

ITEM NO.4

COURT NO.9

SECTION X

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). 645/2022

INDIAN MEDICAL ASSOCIATION & ANR.

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(MR. SHADAN FARASAT, LEARNED SR. ADVOCATE WILL ASSIST THE COURT AS AN AMICUS CURIAE 2. MR. MURSALIN ASIJIT SHAIKH, APPLICANT-IN-PERSON WILL APPEAR IN I.A. D.NO. 95540 OF 2024 (APPLICATION FOR INTERVENTION)

- IA No. 110039/2024 - APPLICATION FOR PERMISSION
- IA No. 133550/2024 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 140252/2024 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 110011/2024 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 132998/2024 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 139081/2024 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 110769/2024 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 130554/2022 - CLARIFICATION/DIRECTION
- IA No. 137201/2024 - CLARIFICATION/DIRECTION
- IA No. 142959/2024 - EXEMPTION FROM FILING O.T.
- IA No. 117836/2024 - EXEMPTION FROM FILING O.T.
- IA No. 143229/2024 - EXEMPTION FROM FILING O.T.
- IA No. 95540/2024 - INTERVENTION APPLICATION
- IA No. 139085/2024 - INTERVENTION APPLICATION
- IA No. 13659/2023 - INTERVENTION APPLICATION
- IA No. 133899/2024 - INTERVENTION APPLICATION
- IA No. 110768/2024 - INTERVENTION APPLICATION
- IA No. 133537/2024 - INTERVENTION/IMPLEADMENT
- IA No. 133534/2024 - INTERVENTION/IMPLEADMENT
- IA No. 132997/2024 - INTERVENTION/IMPLEADMENT
- IA No. 133673/2024 - INTERVENTION/IMPLEADMENT
- IA No. 139206/2024 - PERMISSION TO FILE APPLICATION FOR DIRECTION)

Date : 27-08-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI  
HON'BLE MR. JUSTICE SANDEEP MEHTA

Mr. Shadan Farasat, Sr. Adv. (A.C.)  
Mr. Abhishek Babbar, Adv.  
Ms. Natasha Maheshwari, Adv.  
Ms. Niharika Srivastavs, Adv.

For Petitioner(s) Mr. P S Patwalia, Sr. Adv.  
Mr. Prabhas Bajaj, Adv.  
Mr. Amarjeet Singh, AOR  
Mr. Priyanshu Tyagi, Adv.  
Mr. Rishav Rai, Adv.

For Respondent(s)

Mr. K. M. Nataraj, A.S.G.  
Mr. Sharath Nambiar, Adv.  
Mr. Vinayak Sharma, Adv.  
Mr. Rajat Nair, Adv.  
Mr. Kanu Agrawal, Adv.  
Mr. Priya Mishra, Adv.  
Mr. Shashank Bajpai, Adv.  
Mr. Mukesh Kumar Verma, Adv.  
Mr. Vineet Singh, Adv.  
Ms. Indira Bhakar, Adv.  
Mr. Shreekant Neelappa Terdal, AOR

Ms. Priya Mishra, Adv.  
Mr. Mukesh Kumar Maroria, AOR

Mr. Amrish Kumar, AOR  
Mr. Krishna Kant Dubey, Adv.

Mr. Gurmeet Singh Makker, AOR  
Mr. Ishaan Sharma, Adv.

Mr. Amit Sibal, Sr. Adv.  
Ms. Avni Singh, Adv.  
Mr. Ankit Handa, Adv.  
Mr. Darpan Sachdeva, Adv.  
Mr. Vinamra Kopariha, Adv.  
Mr. Jitin Chaturvedi, AOR

Mr. Vipin Sanghi, Sr. Adv.  
Mr. Balbir Singh, Sr. Adv.  
Mr. Simranjeet Singh, Adv.  
Mr. Gautam Talukdar, AOR  
Mr. Raushal Kumar, Adv.  
Ms. Apurbaa Dutta, Adv.  
Ms. Neha Gupta, Adv.  
Ms. Smita Jain, Adv.  
Mr. Rishabh Pant, Adv.  
Mr. Yajat Gulia, Adv.  
Mr. Rohit Gandhi, Adv.  
Mr. Naman Tandon, Adv.  
Mr. Hargun Singh Kalra, Adv.  
Mr. Akshay Joshi, Adv.

