

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 423/2003

ALL INDIA DRUG ACTION NETWORK & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR [PERMISSION TO FILE ADDITIONAL DOCUMENTS] ON IA 13/2013 FOR [PERMISSION TO FILE ADDITIONAL DOCUMENTS] ON IA 12/2013 FOR (INTERVENTION) ON IA 10/2013 FOR [PERMISSION TO FILE ADDITIONAL DOCUMENTS] ON IA 11/2013 FOR (FOR DIRECTIONS) ON IA 6/2012 FOR [PERMISSION TO FILE ADDITIONAL DOCUMENTS] ON IA 14/2014

WITH

W.P.(C) No. 459/2012 (PIL-W)

(FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 1/2012 FOR PERMISSION TO FILE LENGTHY LIST OF DATES ON IA 2/2012)

Date : 10-10-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s)

Mr. Colin Gonsalves, Sr. Adv.
Ms. Tanya Agarwal, Adv.
Ms. Jyoti Mendiratta, AOR

M/S. Corporate Law Group

Petitioner-in-person

For Respondent(s)

Mr. A.K. Sanghi, Sr. Adv.
Mr. S. Wasim A. Qadri, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Rishi Kant Singh, Adv.
Mr. Bharat Singh, Adv.
Mr. A.K. Sanghi, Adv.
Ms. Snidha Mehra, Adv.
Mr. Hemant Arya, Adv.
Ms. Saudamani Sharma, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Mukesh Kumar Maroria, AOR

Ms. Shobha Gupta, AOR
Mr. Sourav Ray, Adv.
Ms. Devahuti Tamuli, Adv.

Mr. Pritesh Kumar, Adv.

Mr. Shubhankar, Adv.

Mr. Jayant Kumar Mehta, AOR

UPON hearing the counsel the Court made the following

O R D E R

On 15th July, 2015, it was recorded by this Court that learned counsel for the petitioner had confined his submission to four major issues which according to him have not been addressed by the Government while formulating and publishing its National Pharmaceutical Pricing Policy, 2012 followed by the Drug Price Control Order, 2013.

Today, learned counsel reiterates and confines his submissions to the four major issues. These issues are as follows:

(i) The competent authority has formulated and relied upon a formula that is out of tune with the scheme, spirit and object sought to be achieved by the DPCO. It is submitted that certain ground realities have not been taken note of. For instance the DPCO ignores the fact that supplies made by Pharmaceutical companies to the State Governments of drugs covered by the order are at much lesser rates than those stipulated in the DPCO, 2013.

(ii) Certain drugs have been excluded from the DPCO. It is submitted that the exclusion of life saving drugs / medicines, fix dose combinations and medical preparations belonging to the same chemical class from the DPCO is wholly unwarranted and unjustified. It is further submitted that DPCO does not extend to dosages and combinations nor does the order cover medicines supplied under the National Health Programme.

(iii) Manufacturing and sale of large quantities of drugs using irrational combinations. The system by which the drugs are certified for human consumption does not appear to be very effective not only because of lack of adequate laboratory and testing facilities but also because of a lack of human resources with the agencies who are expected to subject such drugs to testing process before clearing them for bulk manufacture and use by consumers.

(iv) Exclusion of patented drugs from the DPCO. It is submitted that there was no valid reason why patented drugs cannot and should not be brought under the DPCO.

It appears that the National Human Rights Commission (NHRC) had also looked into these issues and the report is under preparation. It was brought to the notice of this Court in the order dated 05.10.2017 that the NHRC is preparing some report through a Committee constituted by it and that it may be permitted to file the report in this Court.

Learned counsel appearing on behalf of the NHRC says that the report is not yet ready and it will be ready in another four weeks or so. The same may be filed within four weeks.

It also appears that liberty was granted to the petitioner to make a representation to the Government. The representation was in fact made by the petitioner but rejected by the Government through a detailed response after consultation with a Expert Committee. Be that as it may, since the matter is pending in this Court, it has to be heard and disposed of on the four issues mentioned above.

Learned counsel for the petitioner should file a convenience

volume in consultation with all other learned counsel appearing in the matter so that the entire relevant material is easily accessible without any duplication.

List the matter in February, 2019.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
ASSISTANT REGISTRAR