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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 784/2023 & CAV 617/2023, C.M. APPLs.62604-62605/2023

DIVYAM AGGARWAL

..... Appellant

Through: Mr. Sandeep Agarwal, Senior
Advocate with Mr. Saurabh Kansal,
Advocate and appellant in person.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Ajay Diggpaul, CGSC with
Mr. Kamal Diggpaul and Ms. Ishita
Pathak, Advocate for UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

07.12.2023

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1. Present appeal has been filed by the appellant challenging the judgment dated 20th September, 2023 passed by the learned Single Judge of this Court in *W.P. (C) No. 12402/2023*, whereby the appellant's writ petition seeking directions to the respondents authorities for prohibiting the playing of anti-tobacco health spots during films in cinemas, on TV and on OTT, which contain gross images was dismissed. The relevant portion of the impugned order/judgment is reproduced hereinbelow:-

"11. With a view to deter people from smoking tobacco and tobacco products, the Government of India has brought in advertisements to educate people about the ill effects of tobacco and tobacco products. The graphic description given in these Government issued advertisements which, according to the Petitioner, are gross and graphic imagery, are in



fact meant to be eye-openers for the people not to use tobacco and tobacco products and is, therefore, in public interest. The purpose of display of distasteful, gross, graphic anti-tobacco imagery in the health spots played during the screening of movies and TV programmes is only to make people aware of the ailments and ill-effects of consuming tobacco and tobacco products and to show them what tobacco can do to their health.

12. It is the duty of the State to take steps to ensure that health of the people is protected. The present Writ Petition is a gross abuse of the process of law. Off late, this Court is seeing that Public Interest Litigation, which was actually a tool for providing voice to the voiceless, is being used to achieve private gains and the present Writ Petition is also one such Petition which has been backed by the tobacco industry lobby to prevent the Government from creating awareness against tobacco, which, as stated earlier, is the sole cause responsible for a number of ailments among men and women.

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15. The aim of the present Writ Petition is actually to restrain the Government from achieving a noble objective of a tobacco free State and to ensure that people do not become tobacco addicts.

16. The present Writ Petition deserves to be dismissed with exemplary but looking at the Petitioner, who is a young Advocate having a bright future ahead, this Court restrains itself from making any comments on the Petitioner which might have a bearing on his future. However, this Court warns the Petitioner not to file such kind of frivolous petitions in future.”

2. Though in the present appeal, it has been averred that the learned Single Judge failed to consider that a number of anti-tobacco health spots created and used by the respondent No.1 authority contain extremely gross and close up images related to tobacco usage, including mouth cancers, surgical procedures which spoil the experience of the person watching the movie and leaves a disturbing impact on the viewer, yet learned senior counsel for the appellant states, on instructions, that the appellant does not wish to press the present appeal on merits.
3. The appellant has also tendered a personal affidavit of unconditional apology. The relevant portion of the same is reproduced hereinbelow:-



“3. That I offer my unconditional apologies for filing the present LPA and the writ petition it has emanated from, as the same wasn’t filed with any malafide intentions.

4. That the endeavour of the appellant was never to promote or support consumption of tobacco in any manner whatsoever and that the Appellant is himself a non-smoker and against use of tobacco in any form.

5. That the appellant has never opined, represented or appeared on behalf of any Tobacco manufacturer or seller before any court or tribunal, including the present writ petition and appeal.

6. That I hereby express my sincere regret and apologies for filing the present LPA as well as the writ petition filed in front of Hon’ble Single Judge of this court.”

4. In view of the aforesaid unconditional apology, which is accepted by this Court, the observations made by the learned Single Judge in paragraphs 12 and 16 are expunged and the present appeal along with Caveat as well as pending applications is dismissed as not pressed.

ACTING CHIEF JUSTICE

MINI PUSHKARNA, J

DECEMBER 7, 2023

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