

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

WP No. 27719 of 2024

(AMITABHA GUPTA vs UNION OF INDIA HEALTH AND FAMILY WELFARE DEPARTMENT AND OTHERS)

Dated : 21-01-2025

Shri Amitabh Gupta- petitioner in person.

Shri Sandeep Shukla- Advocate for respondent/Union of India.

Shri Anubhav Jain- Government Advocate for respondent/State.

I.A No. 22433 of 2024, which is an application for interim direction.

In the instant application, it is stated that the writ petition has been filed by the petitioner seeking indulgence of this Court with an object of ensuring strict, meaningful and regularly monitored compliance of the ban imposed by the Central Government prohibiting the manufacture for sale, or distribution for human use of drug or fixed dose combination of Chlopheniramine Maleate + Codeine + Menthol Syrup, imposed by the notification dated 2nd June, 2023 under section 26A of the Drugs and Cosmetics Act, 1940. It is stated in the instant application that despite having been banned by statutory mandate, the aforementioned combination is being unabatedly manufactured by various companies and being sold openly in wholesale on online portal namely Indiamart and other online platforms. The printout of the webpage has been filed as Annexure Document D-1.

The petitioner in person submitted that not only the fixed dose combination of Chlopheniramine Maleate + Codeine + Menthol Syrup is being sold in the online wholesale market, other banned drugs are also being sold on the said websites, copy of the printout of the said websites is filed as

Annexure D-2.

It is further submitted that despite knowing this fact, the aforesaid Manufactured Drugs and Psychotropic substances are being openly manufactured in the pharmaceutical companies and also openly sold through online portals like the Indiamart, etc., the police and other agencies are not taking any action. Thus, because of illegal manufacturing of contraband by these companies and selling them on wholesale basis leads to easy availability of the contraband which allures the unemployed youth to indulge into the business of peddling.

It is further submitted that almost every day police is registering cases against peddlers, who are mainly unemployed youth, illegally selling bottles of cough syrup containing Chlopheniramine Maleate + Codeine + Menthol as well as Tramadol Tablets. The police though register cases against these peddlers, but do not implicate the manufacturers of these contraband despite knowing complete detail from the seized contraband, which is evident from the FIR Annexure D-3.

Issue notice.

Shri Sandeep Shukla- Advocate for respondent/Union of India accepts notice on behalf of respondent no.1 to 4 and Shri Anubhav Jain - Government Advocate for respondent/State accepts notice on behalf of respondent no.5 and 6 and seek time to take instructions and to assist the court, and if required, file reply to the writ petition, by the next date of hearing.

Till further orders, the respondents/police and Narcotic Bureau as well

as Drug Controller are directed to take immediate action against the owner/stake holder/management of the companies, who are selling banned contraband on wholesale basis through online portals like Indiamart and others.

The action taken report shall also be filed before the next date of hearing.

List this case on 13.02.2025.

(SURESH KUMAR KAIT)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE

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