

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
(UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA)
SPECIAL LEAVE PETITION (CIVIL) NO. OF 2020
WITH PRAYER FOR INTERIM RELIEF**

	<u>IN THE MATTER OF:</u>	POSITION OF PARTIES	
		BEFORE HIGH COURT	BEFORE THIS COURT
1.	The Telangana Fire Works Dealers Association Through its Secretary Kalwala Venugopal, having its registered office at 3-4-62, Naka Bazar, Behind Mahankali Temple, Secunderabad-3	Not a party	Petitioner
VERSUS			
1.	P. Indra Prakash R/o Flat No. 401, Chayamina Apartments Besides D. Pulla Reddy Sweet, A.S. Raju Nagar, Kukatpally, Hyderabad.	Petitioner	Respondent No. 01

2.	The State of Telangana, Represented by Chief Secretary Secretariat, Hyderabad- 500022	Respondent No. 01	Respondent No. 02
3.	The State of Telangana, Represented by Principal Secretary Department of General Administration, Secretariat, Hyderabad- 500022	Respondent No. 02	Respondent No. 03
4.	The State of Telangana, Represented by Principal Secretary Department of Home, Secretariat, Hyderabad- 500022	Respondent No. 03	Respondent No. 04
5.	The Director General of Police, State of Telangana, Lakdikapool, Hyderabad- 500004	Respondent No. 04	Respondent No. 05

**PETITION UNDER ARTICLE 136 OF THE
CONSTITUTION OF INDIA**

To,
The Hon'ble Chief Justice of India
and his companion justices of the
Hon'ble Supreme Court of India

The humble Petition of the
above named Petitioners

MOST RESPECTFULLY SHEWETH:

1. The present Special Leave Petition has been filed against the impugned interim order dated 12.11.2020 passed by the Hon'ble High Court for the State of Telangana at Hyderabad in W.P. (PIL) No. 271 of 2020 whereby, the Hon'ble High Court has, *inter-alia*, directed the State to immediately ban the sale and use of fireworks by the people and by organizations.

2. QUESTIONS OF LAW

The following questions of law of general public importance arise for consideration by this Hon'ble Court:-

- A. Whether the Hon'ble High Court was correct in banning the sale and use of fireworks without making the Petitioners herein, who are necessary and proper parties, a party to the said Public Interest Litigation?
- B. Whether the order of the Hon'ble High Court banning the sale and use of firecrackers is in violation of the fundamental principles of Natural Justice of the Petitioners herein?
- C. Whether the Hon'ble High Court erred in passing the impugned interim order in such short notice and without considering the adverse impact it would cause on the manufacturers of the fire crackers, like the members of the Petitioner Association?
- D. Whether the Hon'ble High Court passed erred in not considering that the impugned order is in clear violation of the Fundamental Rights of the members of the Petitioner Association?

3. DECLARATION IN TERMS OF RULE 3 (2):

The Petitioners state that they have not filed any other petition seeking Leave to Appeal in this Hon'ble Court against the impugned interim order dated 12.11.2020 passed by the Hon'ble High Court for the State of Telangana at Hyderabad in W.P. (PIL) No. 271 of 2020.

4. DECLARATION IN TERMS OF RULE 5:

The Annexures P/1 to P/7 produced along with the Special Leave Petition are true copies of their pleadings/documents which formed part of the record of the case in the Court below against whose order the leave to appeal is sought for in this Petition.

5. GROUNDS

- A. FOR THAT the Hon'ble High Court has, with respect, erred in passing the impugned interim order without making the Petitioner Association a party to the Writ Petition as the Petitioner Association is a necessary and proper party to the said Writ Petition.
- B. FOR THAT the Hon'ble High Court, with respect, ought to have considered that the impugned order would directly and adversely impact the manufacturers of the fireworks/crackers, such as the members of the Petitioner Association and as such, passing of the said interim impugned order without making the Petitioner Association a party is in clear violation of the Principles of Natural Justice of the Petitioner Association, rendering the said impugned order to be null and void.