Ms. Vanshaja Shukla, AOR  
Ms. Ankeeta Appanna, Adv.  
Mr. Siddhant Yadav, Adv.  
Ms. Rachna Gandhi, Adv.

Mr. Gaurav Sharma, Sr. Adv.  
Mr. Prateek Bhatia, AOR  
Mr. Dhawal Mohan, Adv.  
Mr. Rajesh Raj, Adv.  
Mr. Paranjay Tripathi, Adv.

Mr. Guntur Pramod Kumar, AOR  
Mr. Samarth Luthra, Adv.

Mr. Nalin Kohli, Sr. Adv.  
Ms. Diksha Rai, AOR  
Ms. Nimisha Menon, Adv.  
Mr. Arijit Dey, Adv.  
Ms. Apurva Sachdev, Adv.  
Mr. Anshul Malik, Adv.  
Ms. Shruti Agrawal, Adv.  
Mr. Ayuushman Arora, Adv.

Mr. Anshul Narayan, Adv.  
Mr. Prem Prakash, AOR

Ms. Ankita Sharma, AOR  
Mr. Arjun D Singh, Adv.

Mr. Abhay Anil Anturkar, Adv.  
Mr. Dhruv Tank, Adv.  
Mr. Aniruddha Awalgaonkar, Adv.  
Ms. Surbhi Kapoor, AOR  
Mr. Bhagwant Deshpande, Adv.

Ms. Swati Ghildiyal, AOR  
Ms. Devyani Bhatt, Adv.  
Ms. Abhipsa Mohanty, Adv.

Mr. Lokesh Sinhal, Sr. A.A.G.  
Mr. Samar Vijay Singh, AOR  
Mr. Nikunj Gupta, Adv.  
Ms. Himanshi Sakhya, Adv.  
Ms. Sabarni Som, Adv.  
Mr. Fateh Singh, Adv.

Mr. Akshay Girish Ringe, AOR  
Ms. Inderdeep Kaur Raina, Adv.  
Mr. Kartikeya Rastogi, Adv.

Ms. Pallavi Langar, AOR  
Mr. Kumar Anurag Singh, Adv.  
Mr. Honey Khanna, Adv.

Mr. D. L. Chidananda, AOR

Mr. Nishe Rajen Shonker, AOR  
Mrs. Anu K Joy, Adv.  
Mr. Alim Anvar, Adv.

Ms. Mrinal Gopal Elker, AOR  
Ms. Chhavi Khandelwal, Adv.  
Ms. Shruti Verma, Adv.

Mr. Aaditya Aniruddha Pande, AOR  
Mr. Siddharth Dharmadhikari, Adv.  
Mr. Bharat Bagla, Adv.  
Mr. Sourav Singh, Adv.  
Mr. Aditya Krishna, Adv.  
Ms. Preet S. Phanse, Adv.  
Mr. Adarsh Dubey, Adv.  
Mr. Kirti Kumar, Adv.

Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Anupama Ngangom, Adv.  
Ms. Rajkumari Divyasana, Adv.  
Mr. R.Rajaselvan, Adv.

Mr. Amit Kumar, Adv. General, Sr. Adv.  
Mr. Avijit Mani Tripathi, AOR  
Mr. Aditya S. Pandey, Adv.  
Mr. Himanshu Sehwat, Adv.  
Mr. T.K. Nayak, Adv.

Mr. Anando Mukherjee, AOR

Ms. K. Enatoli Sema, AOR  
Ms. Limayinla Jamir, Adv.  
Mr. Amit Kumar Singh, Adv.  
Ms. Chubalemla Chang, Adv.  
Mr. Prang Newmai, Adv.

