

(SHOW CAUSE NOTICE BEFORE ADMISSION)
 IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
 (Special Original Jurisdiction)
 WEDNESDAY, THE SIXTH DAY OF JANUARY,
 TWO THOUSAND AND TWENTY ONE
 : PRESENT:
 THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
 WRIT PETITION NO: 23548 OF 2020

**Between:**

1. M/s.999 Pan Masala, D.No.14/704-4-2, Nakash, Kadapa, Y.S.R.Kadapa District, Represented by its Proprietor, Sadik All Kutagul, aged about 35 years, S/o.Mohd Hafizullah Kutagu, R/o.D.No.14/704-4-2, Nakash, Kadapa, Y.S.R.Kadapa District.
2. M/s.ICS Trading Company, D.No.3/161, Sarvar Khan Peta, Khajipetm Y.S.R.Kadapa District, Represented by its Proprietor, Mahaboob Basha Chennur Shaik, aged about 35 years, S/o.C.S.Abdul Rasool, R/o. D.No.3/161, Sarvar Khan Peta, Khajipetm Y.S.R.Kadapa District.

...Petitioners**AND**

1. The State of Andhra Pradesh, represented by Principal Secretary, Health, Medical and Family Welfare Department And Commissioner of Food Safety, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The State of Andhra Pradesh, represented by its Principal Secretary, Home Department, Secretariat, Velagapudi, Amaravathi, Guntur District.
3. The Commissioner of Food Safety, Andhra Pradesh, At Gollapudi, Vijayawada.
4. The Director General of Police, to the State of Andhra Pradesh, Mangalagiri, Guntur District.
5. The Superintendent of Police, Kadapa, Y.S.R.Kadapa District.
6. The Station House Officer, II Town P.S. Kadapa, Y.S.R.Kadapa District.
7. The Station House Officer, Khajipet P.S., Y.S.R.Kadapa District.
8. The Commissioner of Commercial Taxes, D.No.5-59, Bandar Road, Spring Valley Apartments, Fdupugallu, Vijayawada, Andhra Pradesh - 521151.
9. Union of India, Represented by its Ministry of Health and Family Welfare, Room No.348 A Wing, Nirman Rhavan, New Delhi - 110011.
10. The Commissioner of Central Excise, Government of India, At Vishakapatnam, Andhra Pradesh.
11. Food Safety and Standard Authority of India, Represented by its CEO, 3rd and 4th Floor, FDA Bhawan, Kotla Road, New Delhi 110002.

...Respondents

WHEREAS the Petitioners above named through their Advocate Sri G Ramachandra Reddy 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 issue a writ order or direction particularly in the nature of writ of mandamus directing the respondents not to interfere in any manner with the trade and business carried out in the products that fall within the said notification by the petitioners, their it personnel and the persons / entities to whom the petitioners supply those products by declaring the notification No.318/FSSA/AP/2014-20, dated 08-01-2020, published on 10-01-2020 issued by the 1St and 3rd respondents being illegal, arbitrary, unconstitutional, ultravires the cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 in 'violation of principles of natural justice and in violation of Articles 14,19 and 121 of the Constitution of India and consequently to set aside the same.

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri G Ramachandra Reddy, Advocate for the Petitioner, GP for Health, Medical and Family Welfare for Respondent No.1, 3, GP for Home for Respondent No.2, 4 to 7 and of GP for Commercial Tax for Respondent No.8, Sri N.Harinath, Asst. Solicitor General for Respondent No.9 to 11 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, Health, Medical and Family Welfare Department And Commissioner of Food Safety, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Principal Secretary, Home Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District.
3. The Commissioner of Food Safety, Andhra Pradesh, At Gollapudi, Vijayawada.
4. The Director General of Police, to the State of Andhra Pradesh, Mangalagiri, Guntur District.
5. The Superintendent of Police, Kadapa, Y.S.R.Kadapa District.
6. The Station House Officer, II Town P.S. Kadapa, Y.S.R.Kadapa District.
7. The Station House Officer, Khajipet P.S., Y.S.R.Kadapa District.
8. The Commissioner of Commercial Taxes, D.No.5-59, Bandar Road, Spring Valley Apartments, Fdupugallu, Vijayawada, Andhra Pradesh - 521151.
9. The Ministry of Health and Family Welfare, Union of India, Room No.348 A Wing, Nirman Rhavan, New Delhi - 110011.
10. The Commissioner of Central Excise, Government of India, At Vishakapatnam, Andhra Pradesh.
11. The CEO, Food Safety and Standard Authority of India, 3rd and 4th Floor, FDA Bhawan, Kotla Road, New Delhi 110002.

