

[MANU/DE/1452/2002](#)

Equivalent Citation: AIR2002Delhi236, 101(2002)DLT28

IN THE HIGH COURT OF DELHI

C.W.P. No. 1810 of 2002

Decided On: 19.12.2001

Appellants: **Common Cause**

Vs.

Respondent: **Union of India (UOI) and Ors.**

Hon'ble

[S.B. Sinha](#), C.J. and [A.K. Sikri](#), J.

Judges/Coram:

Counsel:

For Appellant/Petitioner/plaintiff: [Meera Bhatia](#) and [Smita Bankoti](#), Advs

For Respondents/Defendant: [Avnish Ahlawat](#), Adv.

Subject: Constitution

Catch Words

Mentioned IN

Acts/Rules/Orders:

Punjab Excise Act ;Constitution of India - Article 47, Constitution of India - Article 226

Case

Note:

Civil - Illegal Distillation and Manufacturing of Illicit Liquor - Present writ petition which in nature of PIL has been filed to issue directions to respondents to take stringent action against illegal distillation and manufacturing of illicit liquor around city limit - Held, respondent has stated that Excise Departmental had been taking all steps to curtail all activities, such as manufacturing and sale of spurious liquor and strict actions are being taken - Keeping in view stand taken by respondents, dispose of this writ petition by directing them to enforce existing laws strictly wherefor, if necessary, infrastructure in Excise Department be made adequate so as to combat crime and take up matter with Ministry of Home Affairs so as to bring about changes in existing legislation - With observations and directions, this writ petition is disposed of

JUDGMENT

S.B. Sinha, C.J.

1. In this writ petition, which is in the nature of public interest litigation, the petitioner has highlighted the persisting problem of illicit liquor being sold, smuggled and produced in and around Delhi.

In the writ petition, incidence of recent loss of 44 lives in Noida and the State of Uttar Pradesh had also been highlighted.

2. In this petition, the petitioner seeks to remind all about the Surat tragedy, which took place in the year 1991 as also the tragedies, which more often take place during the festival time - Holi, Diwali, etc.

3. The need of the hour indisputably is to take strong measures in this behalf, particularly having regard to the Directive Principles of State Policy, as adumbrated in Article 47 of the Constitution.

According to the petitioner, the respondents need to take stringent action to put a complete stop in availability and sale of illicit liquor within the city and see to it that all attempts to smuggle such liquor in and around the city limit be aborted.

4. Ms. Meera Bhatia, the learned counsel appearing on behalf of the petitioner, would submit that bold steps have been taken by a neighbouring State, namely, Uttar

Pradesh wherein a new excise policy in liquor business had been introduced. It was submitted that harsher penalty and punishment should be awarded to those found guilty of manufacturing, transporting or smuggling illicit liquor.

5. The respondents in their counter affidavit agree that the problems, which have been highlighted in the writ petition, exist. Its Explanation, however, to curb the crime of illegal distillation and manufacturing of illicit liquor in the neighbouring State, i.e., Uttar Pradesh is attributed to the fact of having a small unit of Excise Intelligence Bureau, which looks into the said aspect. However, it is stated that the Excise Departmental had been taking all steps to curtail all the activities, such as manufacturing and sale of spurious liquor and strict actions are being taken. It has been averred:-

"(i) There are only 256 IMFL vends and 33 Country Liquor Vends in Delhi which are grossly inadequate for catering to the needs of the vast population. It may not be out of place to mention that Bombay has 01 IMFL vends and 325 Country Liquor vends. Similarly, Bangalore has 856 IMFL vends and 520 Country Liquor vends. The Department has been trying to increase the distribution network realizing that out of 70 assembly constituencies, in as many as 49 assembly constituencies, there are no country liquor vends at all and in 07 assembly constituencies, there are no IMFL vends. Fewer shops create islands of prohibition within Delhi leading to smuggling and bootlegging and sale of unauthorized liquor, which enforcement activities alone perhaps cannot check completely.

(ii) The number of dry days observed in Delhi are more than in many other parts of India, i.e. Delhi has about 21 dry days as compared to three and four in Haryana and U.P. respectively.

(iii) There is a systemic difference in retail trade as practiced in Haryana, UP and Delhi. In these states, the retailers tend to dispose off the stock at the cheapest rate possible especially towards the fag end of the financial year and these results in increased smuggling during this phase.

(iv) Delhi has large number of slum/JJ clusters where the residents have a tendency to buy cheaper liquor from unauthorized sources in the absence of any authorized liquor shop.