Ms. Anindita Pujari, AOR

Ms. Nupur Kumar, AOR

Mr. Shiv Mangal Sharma, A.A.G.  
Mrs. Abhinandini Sharma, Adv.

Ms. Saubhagya Sondriyal, Adv.  
Ms. Nidhi Jaswal, AOR

Mr. Rahul Kumar, Adv.  
Ms. Ayushi Bansal, Adv.  
Mr. Kushagra Aman, Adv.  
Mr. Aryan Srivastava, Adv.  
Mr. Sameer Abhyankar, AOR

Mr. Sabarish Subramanian, AOR  
Mr. C.Kranthi Kumar, Adv.  
Mr. Vishnu Unnikrishnan, Adv.  
Mr. Naman Dwivedi, Adv.  
Mr. Sarathraj B, Adv.  
Mr. Danish Saifi, Adv.

Mr. Sravan Kumar Karanam, AOR  
Mr. Aniket Singh, Adv.  
Ms. Tayade Pranali Gowardhan, Adv.  
Mr. Rudroji Rakesh Kumar, Adv.

Mr. Shuvodeep Roy, AOR  
Mr. Saurabh Tripathi, Adv.

Mrs. Garima Prasad, Sr. A.A.G.  
Ms. Shephalika Srivastava, Adv.  
Ms. Sakshi Kakkar, AOR

Ms. Astha Sharma, AOR  
Mr. Srisatya Mohanty, Adv.  
Mr. Shreyas Awasthi, Adv.  
Ms. Ripul Swati Kumari, Adv.

Mr. Aravindh S., AOR

Mr. Mayank Mishra, Adv.  
Ms. Ayshwarya Chandar, AOR  
Mr. Utsav Saxena, Adv.

Mr. Prasenjit Keswani, Sr. Adv.  
Ms. Meghna Mishra, Adv.  
Mr. Debmalya Banerjee, Adv.  
Mr. Rohan Sharma, Adv.  
Mr. Kartik Bhatnagar, Adv.  
Ms. Apurva, Adv.  
Mr. Agastya Shelat, Adv.  
Mr. Anmol, Adv.  
Mr. Shreyansh Rathi, Adv.  
M/S. Karanjawala & Co., AOR

Ms. Aparna Bhat, AOR  
Ms. Mrinmoi Chatterjee , AOR  
Mr. Shadan Farasat, AOR

Mr. Arvind P Datar, Sr. Adv. (NP)  
Mr. Vivek Reddy, Sr. Adv.  
Mr. R Abhishek, Adv.  
Ms. Anjali Singh, Adv.  
Mr. Basa Mithun Shashank, Adv.  
Mr. Vikas Mehta, AOR

Mr. Ankur Sangal, Adv.  
Ms. Sucheta Roy, Adv.  
Mr. Ankit Arvind, Adv.  
Ms. Amrit Sharma, Adv.  
Mr. Karun Mehta, Adv.  
Ms. Pratiksha Mishra, Adv.  
Mr. Shreyas Endupuganti, Adv.  
M/S. Khaitan & Co., AOR

Mr. Rakesh Sinha, Adv.  
Mr. Anand Shrivastava, Adv.  
Mr. Aashish Shrivastava, Adv.  
Ms. Deepti Bhardwaj, Adv.  
Ms. Shweta Singh Parihar, AOR

Mr. Kapil Sibal, Sr. Adv.  
Mr. Tejas Karia, Adv.  
Mr. Shashank Mishra, Adv.  
Ms. Akshi Rastogi, Adv.  
Ms. Aparajita Jamwal, Adv.  
Mr. Koshy John, Adv.  
Ms. Vedika Rathore, Adv.  
Ms. Rithika Mathur, Adv.  
Mr. S. S. Shroff, AOR  
Mr. Mohit Singh, Adv.

Mr. G.M. Kawoosa, Adv.  
Mr. Pashupati Nath Razdan, AOR  
Ms. Palak Mittal, Adv.