- C. FOR THAT the Hon'ble High Court has, with respect, failed in considering the economic adversities that shall befall upon almost lakhs of people and their respective families who are directly and indirectly employed by the fireworks industry within the State of Telangana. The impugned order does not even consider the fate of the persons involved in the firecrackers business and the losses that will be suffered by them.
- D. FOR THAT Hon'ble High Court has, with respect, failed in considering that the banning of the firecrackers on such short notice i.e. 2 days before Deepawali would lead to immense financial hardship to the members of the Petitioner Association. The same would lead to serious prejudice to the investments made by the members of the Petitioner Association for the manufacture of the firecrackers.
- E. FOR THAT the Hon'ble High Court, with respect, ought to have considered that the sale of the firecrackers is seasonal in the country and banning of the sale and use of same on such short notice would cause grave prejudice to the trade of the members of the Petitioner Association.
- F. For that the Hon'ble High Court failed to appreciate that the air quality index in India does start deteriorating on the onset of winters, however this phenomenon cannot be attributed only to firecrackers which is used for a maximum of 2-3 days around the time of Diwali. The major causes of air pollution remain to be stubble burning, industrial pollution and vehicular pollution and it is impossible to substantially determine the exact amount of contribution of firecrackers as an air pollutant.

Furthermore, the Petitioners submit that there is no proven scientific study that can establish a nexus between the use of firecrackers and the increase of COVID-19 cases in India. In such a scenario, imposing a blanket ban on the sale and use of firecrackers will cause grave injustice to the firecrackers industry.

G. FOR THAT For that the Hon'ble High Court failed to appreciate that the judgment dated 23.08.2020 of this Hon'ble Court in the matter **of Arjun Gopal and Ors vs. Union of India and Ors (Writ Petition (Civil) No. 728 of 2015)** has passed various directives with regard to the manufacture, sale and use of fire crackers keeping in view the air quality in different states and the same is pending before this Hon'ble Court.

H. FOR THAT the Hon'ble High Court, with respect, ought to have considered that on perusal of Judgement dated 23.10.2018 of this Hon'ble Court in the matter of **Arjun Gopal and Ors. vs Union of India and Ors (Writ Petition (Civil) No. 728 of 2015)** the following aspects have been determined by several benches of this Hon'ble Court over the years:

- i. Currently, only green and improved firecrackers are allowed to be manufactured and sold keeping into account the prescribed standards of PESO. These green firecrackers reduce emission by 25-30%.
- ii. The firecrackers with reduced emission (improved crackers) and green crackers only would be permitted to be

manufactured and sold. As a consequence, production and sale of crackers, other than crackers with reduced emission is banned, the manufacture, sale and use of joined firecrackers (series crackers or laris) is banned and barium salts in the fireworks is also banned.

iii. It is important to acknowledge the nexus between law and economics in current times wherein a balanced approach needs to be adopted for balancing of the two rights available to the citizens under Articles 19(1)(g) and 21 of the Constitution of India.

- I. FOR THAT it is stated and submitted that vide order dated 31.10.2018 in Writ Petition (Civil) No. 728 of 2015, this Hon'ble Court made further clarification to the judgment dated 23.10.2018 that henceforth, production of crackers with reduced emission (improved crackers and green crackers) is permitted, as already directed vide order dated 31.10.2018 in the same matter.
- J. FOR THAT it is also stated and submitted that vide judgment and order dated 09.11.2020 in OA No.249 of 2020 and other connected matters passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi the Hon'ble Tribunal was pleased to allow use, manufacture and sale of green crackers in some cities other than Delhi-NCR where air quality is moderate and above. It is submitted that the impugned order is

in complete contravention of the judgment and order passed by the Hon'ble Tribunal.

6. GROUND FOR INTERIM RELIEF

FOR THAT in view of the grounds urged above, the Petitioners have established a prima facie good case on merits and the balance of convenience tilts in favour of the Petitioners and against the Respondent. It is, therefore, in the interest of justice that pending the hearing and final disposal of the present Special Leave Petition, operation and effect of the impugned final order impugned interim order dated 12.11.2020 passed by the Hon'ble High Court for the State of Telangana at Hyderabad in W.P. (PIL) No. 271 of 2020 and further proceedings pursuant to the abovementioned impugned order, be stayed. Such an Order is called for in the facts and circumstances of the case and in the interest of justice. Otherwise, the Petitioners would suffer irreparable loss and prejudice.

7. MAIN PRAYER

It is respectfully prayed that this Hon'ble Court may be pleased to:

- a) Grant Special Leave to Appeal against the impugned interim order dated 12.11.2020 passed by the Hon'ble High Court for the State of Telangana at Hyderabad in W.P. (PIL) No. 271 of 2020.; and/or
- b) pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

8. PRAYER FOR INTERIM RELIEF

- a) Grant an ex-parte ad-interim stay of the operation and effect the impugned interim order dated 12.11.2020 passed by the Hon'ble High

Court for the State of Telangana at Hyderabad in W.P. (PIL) No. 271 of 2020; and

- b) pass such other order or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

Filed by



(MR. SOMANADRI GOUD K.)
ADVOCATE FOR THE PETITIONERS

Filed on: 12.11.2020