

IN THE HIGH COURT OF DELHI AT NEW DELHI

15.

W.P.(C) 7540/2010

WORLD LUNG FOUNDATION SOUTH ASIA Petitioner**Through: Mr. Santosh Kumar, Adv.**

versus

MINISTRY OF HEALTH and FAMILY WELFARE Respondent**Through: Mr. A.S. Chandhiok, ASG with****Mr. Jatan Singh, Adv. for R1****Mr. Anjum Javed, Adv. for R2,3and4****CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE SANJIV KHANNA****O R D E R****02.02.2011**

Heard Mr. Santosh Kumar, learned counsel for the petitioner and Mr. Anjum Javed, learned counsel for respondent Nos. 2 to 4. It is submitted by Mr. Santosh Kumar that the present case in the real sense of the term involves public interest inasmuch as despite the Tobacco Act, 2003, the tobacco is being sold within the prohibited area from the premises where the schools are situated. It is contended by him that due to the existence of the said shops, the minor, young and adolescent children fall prey to the temptation of smoking

and suffer from numerous diseases. That apart, submits learned counsel that the degradation in the social ethos occurs when

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the minor children are not protected by the thinking persons of the society. Learned counsel would go to the extent of saying that though he had made complaint about the existence of 28 tobacco shops and police had closed some of them, yet they have again revived their activities which in fact gives rise to an atmosphere of incurability and the law and order situation in this regard gets paralysed forcing the likes of the petitioner to get into a legal battle to save the society. It is urged by him that the petitioner, with the help of others, has carried out a survey throughout Delhi and found that there are more than 323 outlets where the tobacco is being sold affecting students of 1023 recognized schools which can be called a catastrophic situation that can splinter the spine of the future of the nation. Mr. Santosh Kumar, learned counsel would further submit that the activities are going on under the very nose of the police officers, otherwise such an activity at such a large scale was impossible to be carried by the persons involved.

Mr. Anjum Javed, learned counsel for the State would only say that they have taken action and they will take further action. Though the said statement has some meaning in the world of theoretical application of law, yet the law has to be applied in a proper perspective with clarity and a requisite mindset so that the people must know that if they violate the law,

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they will be punished by the law. The blame game or passing of the responsibility cannot be tolerated.

In view of the aforesaid, while we like the respondent-State to file the counter affidavit to the allegations made within a period of four weeks, we would like the Commissioner of Police, Delhi to take appropriate steps in this regard so that the tobacco selling in these kind of centres, outlets, kiosks or for that matter thelas are absolutely stopped within the prohibited area. The Commissioner of Police, Delhi shall constitute a specialized task force who is committed to the cause within three days from today which shall take action taking note of the places mentioned in the rejoinder affidavit and also see to it that these kind of clandestine activities are not carried on. Any police officer of any rank giving any kind of protection to any such illegal tobacco sellers shall be departmentally proceeded against so that the police authorities must also realize that they cannot be complacent and silent spectator when law is broken with impunity. Action taken must be visible to the society and the civil society must know and has a right to know that appropriate action has been taken by the police. It is the duty of the police to satisfy the society and the collective at large that the law and order situation really exists and is not a show of a red carrot to the citizenry.

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Let the matter be listed on 30th March, 2011.

Order dasti under the signatures of the Court Master.

CHIEF JUSTICE

SANJIV KHANNA, J
FEBRUARY 02, 2011
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