I.A. D.NO.  
95540 OF 2024

Mr. Mursalin Asijit Shaikh (In-Person)

IA No.110768-69/  
2024

Ms. Aparna Bhat, Sr. Adv.  
Ms. Rajkumari Banju, AOR  
Ms. Karishma Maria, Adv.

UPON hearing the counsel the court made the following

**O R D E R**

1. Mr. P.S. Patwalia, learned Senior Counsel appearing for Dr. R.V. Asokan, states that notice containing an apology has been published in the print version of the Hindu Newspaper in 20 Editions on 23<sup>rd</sup> August, 2024. The extract of the newspapers filed on behalf of Dr. R.V. Asokan is illegible, inasmuch as the font size is miniscule. Learned counsel for Dr. R.V. Asokan is directed to file a copy of the relevant page of each of the 20 editions of the Hindu Newspaper in which the apology has been published for the perusal of the Court. Needful shall be done within one week with a copy to the other side.

2. Learned *Amicus Curiae* hands over a copy of note for today's proceedings and points out that except for the States of Arunachal Pradesh and Sikkim, Union Territories of Dadra and Nagar Haveli and Daman and Diu and Union Territory of Lakshyadweep, all the other States and Union Territories have complied with the order passed by this Court on 23<sup>rd</sup> April, 2024, by filing appropriate affidavits. However, only 10 States have complied with the order passed on 30<sup>th</sup> July, 2024, namely, Andhra Pradesh, Assam, Haryana, Jharkhand, Jammu and Kashmir, Karnataka, Madhya Pradesh, Punjab and Government NCT of Delhi and Uttarakhand. The rest of the States/Union Territories are in non-compliance.

3. Last opportunity of two weeks is granted to the non-compliant

States/Union Territories to file their affidavits in terms of the order passed on 30<sup>th</sup> July, 2024 with copies furnished to the learned *Amicus Curiae*.

4. Learned *Amicus Curiae* draws the attention of this Court to the affidavit dated 22<sup>nd</sup> August, 2024, filed by the Ministry of AYUSH in terms of the order passed by this Court on 30<sup>th</sup> July, 2024, in which it is stated that clarification has been issued in paras 9 and 10 to the effect that the Table referred at para 11 (Table under Rule 158 B II(A) of the Drugs and Cosmetic Rules, 1945<sup>1</sup>) is not related to the letter dated 04<sup>th</sup> July, 2018. It is stated that the letter dated 04<sup>th</sup> July, 2018 is a clarification issued by the Ministry of AYUSH clarifying the interpretation of the term “pilot study as per relevant protocol” in respect of patent or proprietary Ayurveda, Siddha and Unani drugs.

5. Mr. K.M. Nataraj, learned Additional Solicitor General submits that the letter dated 04<sup>th</sup> July, 2018 has not diluted any of the existing position under the Rules, 1945 and has only clarified that the term “pilot study” is not to be equated with the term “Clinical trial” which is required for new drugs in terms of the explanation provided under Rule 122DA of the Rules, 1945, as the same is inapplicable to Ayurveda, Siddha and Unani Drugs which are not new drugs and have ancient history of human consumption.

6. We deem it appropriate to direct the Ministry of Ayush to issue a

1 For short ‘the Rules, 1945’



clarificatory letter in terms of the aforesaid affidavit to avoid any ambiguity on the above aspect which shall be circulated to all the State Governments, Departments, Authorities etc. at the earliest.

7. On 30<sup>th</sup> July, 2024, this Court had expressed an opinion that the Ministry of AYUSH ought to set up a dashboard for all States to furnish the details of the complaints received by them and referred to another State Licensing Authority for appropriate action and the action taken by the concerned State Licensing Authority so that all the data comes in public domain and can be accessed by the consumers. This Court was of the opinion that creation of a dashboard was also help in dealing with the prosecutions under the Drugs and Cosmetics Act, 1940<sup>2</sup>. The State Governments/Union Territories and Central Governments were directed to file affidavits on the aforesaid issue.

