

**IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

THURSDAY, THE SIXTEENTH DAY OF MARCH  
TWO THOUSAND AND TWENTY THREE

**:PRESENT:**

**THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN**

**AND**

**THE HON'BLE SRI JUSTICE N.TUKARAMJI**

**WRIT PETITION NO: 7308 OF 2023**

**Between:**

1. Erravelly Jagadish, S/o. E. Rajesham.
2. Chinthakindi Anil, S/o. Bhadraiah.

**...Petitioners/owners of the Stock**

**AND**

1. The State of Telangana, Rep by its Principal Secretary, Health Medical-and Family Welfare Department, Secretariat, Hyderabad.
2. The State of Telangana, Rep. by its Principal Secretary, Home Department, T.S. Secretariat Buildings, Hyderabad.
3. The Commissioner of Food Safety, Telangana Directorate of Institute of Preventive Medicine Public Health Labs and Food Health Administration, Narayanaguda, Hyderabad.
4. The Commissioner of Police, Karimnagar District.
5. The Inspector of Police Task Force, Karimnagar District.
6. The Food Inspector, Karimnagar District.

**...Respondents**

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 writ order or direction especially one in the Nature of Writ of Mandamus declaring the Notification No.518/FSS-1/2023 dated 21-02-2023 issued by the 3rd respondent as illegal arbitrary unjust unconstitutional ultra-virus of the Cigarettes and other Tobacco Products Production of Advertisement 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 21 of the Constitution of India and set aside the same and consequently direct 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 petitioner or its personnel and the persons/entities to whom is supplied those products;

**IA NO: 1 OF 2023**

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 direct the respondents to release the seized Amber tobacco products/khaini/Gutka 1). Amber 1340 packets worth of Rs. 3,02,840/-, 2) JK Ratna 20 Packets worth of Rs 1,200/-, 3). F 1 Tobacco 150 Packets worth of Rs 750/- 4). VI 126 Packets worth of Rs 630/- , 5). Bouncer 40 Sachets, 6). VIP 5 Packets/Sachets worth of Rs 350/-, 7). Tara Zarda 35Packets worth of Rs 2,100/, 8). Maha Zarda 08 Sachets worth of Rs. 480/-, 9). Vijaya Durga 20 pieces worth of Rs. 800/-, 10). Tara Zardha 20 pieces worth of Rs. 1,200/- total worth of Rs.3,11,950/- from the 1st petitioner and 1). Amber 150 Packets worth Rs 33,900/-, 2) JK Ratna 18 Packets worth of Rs

1,080/-, 3) M Zarda 12 boxes worth of Rs 3,600/-, 4) X1-01 125 bags worth of Rs 625/-, 5) V1 140 Packets worth of Rs 700/-, 6). VIP 140 Packets worth of Rs 9,800/- total worth of Rs 49,705/- from the 2nd petitioner, seized by the 5th respondent is pending disposal of WP.No.7308 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI PRASAD RAVANABOINA, Advocate for the Petitioners, SRI N. PRAVEEN KUMAR, GP FOR HEALTH, MEDICAL AND FAMILY WELFARE DEPARTMENT for the Respondent Nos.1, 3 & 6, SRI M.ROOPENDER, GP FOR HOME for the Respondent Nos.2, 4 & 5, the Court made the following.

**ORDER:**

**Heard Mr. Prasad Ravanaboina, learned counsel for the petitioners.**

**Challenge made in this writ petition is to the notification dated 21.02.2023 issued by the Commissioner of Food Safety, Government of Telangana, prohibiting manufacture, storage, distribution, transportation and sale of gutka/pan masala which contains tobacco and nicotine as ingredients and chewing tobacco products packed in pouches/sachets/ containers etc., in the entire State of Telangana for a period of one year with effect from 21.02.2023.**

**We find that a similar notification was issued by the Commissioner of Food Safety, Government of Telangana, on 06.01.2021 which was put to challenge in a batch of writ petitions, being W.P.No.19928 of 2021 and batch. By the common order dated 30.11.2021, the writ petitions were dismissed and the validity of the impugned notification upheld.**

**It appears that certain writ petitions were also dismissed following the aforesaid common judgment and order on 03.12.2021 against which S.L.P.No.200441 of 2021 has been preferred before the Supreme Court.**

**In the meanwhile, the validity period of the notification dated 06.01.2021 had expired whereafter a subsequent but similar notification dated 07.01.2022 was issued. Supreme Court by order dated 31.03.2022 stayed the fresh notification dated 07.01.2022. After expiry of the validity period of the aforesaid notification, impugned notification has been issued.**

***Prima facie*, we are of the view that when the matter is pending before the Supreme Court, the State ought to have sought leave of the Supreme Court before issuing the impugned notification.**

At this stage, we have been informed that hearing of S.L.P.No.200441 of 2021 is scheduled on 11.04.2023.

Issue notice.

Mr. N. Praveen Kumar, learned Government Pleader for Health, Medical & Family Welfare Department waives notice for respondent Nos. 1, 3 and 6.

Mr. M. Roopender, learned Government Pleader for Home waives notice for respondent Nos.2, 4 and 5.

List on 18.04.2023.

Till the next date, there shall be stay of the impugned notification dated 21.02.2023.

Further, respondents are directed to release the goods seized from the petitioners.

SD/- K. SAI KUMARI  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Health Medical-and Family Welfare Department, State of Telangana, Secretariat Hyderabad.
2. The Principal Secretary, Home Department, State of Telangana, Secretariat Buildings, Hyderabad.
3. The Commissioner of Food Safety, Telangana Directorate of Institute of Preventive Medicine Public Health Labs and Food Health Administration, Narayanaguda, Hyderabad.
4. The Commissioner of Police, Karimnagar District.
5. The Inspector of Police Task force, Karimnagar District.
6. The Food Inspector, Karimnagar District.  
(for addresses 1 to 6 by RPAD)
7. One CC to SRI. PRASAD RAVANABOINA Advocate [OPUC]
8. Two CCs to GP FOR HEALTH MEDICAL & FAMILY WELFARE DEPARTMENT, High Court for the State of Telangana, Hyderabad. [OUT]
9. Two CCs to GP FOR HOME, High Court for the State of Telangana, Hyderabad. [OUT]
10. Two spare copy

**HIGH COURT**

**HC.J & NTR.J**

**DATED:16/03/2023**

**Note: List on 18.04.2023**

**ORDER**

**WP.No.7308 of 2023**



**STAY**