(v) The Department has, however, been very vigilant and has been trying to control smuggling/sale of unauthorized liquor. In fact EIB has improved its detection in the current year as indicated in Annexure R-1."

6. It is stated that a draft Bill to amend the law in terms whereof the said offence was to be a non-bailable one under the Punjab Excise Act is yet to be cleared from the Ministry of Home Affairs.

It is averred that the advertisements had been issued, which although may not be sufficient to curb the sale of unauthorized liquor, but they are released so as to make common man aware of the various issues and the dangers of the consumption of unauthorized liquor.

7. The stand taken by the respondents cannot be appreciated. The problems

highlighted by the petitioner, as noticed hereinbefore, stand accepted by them. Once the State accepts such facts, it cannot take umbrage by saying that it had been doing all which could be done and then show its helplessness on the ground that it does not have the necessary infrastructure or that the statutory provisions operating in the field are inadequate.

Having regard to the provisions contained in Article [47](#) of the Constitution of India it is the constitutional duty of the State to see that adequate measures both on the legislative front as also the administrative and/or executive front be taken. It is no use pointing out deficiencies of the existing laws inasmuch as it is the duty of the respondent to take up the matter of amendment of the existing law(s) as also the enactment of new law(s) with the Ministry of Home Affairs at the earliest stage.

8. This Court is not oblivious of the fact that the situation may not change only by making some observations and/or issuing some directions. If the policy decision taken by the respondents, as also the directions issued by the Court are not implemented, no improvement in the matter can be expected.

A sense of complacency in the attitude of the respondents that whatever is possible to be done is being done cannot be appreciated particularly when indirectly it is accepted that what is being done is not enough to check the crime graph.

It is not disputed that if a new excise policy is not adopted and new legal measures are not taken and more importantly strictly enforced, the possibilities of tragedies like Noida tragedy, which happened recently or Surat tragedy, which took place in the year 1991, cannot be ruled out.

9. This Court, however, in this situation has a limited role to play. It cannot in exercise of its jurisdiction under Article [226](#) of the Constitution of India direct the Union of India to amend the law. What would be the adequate legislative measures to curb a social evil is for the Legislature to comprehend and translate its policy decision into actions.

10. In this view of the matter, keeping in view the stand taken by the respondents, we dispose of this writ petition by directing them to enforce the existing laws strictly wherefor, if necessary, the infrastructure in the Excise Department be made adequate so as to combat the crime and take up the matter with the Ministry of Home Affairs so as to bring about the changes in the existing legislation.

With the afore-mentioned observations and directions, this writ petition is disposed of. No costs.

ORDERS

CW 1810/2002

COMMON CAUSE Petitioner

Through: Ms.Meera Bhatia with

Ms.Smita Bankoti and

Mr.Rajesh.

versus

UOI & ORS. Respondent
Through: Mr.Rahul Sharma for
Mr.U.Hazarika counsel
for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K.SIKRI

O R D E R

% 18.03.2002

Issue notice to the respondents to show cause as to why rule nisi be not issued, returnable on 22nd May 2002.

Mr.Rahul Sharma, Advocate accepts notice for Mr.U.Hazarika, counsel for UOI. Issue notice now to the other respondents for the abovesaid date. Counter affidavit be filed by 8th April 2002. Reply thereto, if any, be filed within two weeks thereafter.

In the meantime it is expected that the respondents shall take all positive and effective steps to see that spurious liquor in any form may not be distributed.

CHIEF JUSTICE
A.K.SIKRI, J
MARCH 18, 2002
SG

IN THE HIGH COURT OF DELHI AT NEW DELHI

CW 1810/2002

COMMON CAUSE Petitioner
Through Ms.Meera Bhatia and
Ms.Smita Bankoti

versus

UOI & ORS. Respondent

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.K.SIKRI

O R D E R

22.05.2002

Rule D.B.

**Mr.Rahul Sharma, Advocate appearing for
Mr.U.Hazarika accepts notice on behalf of respondent
No.1. Ms.Avnish Ahlawat, Advocate accepts notice on
behalf of respondents 2-4.**

Counter affidavits be filed by 15th July, 2002.

**Reply/rejoinder thereto be filed within two weeks
thereafter.**

**Let the matter appear on 28th August, 2002 for
final disposal.**

CHIEF JUSTICE

A.K.SIKRI, J

MAY 22, 2002

m