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MURLI S. DEORA

v.

UNION OF INDIA AND ORS.

NOVEMBER 2, 2001.

B

[M.B. SHAH AND R.P. SETHI, JJ.]

Constitution of India, 1950 :

C

Articles 21 and 32—Right to life—Smoking at public places—Deprives a non-smoker of his life indirectly—There is no reason to compel non-smokers to be helpless victims of air pollution—Smoking in public places prohibited—Directions given to Union of India, State Governments and Union Territories to take effective steps to ensure prohibiting smoking at public places—Environmental law—Air pollution.

D

Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975—Statement of objects and reasons—Smoking of cigarettes is harmful—It can lead to grave health hazards including fatal diseases—Smoking at public places—Held, Act to be implemented—Smoking at public Places prohibited—Directions to Union of India, State Governments and Union Territories to take effective steps to ensure prohibiting smoking at public places—General public to be made aware by taking necessary effective steps to give wide publicity of this order—Compliance report to be submitted to the Court—Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Bill, 2001.

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CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 316 of 1999.

Under Article 32 of the Constitution of India.

G

Soli J. Sorabjee, Attorney General, Ms. Indira Jaisingh, R.S. Suri, Vipin Sanghi, Prateek Jalan, C. Radhakrishnan, P. Parmeswaran, S.K. Sabharwal, Nirmalal Gupta, Alka Agarwal, Ranjan Mukherjee, M.P.S. Tomar, Jabar Singh for Ms. Sandhya Goswami, A. Mariapurtham, Ms. Aruna Mathur, V.G. Pragasam, Rahul Ray, Umesh Kumar Khaitan, Sanjay K. Shandilya for V.D. Khanna, Anil Shrivastav, Ashok Sagar, Ms. Sonu Bhatnagar for Rajan Narain, Aruneshwar Gupta (NP), Ms. A. Subhashini, Ajay K. Agarawal, Ms. Sangeeta Shamra, Mahesh Chandra, Ms. Krishna Sama, Ms. Asha G. Nair, Ms. Ngangom Junior Luwang for the appearing parties.

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The following Order of the Court was delivered :

Heard the learned counsel for the parties.

Fundamental right guaranteed under Article 21 of Constitution of India, *inter alia*, provides that none shall be deprived of his life without due process of law. Then — why a non-smoker should be afflicted by various diseases including lung cancer or of heart, only because he is required to go to public places? Is it not indirectly depriving of his life without any process of law? The answer is obviously - 'yes'. Undisputedly, smoking is injurious to health and may affect the health of smokers but there is no reason that health of passive smokers should also be injuriously affected. In any case, there is no reason to compel non-smokers to be helpless victims of air pollution.

The statement of objects and reason of (The) Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975, *inter alia*, provides, "Smoking of cigarettes is a harmful habit and, in course of time, can lead to grave health hazards. Researches carried out in various parts of the world have confirmed that there is a relationship between smoking of cigarettes and lung cancer, chronic bronchitis; certain diseases of the heart and arteries; cancer of bladder, prostate, mouth pharynx and oesophagus; peptic ulcer etc., are also reported to be among the ill-effects of cigarette smoking."

Similarly, the statement of objects and reasons of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Bill, 2001, provides, "Tobacco is universally regarded as one of the major public health hazards and is responsible directly or indirectly for an estimated eight lakh deaths annually in the country. It has also been found that treatment of tobacco related diseases and the loss of productivity caused therein cost the country almost Rs. 13,500 crores annually, which more than offsets all the benefits accruing in the form of revenue and employment generated by tobacco industry".

In this view of the matter, when this petition under Article 32 of the Constitution of India came for orders on 31st August, 2001, we have passed order for implementing 1975 Act. At that time of hearing, learned Attorney General as well as counsel for the parties submitted that considering harmful effect of smoking, smoking in public places is required to be prohibited. On this submission, we sought response of the Central Government. As no affi-

A davit was filed during the stipulated time by the Central Government, on 28th
September, 2001, we were required to adjourn the matter. Today also, when
the matter came up for hearing no response is filed on behalf of the Central
Government. However, learned Attorney General with all emphasis at his
command submitted that appropriate order banning smoking in public places
B be passed. Learned counsel for the petitioner also submitted to the aforesaid
effect. Counsel appearing for other respondents also supported the same.

 In the petition, it is pointed out that tobacco smoking contains harmful
contents including nicotine, tar, potential carcinogens, carbon monoxide, irritants,
C asphyxiates and smoke particles which are the cause of many diseases
including the cancer. It is alleged that three million people die every year as
a result of illness related to the use of tobacco products of which one million
people belong to developing countries like India. The World Health Organisation
is stated to have estimated that tobacco related deaths can rise to a
whopping seven million per year. According to this organisation, in the last
D half century in the developing countries alone smoking has killed more than
sixty million people. Tobacco smoking also adds to the air pollution. Besides
cancer, tobacco smoking is responsible for various other fatal diseases to the
mankind.

 It is further submitted that statutory provisions are being made for pro-
E hibiting smoking in public places and the Bill introduced in the Parliament is
pending consideration before a Select Committee. The State of Rajasthan has
claimed to have passed Act No. 14 of 2000 to provide for prohibition of
smoking in place of public work or use and in public service vehicles for that
State. It is stated that in Delhi also there is prohibition of smoking in public
F places.

 Learned Attorney General for India submits and all the counsel appear-
ing for the other parties agree that considering the adverse effect of smoking
in public places, it would be in the interests of the citizens to prohibit the
smoking in public places till the statutory provision is made and implemented
G by the legislative enactment. The persons not indulging in smoking cannot be
compelled to or subjected to passive smoking on account of acts of the smok-
ers.

 Realising the gravity of the situation and considering the adverse effect
of smoking on smokers and passive smokers, we direct and prohibit smoking
H in public places and issue directions to the Union of India, State Governments

as well as the Union Territories to take effective steps to ensure prohibiting smoking in public places, namely : A

1. Auditoriums
2. Hospital Buidings
3. Health Institutions B
4. Educational Institutions
5. Libraries
6. Court Buildings C
7. Public Office
8. Public Conveyances, including Railways.

Learned Attorney General for India assured the court that Union of India shall take necessary effective steps to give wide publicity to this order by electronic as well as print media to make the general public aware of this order of prohibition of smoking. D

We further direct the Registrar General to intimate the State Governments Union Territories as well as the Commissioners of Police as mentioned in our orders dated 31st August, 2001 and 28th September, 2001 of this Court with directions for submission of their compliance report in this Court within five weeks from today. Union of India shall also file its response at the earliest. E

List after six weeks. F

R.P.

Petition still pending.