

Court No. - 32

**Case :- PUBLIC INTEREST LITIGATION
(PIL) No. - 716 of 2020**

Petitioner :- Suo Moto

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Suo Moto

Counsel for Respondent :- C.S.C.

Hon'ble Shashi Kant Gupta,J.

Hon'ble Shamim Ahmed,J.

1. Mr. Hari Govind Dubey, a student of LL.B. (Integrated), Faculty of Law, University of Lucknow by this petition for writ has agitated the cause relating to spread of Corona Virus through Hookah Bars, and has sought remedial action by prohibiting Bars, Restaurants and Cafes from serving Hookahas, in the State of Uttar Pradesh.

2. After considering the facts stated in the letter dated 7.7.2020, this Court by order dated 22.7.2020, treated the said letter and the documents annexed thereto as a petition for writ (PIL). Consequently, the Chief Secretary, State of Uttar Pradesh was directed to show cause as to why this petition for writ not be accepted as prayed. In this regard notice was sent to the Chief Secretary through E-Mail as well as Fax but despite the said order, no response has been given from the State Government.

3. It may also be noted that a hookah is a single or multi-stemmed instrument used for

smoking various flavored substances such as tobacco for centuries and is popular in the Indian subcontinent. Prima facie smoking has emerged as an independent risk factor not only for transmission but also COVID-19 severity, similarly, hookah smoking is also prima facie an ideal mode to transmit and facilitate the spread of the contagion through shared use. The communal nature of water pipe smoking means that a single mouth piece and hose are often shared between users, especially in social settings. The difficult-to-clean long pipes and a cold water reservoir makes them ideal for coronavirus transmission. Further, hookah smoke contains several hazardous chemicals in addition to tobacco that may injure the respiratory lining, exposing the smoker to viral infections, tuberculosis and other infectious diseases and the coronavirus is no exception. Infection can be transmitted through hookah by waterpipe smoking. It has also come to our notice that few countries have already placed restrictions on hookah use amid the pandemic. It may not be out of place to mention here that in one such incident at the Jind Village at Haryana, hookah sharing resulted in a chain of covid infections and as a result the Village had to be sealed while imposing a ban on hookah smoking. Taking the recent WHO advice on COVID-19 and hookah use, it is desirable that in wider public interest hookah or waterpipe smoking should be regulated/prohibited during the present crisis to ensure restriction of COVID-19

transmission through hookah smoking.

4. At this juncture regard may be had to the intensity of Covid-19 transmission in the State of Uttar Pradesh, which is alarmingly high. It may be noted that the Uttar Pradesh is the most populated State in the Country and is at the stage of Community Transmission on account of which it has quickly reached the 4th spot amongst the States in the number of active cases, with each passing day, the highest number of cases being reported. Further, this Court in P.I.L. No. 574 of 2020, while taking cognizance of the rise in intensity of Covid-19 cases across the State, directed the State Government vide order dated 25.08.2020, to present an action-plan to contain the contagion. The Court also observed that any step lesser than a lock down would be of no help.

5. The Pandemic is spreading like wild fire despite harsh lockdowns and is threatening the existence of human life. The situation is very grim. We are standing in a forest of darkness and do not know what tomorrow holds.

6. It cannot be denied that corona-virus cases are increasing day by day and in case public places such as Restaurants & Cafes are not restricted from serving Hookah with immediate effect, there might be chances of vast community spread of corona-virus cases in Uttar Pradesh.

7. Perusal of the record further shows that the petitioner had also approached the higher

authorities seeking a ban on the smoking Hookah but was of no avail.

8. In view of the above, we issue a direction to the Chief Secretary State of Uttar Pradesh not to permit the Bars, Restaurants & Cafes to serve Hookahs until further orders of this Court, with immediate effect.

9. The Chief Secretary, State of Uttar Pradesh shall file his response and a compliance report by the next date of hearing through his personal affidavit.

10. List this matter on 30.9.2020 as unlisted.

11. Considering the facts and circumstances of the case, we appoint Mr. Vinayak Mithal, Advocate, as an Amicus Curiae in the matter to assist the Court.

12. Office is directed to supply the entire set of papers to Mr. Vinayak Mithal Advocate relating to the present matter along with a copy of this order within a week.

13. Registrar General of this Court is directed to send a copy of this Order forthwith to the Chief secretary state of Uttar Pradesh and all the District Magistrates in the state for necessary compliance.

Order Date :- 27.8.2020

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