

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3638 OF 2022**

Impact Guru Technology Ventures Pvt. Ltd. through Piyush Jain V/s. Special Inspector General of Police and ors.	... Petitioner ... Respondents
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Mr. Niteen Pradhan alongwith /b Ms Shubhada D. Khot and Mr. Sagar Jadhav for the Petitioner.
Ms A.S. Pai, P.P. a/w. Ms P.P. Shinde, AGP for the Respondent Nos.1, 5 to 8 – State.

**CORAM : PRASANNA B. VARALE &
N.R. BORKAR, JJ.**

DATE : 6.10.2022.

P.C.

1. Not on board. Taken on production board.

2. This petition takes an exception to the show cause notice dated 7 September 2022 issued by the respondent No.1- Special Inspector of General Police, Prevention of Crime Against Women and Children calling upon the petitioner to show cause as to why crime under section 76 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short "J.J. Act") should not be registered against them.

3. Heard Mr. Niteen Pradhan, learned counsel for the Petitioner.

4. Mr. Pradhan submits that the petitioner is a private limited company and the primary object of the petitioner is to manage a technology platform, which enables patients to seek funds/ donations for medical treatment such as cancer, organ transplant and other rare diseases; from friends, relatives and public at large through online fund raising.

5. By inviting our attention to the impugned notice dated 7 September 2022, Mr. Pradhan submits that according to the impugned notice advertisements prepared by petitioner company and displayed through various medium including You-Tube, Facebook etc. are displaying the child in the wrong perspective. The advertisement prepared and money collected fall in the category of Begging as defined under section 2(8) of the J.J. Act and thus petitioner is indulging in activities inconsistent with the J.J. Act and thus why crime should not be registered under section 76 of the J.J. Act.

6. It is submitted that in response to the notice, the petitioner company immediately attended the office of respondent No.1 and submitted a detailed reply on 21 September 2022 along with necessary documents.

7. Mr. Niteen Pradhan vehemently submitted that the activity of the petitioner company is permissible under the National Policy for Rare Diseases 2021. It is submitted that there are government portals for crowd funding and therefore, notice is misconceived.

8. Mr. Pradhan submits that there is a every likelihood that respondent No.1 or it's sub-ordinates may initiate coercive action against the petitioner company including the lodgement of first information report against the petitioner company. On these submissions, Mr. Pradhan prayed for an interim order so as to protect the petitioner company.

9. Though Mr.Pradhan submits before this court that the primary object of the petitioner company is to manage technology platform which enable patients to seek funds/donations for medical treatment, there are no averments in the petition that the petitioner are not retaining any amount out of funds/donations received. If they are retaining some percentage of amount, then how much that percentage is retained.

10. On perusal of National Policy for Rare Diseases 2021, it can safely be said that policy is certainly framed with a laudable object and the policy also takes into consideration realities such as financial constraints.

11. In the policy, it is further stated in Clause 10 under the caption Government of India support in treatment :

“iii. Keeping in view the resource constraints, and a compelling need to prioritize the available resources to get maximum health gains for the community/population, the Government will endeavour to create alternate funding mechanism through setting up a digital platform for voluntary individual and corporate donors to contribute to the treatment cost of patients of rare diseases.”

iv. Keeping in view the resource constraint and competing health priorities, it will be difficult for the Government to fully finance treatment of high cost rare diseases. The gap can however be filled by creating a digital platform for bringing together notified hospitals where such patients are receiving treatment or come for treatment, on the other hand, and prospective individual or corporate donors willing to support treatment of such patients. The notified hospitals will share information relating to the patients, diseases from which they are suffering, estimated cost of treatment and details of bank accounts for donation/contribution through online system. Donors will be able to view the details of patients and donate funds to a particular hospital. This will enable donors from various sections of the society to donate funds, which will be utilized for treatment of patients suffering from rare diseases, especially those under Group 3.

(emphasis supplied by us)

12. After reading of the policy and particularly, the caption under voluntary crowd funding for treatment, we are unable to find any material permitting either private organization or a company to display such information and photograph of the child which they are displaying on public platform.

13. Issue notice to all the respondents, returnable on 19 October 2022. Mrs. Pai, learned PP waives notice for respondent Nos.1,5,6,7 and 8.

14. The petitioner is permitted to serve respondent Nos.2,3 and 4 by way of legally permissible mode of service, apart from court service and thereafter to file an affidavit of service to that effect.

15. Respondent Nos.1, 5 to 8 to file a reply to the petition and on the following aspects:

- (i) which Act/Regulation governs the crowd funding ;
- (ii) can the crowd funding be done by the private organizations/companies and if it is permissible, who is the monitoring authority.

16. Ms A.S. Pai, learned PP, on instructions, from respondent No.1 - Special Inspector General of Police, Prevention of Crime Against Women and Children, Maharashtra State, Mumbai submitted that no action/steps will be taken against the petitioner pursuant to the notice dated 7.9.2022 till next date 19.10.2022.

17. All concerned to act on an authenticated copy of this order.

(N.R. BORKAR, J.) (PRASANNA B. VARALE, J.)