8. Mr. K.M. Nataraj, learned Additional Solicitor General submits that some more time would be required for consultation with the State Governments/Union Territories to work out the modalities for creation of a dashboard. It is directed that the entire exercise shall be completed by 26<sup>th</sup> September, 2024 and an appropriate affidavit shall be filed on or before 30<sup>th</sup> September, 2024.

9. The above aspect shall be separately examined on the next date.

10. Enclosed with the affidavit filed by the Ministry of AYUSH is a

2 For short 'the Act'

Notification issued on 01<sup>st</sup> July, 2024 whereunder, the Drugs (Fourth Amendment) Rules, 2024 have been notified stating that Rule 170 of the Rules, 1945 shall stand omitted. We may note that Rule 170 of the Rules, 1945 as it stood states as follows :

*“170. Prohibition of advertisements of Ayurvedic, Siddha or Unani drugs.— (1) The manufacturer or his agent, of Ayurvedic, Siddha or Unani drugs, shall not participate in the publication of any advertisement relating to any drug for the use of diagnosis, cure, mitigation, treatment or prevention of any disease, disorder, syndrome or condition.*

*(2) The Ayurvedic, Siddha or Unani drug shall be advertised for the purpose other than specified in sub-rule (1) after the allotment of the Unique Identification Number.*

*(3) The manufacturer of the Ayurvedic, Siddha or Unani drug shall apply for the Unique Identification Number for the advertisement issued or aired before this notification, within the period of three months from the date of the publication of this notification.*

*(4) The application for advertisement shall be rejected if,*

*(i) it is incomplete; or*

*(ii) the intended advertisement does not contain the contact details of the manufacturer; or*

*(iii) the contents of the advertisement directly or indirectly tantamount to vulgarity or obscenity; or*

*(iv) it refers to any Ayurvedic, Siddha or Unani drug in terms which suggest or calculated to lead to the use of that drug or medicine for the enhancement of height and dimensions or capacity of performance of male or female sexual organs; or*

*(v) it depicts photographs or testimonials of celebrities or government officials; or*

*(vi) it refers to any Government or Autonomous organization of the Government; or*

*(vii) it gives a false impression about the true character of Ayurvedic, Siddha or Unani drug; or*

*(viii) it makes a misleading or exaggerated claim about the effectiveness of the said drug.*

*(5) The application for allotment of the Unique Identification Number for an advertisement shall be submitted in Form 26 E-4 to the State Licensing Authority or Drug Controller specifying therein the claims such as textual references, rationale from the authoritative books, indication(s) or use(s), evidence regarding safety, effectiveness and quality of the drug.*

*(6) The application fee of rupees one thousand per advertisement shall be deposited along with Form 26E-4 and other supporting documents.*

*(7) The application for the advertisement shall be submitted to the Licensing Authority of the State where the corporate office of the manufacturer is located, in case the Ayurvedic, Siddha or Unani drug is licensed for manufacturing in more than one State.*

*(8) The State Licensing Authority shall process the application (if required, in consultation with the concerned technical experts) for disposal within thirty days from the date of receipt of application along with complete information and shall allot Unique Identification Number for the advertisement.*

*(9) The manufacturer of Ayurvedic, Siddha or Unani drug may appeal to the State AYUSH or Health Secretary for the direction in case the application for allotment of Unique Identification Number under sub-rule (8) is not disposed off within the period of 30 days.*

(10) The applicant shall furnish the required information to the Licensing Authority or Drugs Controller as and when called for, failing which the application shall be rejected and the application fee shall stand forfeited.

(11) The State Licensing Authority or Drugs Controller on being satisfied with the application or otherwise, shall record and convey in Form 26 E-5 the recorded contents of advertisement, reasons for rejection of application or any clarification required from the applicant.

(12) The advertisement recorded by the Licensing Authority or Drugs Controller in Form 26 E-5 shall be valid till the date of validity of license to manufacture for sale of that drug and can be renewed thereafter.

