

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. OF 2020
PUBLIC INTEREST LITIGATION
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:-

DIVYA JYOTI SINGH
PETITIONER

VERSUS

UNION OF INDIA
RESPONDENT

Ministry of Commerce & Industry

Udyog Bhawan

New Delhi-110107

PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR
ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER
APPROPRIATE WRIT

To

The Hon'ble Chief Justice of India and His Lordship's Companion

Justices of the Hon'ble Supreme Court of India.

The Humble petition of the Petitioner above named

MOST RESPECTFULLY SHOWETH :

1. The present Writ Petition is filed under Article 32 of the Constitution of India as a mandamus seeking direction to the Respondent to formulate a law that mandates all the e-commerce industry/ business houses selling goods in India, through any channel shall display the Country of Origin in such a way that is legible easily by the consumers; making the consumer's aware of the 'Country of Origin' so as the Consumer can make an informed decision.

1A. That petitioner has not filled any other petition seeking similar relief either before this Hon'ble Court or any other Court or tribunal.

1B. That there is no Civil, criminal or revenue litigation, involving the petitioner, which has or could have a legal nexus with the issues involved in this PIL nor with any other pending litigation.

1C. That there is no personal interest in filling this PIL and it is bonafide and in large public interest so that the consumers of the E-commerce industry in India could be aware of the Country Of Origin of the product they are purchasing and could make a conscious decision to boycott goods of the Enemy Country and promote local manufacturers.

1D. That the petitioner is an Advocate on Record in the Hon'ble Supreme Court Of India and is capable of making this representation before the Hon'ble Court and for this she need no assistance from Legal aid or any other representation.

ARRAY OF PARTY;

1. That the petitioner is a citizen of India, Practicing advocate in Supreme Court, Enrolled with the Bar Council of Delhi The email address of the petitioner is divsjs@gmail.com and mobile no. is 9717953985. A true copy of advocate Bar Id is attached herewith at page no.11 which is a self attested & true copy. The PAN No of the Petitioner is DNTPS9517P having an annual income of Rs 5.5lakh p.a.

2. That the Respondent is the Union of India.

FACTS OF THE CASE:

1. The era of E-commerce industry in India began way back in 1990's with the economic liberalization and thereafter there is no looking back for the e-commerce

industry.

2. E-commerce is also known as electronic commerce or internet commerce, referring to the buying and selling of physical goods or services using the internet. Infact, India has become one of the largest consumer base market for the e-commerce industries.

3. The definition of E-commerce under Consumer Protection Act, 2019 is provided under Section 2 (16) is defined as; “E-commerce means buying or selling of goods or services including digital products over digital or electronic network”

4. The growth of these e-commerce industries in India has bought in many old and new players in the market like Amazon India, Flipkart, Snapdeal ,etc.; which are very prominent in this industry and earn a lot of revenue from the nation.

5. Online shopping has infact, become a trend owing to the development of the web portals. In a survey by Indian E-Commerce Industry dated 22.04.2020, revealed that it is estimated that one in every 3 Indian shops via online retailers rather than visiting the physical stores.

6. India is developing rapidly more towards the e-commerce industry due to the benefits it has for instance time saving, etc.

7. With the outbreak of the pandemic novel-Covid 19, it has rather become more convenient to shop from the online web portals which is much safer in comparison to visit the physical stores. Infact, even during the lockdown period when the shops were shut, it was these e-commerce industries only that were providing people with essential commodities at their doorstep. This depicts the importance of these industries in our lives.

8. In such circumstances with a rapid growth of the e-commerce or digital shopping businesses; it is very important that the consumer’s interest be safeguarded.

9. According to Section 2(9) of the consumer Protection Act, 2019, Consumer rights includes:-

“...(ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices:”

10. One of the imperative right of a consumer is that they should be aware of the Country of Origin of the product. It is one of the important point the consumers uses to perceive the product quality as well.

11. This can be determined by the Rules of Origin under the trade law. Rules of Origin is therefore needed to determine the country of origin of each productL55555 and

thus these rules are very crucial in the International Trade. For this purpose 'made in (Country)' labels are attached to the products.

12. Once the product is ready for import; the country of import is entitled to request a Certificate of Origin.

13. One can always locate the 'made in country' labels while purchasing from the physical stores. However, the e-commerce portals do not provide the same. The e-commerce portals consist a lot of filters to find out the material, quality, care, etc of the products however, they do not provide a filter disclosing the 'Country of Origin'.

14. As on today, when the entire country is united and standing together showing allegiance to the motherland, as an effect of the loss of lives of our soldiers owing to the India-Chinese conflict in the Ladakh region and thus are running a nationwide campaign pertaining to the boycott of all the Chinese products / applications like Tik Tok, etc through which China generates revenue in crores.

