



CIVIL

Supreme Court Recognizes The Fundamental Rights Of Consumers In Relation To Misleading Advertisements

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In a significant development, the Hon'ble Supreme Court of India has passed an order on 7th May 2024, addressing the issue of misleading advertisements, particularly in the food and health sectors.

The directions were passed by a bench comprising of Justices Hima Kohli and Ahasanuddin Amanullah in an interlocutory application moved in the Writ Petition filed by Indian Medical Association against the Union of India and Patanjali Ayurved Limited (Respondent No. 5).

The petition underscores the spread of misleading advertisements that exploit consumer trust, often endorsed by public figures, influencers, and celebrities without adequate due diligence. The Hon'ble Bench observed that such endorsements significantly impact consumer behaviour, especially when the advertisements target vulnerable groups like children.

The Hon'ble Bench further emphasized adherence to the Guidelines for Prevention of Misleading Advertisements and Endorsements of Misleading Advertisements, 2022 ("**said Guidelines**") and observed that there is currently no effective mechanism for consumers to lodge complaints regarding violations of the said Guidelines.

The Hon'ble bench in the above regard observed-

*"In view of the above and in the absence of any robust mechanism enacted in law to ensure that the obligations cast on the advertiser to adhere to stipulations in the Guidelines, 2022 in letter and spirit, **it is deemed appropriate to invoke the powers vested in this Court under Article 32 of the Constitution of India for the enforcement of the fundamental right to health that encompasses the right of a consumer to be made aware of the quality of products being offered for sale by manufacturers, service providers, advertisers and advertising agencies.**"*

To bridge the regulatory gap, the Hon'ble Bench issued directions mandating that advertisers and advertising agencies must submit a self-declaration in conformity to the standards set out in Rule 7 of the Cable Television Networks Rules, 1994 before an advertisement is aired or published, ensuring that advertisements are lawful and not offensive??.

This order signifies a monumental shift towards greater accountability in advertising. Advertisers, endorsers, and agencies are under stricter scrutiny to ensure that their promotions are truthful and not misleading. For Consumers, this translates to enhanced protection against deceptive marketing practices and greater awareness of product quality.