRIT PETITION NO: 3823 OF 2021**

Between:

1. M/s Sri Datta Vijaya Durga Agencies, Represented by its Proprietor Nandieswarudu Malayapati, R/o Door No. 19-43, Opposite Chakravarthi Takies, Banaganipalli Village and Mandal Kurnool District.
2. Nandieswarudu Malayapati, S/o Dattaiah Malayapati, age 45 years, R/o Door No. 19-43, Opposite Chakravarthi Takies Banagaripalli Village and Mandal Kurnool District.

.... Petitioners

AND

1. State of Andhra Pradesh, Rep. by its Prl. Secretary, Medical and Health Department, Secretariat, Velagapudi, Amaravati, Guntur District.
2. State of Andhra Pradesh, Rep. by its Prl. Secretary, Home Department, Secretariat, Velagapudi, Amaravati, Guntur District.
3. The Director General of Police, D.G.P. office, Mangalagiri Guntur District.
4. The Commissioner of Food Safety Office of Secretariat, Velagapudi, Amaravati, Guntur District.
5. The Superintendent of Police, Kurnool Kurnool District.
6. The Station House Officer, Banaganapalli Kurnool District.

.... Respondents

Whereas the Petitioner above named through their Advocate Sri D Kasi Rao presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass an Order to Issue a Writ or Order or Direction more Particularly One in the nature of Writ of Mandamus declaring the action of the Respondents and their Subordinates Etc., are Continuously trying to interfere into the Petitioner Firm Business Activities day to day particularly in connection with Tobacco products like Gutkha, Pan Masala Etc., even though the petitioner firm doing business as a Lawfully under the Strictly covered under C.O.T.P.A.(Cigarette Other Tobacco Products Act) through a Valid Licenses as well as Payment of G.S.T. all taxes Etc., vide GSTIN:37AGMPM5297RIZ6 even though the Prohibition Notification of Tobacco is Expired as on 08-01-2021 as well as there is a STAY of Notification by this Hon'ble Court in W.P.No. 16118/2020 as well as W.P.No. 15881/2020 includes Circular Issued by 4th Respondent not to book the cases under Prohibition all are Illegal, Arbitrarily, Violation of the Principles of Natural Justice, Violation of Article 14, 19, 21, 300A of the Constitutions of India Consequently to direct the Respondents, their subordinates, Officials Etc., not to interfere into the Petitioners day to day business activities including for registration of cases under the said business activities in the interest of the justice, and pass such other order or orders may deem fit and proper in the circumstances of the case.

And Whereas the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri D Kasi Rao Advocate for the Petitioner, and of GP for Medical Health and Family Welfare for Respondents, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Prl. Secretary, Medical and Health Department, Secretariat, Velagapudi, Amaravati, State of Andhra Pradesh, Guntur District.
2. The Prl. Secretary, Home Department, Secretariat, Velagapudi, State of Andhra Pradesh, Amaravati, Guntur District.
3. The Director General of Police, D.G.P. office, Mangalagiri Guntur District.
4. The Commissioner of Food Safety Office of Secretariat, Velagapudi, Amaravati, Guntur District.
5. The Superintendent of Police, Kurnool Kurnool District.
6. The Station House Officer, Banaganapalli Kurnool District.

are be and hereby directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an order to direct the respondents not to interfere into the petitioners day to day business activities including registration of cases against them under the said business lawful activities till the pending disposal of the main petition in the interest of the justice, pending disposal of WP No. 3823 of 2021, on the file of the High Court.

The Court made the following:
ORDER:

"Notice before admission.

The State authorities had issued notification No.318/FSSA/AP/2014-20 dated 08.01.2020 essentially curtailing the sale and distribution of Tobacco, Panmasala etc. This notification is valid up to the 08.01.2021.

In the meanwhile, various dealers, who were dealing with these products, had approached this Court on the ground that the issuance of such notification was contrary to the decision of the Hon'ble Supreme Court in *Godawat Pan Masala I.P.Limited Vs Union of India*¹. There upon, this Court had granted stay of operation of the said notification by way of various orders including the order dated 15.10.2020 in W.P.No.16118 of 2020 and 15.10.2020 in W.P.No.15881 of 2020.

The petitioners, who are said to be dealing with Panmasala, have approached this Court challenging the notification and the consequential actions of the respondents in seeking to interfere with the business of the petitioners.

The learned Government Pleader for Medical and Health submits that the said notification has expired and the Food Commissioner has already issued a circular directing the authorities not to interfere with the

business of the dealers, who are dealing with the products covered under the said notification.

The learned Government Pleader further submits that even though the notification has expired, the Government is intent on pursuing the writ petitions in order to obtain a clear exposition of law on this issue. He submits that there is a batch of writ petitions in relation to this issue pending before the Division Bench. These writ petitions are W.P.No.3819 of 2018 and batch.

In view of the same, this writ petition may also be tagged along with W.P.No.3819 of 2018 and batch.

It is also recorded that the impugned notification has expired on 08.01.2021 and the authorities cannot take any action under the said notification. It is further observed that in view of the circular issued by Food Commissioner, Andhra Pradesh Authorities shall not interfere with the business of the petitioners.

//TRUE COPY//

Sd/-E.KameswaraRao
ASSISTANT REGISTRAR
P.S.Rao
SECTION OFFICER

To,

1. The Prl. Secretary, Medical and Health Department, Secretariat, Velagapudi, Amaravati, State of Andhra Pradesh, Guntur District.
2. The Prl. Secretary, Home Department, Secretariat, Velagapudi, State of Andhra Pradesh, Amaravati, Guntur District.
3. The Director General of Police, D.G.P. office, Mangalagiri Guntur District.
4. The Commissioner of Food Safety Office of Secretariat, Velagapudi, Amaravati, Guntur District.
5. The Superintendent of Police, Kurnool Kurnool District.
6. The Station House Officer, Banaganapalli Kurnool District. (RR 1 to 6 by RPAD- along with a copy of petition and memorandum of grounds)
7. One CC to Sri. D Kasi Rao Advocate [OPUC]
8. Two CCs to GP for Medical Health and Family Welfare, High Court Of Andhra Pradesh. [OUT]
9. One spare copy

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HIGH COURT

RRRJ

DATED:17/02/2021

NOTICE BEFORE ADMISSION

WP.No.3823 of 2021

DIRECTION

