

Dr. Amanullah Khan and Anr. v. Chairman, Medical Research Council and Ors.

Supreme Court of Pakistan

23 February 1994

H.R. Case No.1Q1 of 1992

Citation: 1996 SCMR 1211

Judges: Saad Saood Jan, Actg. C.J., Saiduzzaman Siddiqui and Wali Muhammad Khan, JJ

Order

SAAD SAOOD JAN, ACTG. C.J.---1. This is an application under Article 184(3) of the Constitution. The Petitioner is aggrieved by the commercials which appear on behalf of the cigarette companies on the television. He seeks a direction for banning these commercials on the television. He states that the smoking habit has attained alarming proportions in Pakistan during the past two decades. As western tobacco companies are unable to sell cigarettes in the western countries, they are now aiming at the developing nations; unfortunately, the unsuspecting people of Pakistan are falling prey to their advertising campaign which has already resulted in catastrophic calamities in the form of cancer and heart disease.

2. The Petitioner is no doubt a public spirited man and his efforts to cut down the menace of smoking in our country are indeed laudable. However, the jurisdiction of this Court to directly entertain applications under Article 184(3), *ibid*, is of a limited scope inasmuch as it is confined to the enforcement of the Fundamental Rights set out in Chapter 1 of Part II of the Constitution. On our inquiry the Petitioner was unable to point out with clarity, the Fundamental Rights which he wanted to enforce through this petition. He made vague references to Articles 4(2)(a) and 25(1) of the Constitution. Article 4(2)(a) does not fall in Chapter 1 of Part II of the Constitution and in so far as Article 25(1) is concerned, that deals with the equality of the citizens before law. The advertising campaigns of cigarette companies on the television seem hardly to impinge upon his right to equal treatment before law. The only Fundamental Right which can possibly have any relevance to his application is contained in Article 9 which states that no person shall be deprived of life and liberty save in accordance with law. There is a possible justification for constructing this Article in a

manner which will embrace quality of life as well. But then it may be mentioned that after every commercial shown on the television relating to the promotion of cigarette a warning by the Ministry of Health with regard to the hazard of smoking is invariably displayed. It is not the case of the Petitioner that he had attempted to run an anti-smoking campaign on the television on the same terms on which the cigarette manufacturing companies put on their commercials but he was denied the opportunity of doing so. This petition clearly does not fall within the restricted jurisdiction enjoyed by this Court under Article 184(3), *ibid*. In the circumstances, although we appreciate the efforts made by the petitioner for saving the nation from the hazards of smoking, we cannot issue an order to ban the commercial advertisements relating to smoking on the television for lack of jurisdiction. The application is dismissed.

A.A./M-3169/S

Application dismissed