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.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents not to interfere and not to take coercive steps in any manner with the trade and business carried out in the products that fall within the impugned notification (i.e., notification No.318/FSSA/AP/2014-20, dated 08-01-2020, published on 10-01-2020) by the petitioners, their personnel and the persons / entities to whom they supply those products, pending disposal of WP No.23548 of 2020, on the file of the High Court.

IA NO: 2 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend the impugned notification (i.e., notification No.318/FSSA/AP/2014-20, dated 08-01-2020, published on 10-01-2020) issued by the Respondent No.1 and 3 pending disposal of WP No.23548 of 2020, on the file of the High Court.

The Court made the following: ORDER

“Notice before admission.

In similar matters, this Court by an order dated 15.10.2020 in W.P.No.16118 of 2020 had granted interim directions. Accordingly, having regard to the fact that the petitioners relied upon the decision of the Hon'ble Apex Court in Gadawat Paan Masala I.P. Limited vs. Union of India and also the order of Hon'ble High Court of Telangana in W.P.No.4205 of 2020, dated 28.02.2020, to canvas the point that the tobacco products are purely covered by a Central Special Legislation i.e., Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2002 and therefore, the State authorities have no jurisdiction to issue the impugned notification No.318/FSSA/AP/ 2014-20, dated 08.01.2020, all further proceedings in pursuance of the aforesaid notification are stayed.”

Sd/-K.JaganMohan
DEPUTY REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Principal Secretary, Health, Medical and Family Welfare Department And Commissioner of Food Safety, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Principal Secretary, Home Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District.
3. The Commissioner of Food Safety, Andhra Pradesh, At Gollapudi, Vijayawada.
4. The Director General of Police, to the State of Andhra Pradesh, Mangalagiri, Guntur District.
5. The Superintendent of Police, Kadapa, Y.S.R.Kadapa District.
6. The Station House Officer, II Town P.S. Kadapa, Y.S.R.Kadapa District.
7. The Station House Officer, Khajipet P.S., Y.S.R.Kadapa District.
8. The Commissioner of Commercial Taxes, D.No.5-59, Bandar Road, Spring Valley Apartments, Fdupugallu, Vijayawada, Andhra Pradesh - 521151.
9. The Ministry of Health and Family Welfare, Union of India, Room No.348 A Wing, Nirman Rhavan, New Delhi - 110011.
10. The Commissioner of Central Excise, Government of India, At Vishakapatnam, Andhra Pradesh.
11. The CEO, Food Safety and Standard Authority of India, 3rd and 4th Floor, FDA Bhawan, Kotla Road, New Delhi 110002. (1 to 11 by RPAD- along with a copy of petition and memorandum of grounds)
12. One CC to Sri G Ramachandra Reddy Advocate [OPUC]
13. Two CCs to GP for Health, Medical and Family Welfare, High Court of Andhra Pradesh. [OUT]
14. Two CCs to GP for Home, High Court of Andhra Pradesh. [OUT]
15. Two CCs to GP for Commercial Tax, High Court of Andhra Pradesh. [OUT]
16. One CC to Sri N.Harinath, Asst. Solicitor General [OPUC]
17. One spare copy

SP

HIGH COURT

RRRJ

DATED:06/01/2021

NOTICE BEFORE ADMISSION

WP.No.23548 of 2020

DIRECTION

12 JAN 2021