(13) An appeal may be filed before the Central Government against the decision of the State Licensing Authority under sub-rule (11) and the order of Central Government shall be final and binding on the appellant and the State Licensing Authority.

(14) The State Government may notify in the Official Gazette the officers of Ayurvedic, Siddha or Unani system to undertake the monitoring of the advertisements of Ayurvedic, Siddha or Unani drugs in the print, electronic, internet and audio-visual media and maintain printed register as well as online register of the advertisements with appropriate entries including those found inappropriate or invalid and action taken against such faulty advertisements and the State Government shall provide information of the advertisements to the Central Government on quarterly basis and also as and when sought by the Central Government.

(15) The State Licensing Authority may suspend or cancel the license of the manufacturer of the Ayurvedic, Siddha or Unani drug as per the provisions of Rule 159, in case the directions given by the said authority is not complied.

(16) The Central Government shall, in the public interest, prohibit any advertisement of the Ayurvedic, Siddha or Unani drugs, by notification in the Official Gazette.”

An explanation has been offered in para 12 of the affidavit for issuing the notification which states as follows :

12. That it is further respectfully submitted that in compliance to the direction of the Hon'ble Supreme Court to expedite the steps for notification dated 02<sup>nd</sup> February, 2024, vide order dated 07.05.2024, Ministry of Ayush has notified omission of Rules 170 and its related forms of the Drugs & Cosmetics Rules, 1945 vide gazette notification no.G.S.R. 360 (E) datd 02.07.2024. A true copy of the Gazette Notification issued by Ministry of Ayush, dated 02.07.2024 is annexed herewith as ANNEXURE R-2.

11. In our opinion, the aforesaid notification flies in the face of the order passed by this Court on 07<sup>th</sup> May, 2024 wherein it was observed as follows :

“9. Coming to the issue highlighted on the last date of hearing when the Union of India was called upon to explain its letter dated 29th August, 2023 issued by the

Ministry of AYUSH and addressed to all State Governments/Union Territories and Drug Controllers of the Ministry of AYUSH informing that the Ayurvedic Siddha and Unani Drugs Technical Advisory Board had recommended in its meeting that Rule 170 of the Drugs and Cosmetics Rules, 1945 be deleted from the Drugs and Cosmetics Rules, 1945 and pending action on the said recommendation, all authorities were directed not to initiate any action under the said rule, Learned ASG seeks to explain that Rule 170 has been challenged in different proceedings pending before various High Courts including the High Courts of Delhi, Bombay and Kerala. Pursuant to an order dated 01st May, 2023 passed by the High Court of Delhi in a batch of petitions, lead matter being W.P. (C) No.321/2019, directions were issued that any decision taken by the Union of India pursuant to the recommendations made by ASUDTAB shall not be implemented for a period of four weeks from the date of its communication and the said interim arrangement shall continue to operate.

10. It is submitted that thereafter, ASUDTAB had recommended that final notification be issued for omission of Rule 170. The said recommendation was placed before the Ministry of Law and Justice for approval. The Ministry recommended that the final notification should be published within three months, if no objections/suggestions are received and within six months if a large number of objections/suggestions are received on the draft notification.

11. The above development took place in the month of July, 2023. However, the Ministry of AYUSH proceeded to issue the Notification only on 02nd February, 2024, inviting objections to the recommendations/suggestions to the draft notification from all stakeholders within 30 days from the date of the notification being issued in the Official Gazette. Period of 30 days has long since expired but no further steps have been taken by the Ministry of AYUSH. Learned ASG is not in a position to inform us as to how many objections/suggestions were received on the draft notification. The Ministry of AYUSH is directed to expedite steps proposed to be taken by it.

12. In our view, an administrative instruction issued by virtue of the letter dated 29th August, 2023, cannot put on hold Rule 170 of the Drugs and Cosmetics Rules, 1945 so long as it remains enforceable in law.

13. Mr. Natraj, learned Additional Solicitor General submits on instructions that the Ministry shall forthwith withdraw the letter dated 29th August, 2023. Needful shall be done with immediate effect."