15. The e-commerce portals surreptitiously do not disclose the Country of Origin for the products on their web-portals. It seems large influx of junk is made and imported from China. The Indian consumers are still kept in dark by not disclosing the Country of Origin, for if the consumers do not know where the products are made, they cannot stop buying them or to put it in other words let the consumers make an informed decision.

16. In the event of such extra-ordinary circumstance when the entire nation stands united and there is a wave flowing in the country for boycotting the Chinese products, by non-disclosure of the 'Country of Origin' on the web-portals, these giant business houses/ e-commerce portals are not only playing with the patriotic feelings of the Indians but also are proving fatal in the efforts of each and every citizen of India in

boycotting the Chinese products and also are blocking the way in promoting the local manufacturers/ brands as called for by our Prime Minister so that the country becomes self -reliant as is the need of the hour.

17.That until and unless the consumer is not aware about the country where the product is manufactured, they cannot walk on the path of boycotting Chinese items and promoting the local brands.

18.According to the Confederation of All India Traders (CIAT) most of the goods sold on the e-commerce portals are Chinese and they have also sought from the Ministry of Commerce & Industry for disclosure of 'country of origin' information on all products sold via e-commerce portals

QUESTION OF LAW:-

- 1. Whether the consumer has the right to know the 'Country of Origin' or not so as to take a conscious decision?**
- 2. Whether Respondent shall attract penalties upon the ecommerce industry for non-disclosure of the 'Country of Origin' on the products they are selling, as it is nothing less than cheating with the consumers; as it is a matter of right for the consumers to be aware about the Country of Origin so as they can take an informed decision?**
- 3. Whether the e-commerce portals shall not have a mandate for disclosing the 'Country of Origin' like that has been established by the Government-E Market place?**
- 4. Whether the Respondent can be directed to formulate strict**

laws/ legislation; wherein it becomes a mandate for all the e-commerce portals, wherein, all the goods sold in India by them through any channel, covering every link in the supply chain, shall display the 'Country of Origin' prominently or not ?

GROUNDS:-

19. That it is important to mention here that the Country of Origin i.e the place where the product is produced/ manufactured is one of the most important factor for the consumers to make a perception about the product in toto.

20. That the Country of Origin can be determined by the Rules of Origin. Rules of Origin is therefore needed to determine the country of origin of each product. It is for this purpose 'made in (Country)' labels are attached to the products.

21. That once the product is ready for import; under the trade laws, the country of import is entitled to request a Certificate of Origin.

22. It is bewildering that one can always locate the 'made in country' labels while purchasing from the physical stores, however, while shopping from e-commerce portals it is not disclosed to the consumers about the same before purchase. It is only when the product is delivered one can locate the label and find the Country of Origin, making the consumer take an uninformed decision.

23. That the e-commerce portals have a lot of filters to find out about the product like the material, quality, care, etc. but they do not provide a filter disclosing the 'Country of Origin'.

24. That these e-commerce portals by not disclosing the country of manufacture of the goods are forcing the Indian consumers to buy the products without being aware of its origin. Most of the goods sold on these portals are Chinese products. The Indian consumers would not want to buy them as is campaign run in the entire nation to boycott the Chinese products.

25. That the Foreign Direct Investment (FDI's) policy governing the E-commerce portals in India, shall be amended which specifies the do's and other general requirement to be observed by the Indian E-commerce portals and make it a mandate to disclose the 'Country Of Origin' of all the goods sold on its portal.

26. That as a latest development on 23.06.2020, The Government eMarketplace (GEM) has made it mandatory for sellers to mention

'Country of Origin' on products they wish to sell through this platform.

This move has been taken to push 'Make in India' and become 'Aatmanirbhar Bharat' / self reliant for a better tomorrow.

PRAYER

In the light of above premises, it is prayed that this Hon'ble

Court may be pleased:

(i) To issue a writ of mandamus or any other appropriate writ to the respondent to formulate a law, which makes it a mandatory for all the e-commerce portals like Amazon, Flipkart, Snapdeal, etc. to disclose and display the Country of Origin for all goods sold in India in a proper size that makes it legible for the consumers to read it;

Or

In alternate amend the Section 2 (9) of the Consumer Protection Act 2019 and add that the consumer's right shall also include the right of the consumer to know the 'Country of Origin' in the e-commerce portals;

(ii) Non-disclosure of the Country of Origin should attract stringent penal provisions;

(iii) the respondent shall function in such a way that ensures strict implementation of the same;

(iv) Or to pass such other orders and further orders as may be deemed necessary on the facts and in the circumstances of the case.

FOR SUCH ACT OF KINDNESS, THE PETITIONERS SHALL AS IN DUTY BOUND, EVER PRAY.

DIVYA JYOTI SINGH

Petitioner In Person

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Barakhamba Raod,

New Delhi-110001