

(SHOW CAUSE NOTICE BEFORE ADMISSION)

[ 2692 ]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF APRIL  
TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION NO: 7779 OF 2021

Between:

1. M/s S.V.R Traders, Represented by its Proprietor Seethaiah Konakalla, Door No. 16/233-A- Satyanarayanapuram, Gudivada town, Krishna District.
2. Konakalla Seetaiah, S/o Konakalla Subba Rao, age 66 years R/o Door No.16-398, Harinarianapuram, Pamarru Road Gudivada town, Krishna District.

**Petitioner**

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, Krishna District.
6. The Station House Officer, Gudivada I town P.S, Gudivada town, Krishna District.
7. The Station House Officer, II P.S, Gudivada town, Krishna District.
8. The Station House Officer, Gudivada Taluka P.S, Gudivada town, Krishna District.

**Respondents**

WHEREAS the Petitioners 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 37ACPPK4293E2Z9 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 Articles 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 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 Petitioners, GP for Medical & Health for Respondent No.1 and of GP for Home for Respondent Nos.2 to 8, 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 Principal Secretary, Medical and Health Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati, Guntur District.
2. The Principal Secretary, Home Department, State of Andhra Pradesh, 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, Krishna District.
6. The Station House Officer, Gudivada I town P.S, Gudivada town, Krishna District.
7. The Station House Officer, II P.S, Gudivada town, Krishna District.
8. The Station House Officer, Gudivada Taluka P.S, Gudivada town, Krishna District.

are 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 on or before 06.05.2021, on which date the case stands posted for hearing.

**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 disposal of the main petition in the interest of the justice, pending disposal of WP 7779 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 08.01.2021 essentially curtailing the sale and distribution of Tobacco, Panmasala etc., This notification is valid up to 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 (2004 (7) SCC 68). Thereupon, 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, has 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 2019 and batch.

In view of the same, this writ petition may also be tagged along with W.P.No.3819 of 2019 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.

Sd/- T.Madhavi  
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Principal Secretary, Medical and Health Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati, Guntur District.
2. The Principal Secretary, Home Department, State of Andhra Pradesh, 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, Krishna District.
6. The Station House Officer, Gudivada I town P.S, Gudivada town, Krishna District.
7. The Station House Officer, II P.S, Gudivada town, Krishna District.
8. The Station House Officer, Gudivada Taluka P.S, Gudivada town, Krishna District. (1 to 8 by RPAD along with a copy of petition and affidavit)
9. One CC to SRI.D.KASI RAO Advocate [OPUC]
10. Two CCs to GP for Medical & Health, High Court Of Andhra Pradesh. [OUT]
11. Two CCs to GP for Home, High Court Of Andhra Pradesh. [OUT]
12. One spare copy

SRL

**HIGH COURT**

**DVSSJ**

**DATED:07/04/2021**

**NOTE: THIS WRIT PETITION MAY ALSO BE TAGGED  
ALONG WITH W.P.NO.3819 OF 2019 AND BATCH**

**NOTICE BEFORE ADMISSION**

**WP.No.7779 of 2021**

**DIRECTION**