12. Instead of withdrawing the letter dated 29<sup>th</sup> August, 2023, for reasons best known to the Ministry, the Notification dated 01<sup>st</sup> July, 2024 has been issued to omit Rule 170 from the Rules, 1945 which runs contrary to the very directions issued by this Court.

13. Mr. K.M. Natraj, learned Additional Solicitor General submits that this aspect may be permitted to be explained by the Ministry on an

affidavit. Till further orders, the effect of the Notification dated 01<sup>st</sup> July, 2024, omitting Rule 170 shall stand stayed. In other words, till further orders are passed, Rule 170 shall remain on the statute book and in force.

14. Learned *Amicus Curiae* next submits that in the affidavit filed by the Ministry of Consumer Affairs, it has been stated that there is no need/requirement to renew the MoU with ASCI after promulgation of the Central Consumer Protection Authority<sup>3</sup> under the new Consumer Protection Act, 2019. The Central Authority is empowered to identify instances of misleading advertisements and take *suo motu* action against them. He submits that the affidavit filed by the MCM shows that little action has been taken against misleading advertisements of health and medicinal products with which this Court is concerned. The CCPA is empowered to receive complaints only from a consumer as defined in the Act and not from any third party, who may raise the complaint regarding misleading advertisements even if they are not consumers of the product/drug.

15. The Ministry is required to examine the aforesaid aspect and file its response. While filing a response, it shall also indicate as to how many complaints have been registered till now after constitution of the CCPA based on *suo motu* action taken by the Authority for dealing with misleading advertisements of health and medicinal products. The relevant

3 For short 'the CCPA'

data shall be furnished with not only the Authority taking *suo motu* note of any such misleading advertisements of health and medicinal products but also with the final steps taken to curtail the said tendency of issuing misleading advertisements.

16. In view of the difficulty expressed by learned *Amicus Curiae* of accessing the e-file of this Court, this Court had asked for a report from the Registrar (Technology) in another matter (M.A. Diary No.30408 of 2024 in Civil Appeal No.8402 of 2016). The Computer Cell has submitted a report dated 02<sup>nd</sup> August, 2024 stating *inter alia* that the Cell has received a list of *Amicus Curiae* and noted that there are 235 cases where *Amicus Curiae* have been appointed by the Supreme Court. Out of these 235 cases, the mobile phone numbers of the concerned *Amicus Curiae* are available only in 35 cases. In-house steps have been taken to coordinate with the software development team to examine the feasibility of providing access to the *Amicus Curiae* through their verified mobile phone numbers and e-mail addresses so as to facilitate them to have access the electronic files of this Court. It is stated that it will take a period of three weeks to complete the process.

17. Subject to orders that may be passed on the administrative side, steps shall be taken to enable the *Amicus Curiaes* appointed by this Court in any matter to access the e-filing portal and further, the Judicial Section shall also take steps that henceforth, whenever an *Amicus Curiae* is

appointed in a matter, the relevant information is conveyed to the Computer Cell for them to take appropriate steps at their end.

18. Compliance report shall be filed in this regard on the next date of hearing fixed in this matter.

19. Learned Additional Solicitor General submits that the Ministry of Information and Broadcasting has filed an affidavit dated 23<sup>rd</sup> August, 2024 in compliance with the order passed by this Court in para 5 of the Order dated 30<sup>th</sup> July, 2024 and after the meeting was conducted with all stakeholders, data has been compiled and some suggestions have been made. The said affidavit is not on record. It is stated by learned counsel for the Intervenors that copies of the affidavit have also not been furnished to them so far. Copies shall be furnished to all the applicants. It shall be ensured that the said affidavit is on record for the perusal of the Court on the next date of hearing.

20. List on 15<sup>th</sup> October, 2024.

**(Nand Kishor)**  
**Court Master (NSH)**

**(Geeta Ahuja)**  
**Assistant Registrar-cum-PS**