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

Date of decision: 23rd January, 2026

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W.P.(C) 7608/2019

GREAT LEGALISATION MOVEMENT INDIA TRUST

.....Petitioner

Through: Mr. R. Abhishek, Mr. Avinash
Sharma, Mr. Sidhi Pramodh and Mr.
Praveen Kumar, Advs.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Ms. Anubha Bhardwaj, CGSC for UOI
with Ms. Ananya Shamsbery, Ms.
Anchal Kashyap and Mr. Vijay Misra,
Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Great Legislation Movement India Trust under Article 226 of the Constitution of India, *inter alia*, challenging the *vires* of Sections 8(b), 8(c), first proviso to Section 8, Sections 9, 10, 12, 14, 20, 21, 22, 23, 24, 25, 27-31a, 37, 38, 40, 44, 46, 47, 48, 54, 60, and Entry 13 of the Schedule of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*hereinafter*, '*the NDPS Act*') and Rules 52a, 53, 58, 60 of the Narcotic Drugs and Psychotropic Substances Rules, 1985 (*hereinafter*, '*the NDPS Rules*') as violative of Article 14, 19, 21, 25, 29



of the Constitution of India.

3. A brief background of the present case is that, the Petitioner is a trust registered under Indian Trusts Act, 1882 which operates in Karnataka. One of the primary objects of the Petitioner is to decriminalize the use of *cannabis* and also for raising awareness in respect of its medicinal, industrial, economic, ecological and other benefits.

4. The case of the Petitioner is that there are various international developments which deserve to be considered in respect of the provisions of the NDPS Act and the NDPS Rules. In this regard, the Petitioner relies upon the following materials:

- i. Indian Hemp Drugs Commission Report, 1894
- ii. Single Convention on Narcotic Drugs, 1961
- iii. Convention on Psychotropic Substances, 1971
- iv. Legislative Debates
- v. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988
- vi. WHO Expert Committee Report on Drug Dependence Pre-review – Section 4 Therapeutic Use
- vii. Article titled “Medical Marijuana” published in the Harvard Health Blog on January 15, 2018
- viii. Relevant Extracts of a document titled ‘The Ayurvedic Pharmacopeia of India’ published by Ministry of Health & Family Welfare
- ix. Relevant Extracts of a document titled ‘Siddha Pharmacopeia of India’ published by Ministry of Health & Family Welfare
- x. Judgment delivered by the Alaskan Supreme Court in *Ravin vs State of Alaska*, 537 P.2d 494



xi. Judgment delivered by the Supreme Court of South Africa in *Gareth Prince vs Minister of Justice & Constitutional Development (CCT 108/17)*

5. Further, it is also the case of the Petitioner that the impugned provisions of the NDPS Act and NDPS Rules prohibit and criminalize the use of *cannabis* as also put unreasonable restrictions on its usage.
6. On the other hand, the stand of the Union of India as per its written submissions is that, provisions of the NDPS Act relating to *cannabis* do not violate Articles 14, 19, 21, 25, 29 of the Constitution of India. It is contended that by including a distinct definition of *cannabis* under Section 2(iii) of the NDPS Act, a clear distinction has been drawn between various parts of the *cannabis* plant namely the fiber, the flower and the seed and all derivatives are not treated equally.
7. Further, it is also the case of the Union of India that there is not a complete ban on the use of *cannabis* and NDPS Act has incorporated sufficient provisions to allow the use of *cannabis* for medicinal and scientific purposes. Reliance is also placed upon the International Narcotics Control Board Annual Report, 2018, which shows that various states have passed legislations allowing patients suffering from certain conditions such as terminal cancer, epilepsy and neurological illness, to use *cannabis* in treating symptoms of their illness. According to the Union of India, *cannabis* is also permitted to be grown for Research and Development.
8. The relevant portions of the written submissions of the Union of India are set out below:

“5. The statutory control over narcotic drugs was exercised in India through a number of Central and



state enactments. The principal Central Acts, namely, the Opium Act, 1857, the Opium Act, 1878 and the Dangerous Drugs Act, 1930 were enacted a long time ago. With the passage of time and the developments in the field of illicit drug traffic and drug abuse at national and international level, many deficiencies in the existing laws had come to notice, some of which are indicated below.

i. The scheme of penalties under the present Acts was not sufficiently deterrent to meet the challenge of well-organized gangs of smugglers. The Dangerous Drugs Act, 1930 provides for a maximum term of imprisonment of 3 years with or without fine and 4 years imprisonment with or without fine for repeat offences. Further, no minimum punishment was prescribed in the then laws, as a result of which drug traffickers had been sometimes let off by the courts with nominal punishment. The country was increasingly facing the problem of transit traffic of drugs coming mainly from some of our neighbouring countries and mainly to Western countries.

ii. The than existing Central laws do not provide for investing the officers of a number of important Central enforcement agencies like Narcotics, Customs, Central Excise, etc., with the power of investigation of Offences under the said laws.

iii. Since the enactment of the aforesaid three Central Acts a vast body of international law in the field of narcotics control has evolved through various international treaties and protocols. The Government of India had been a party to these treaties and conventions which entail several obligations which are not covered or were only partly covered by the present Acts.

In view of what has been stated above, there was an urgent need for the enactment of comprehensive



legislation on narcotic drugs and psychotropic substances which, inter alia, should consolidate and amend the then existing laws relation to narcotic drugs.

Government of India while framing the provisions of the NDPS Act 1985 has considered the recommendations of UN convention and adopted suitable measures in order to protect public health. Accordingly, while cultivation of Cannabis was prohibited the exception has also been made with insertion of proviso allowing cultivation of cannabis for the medical and scientific use under Section 8 of NDPS Act 1985. Further Section 14 of the NDPS Act 1985 has special provision relating to cannabis wherein Government by general or special order and subject to the conditions specified in order to allow cultivation of any plant of cannabis for Industrial purpose only of obtaining fibre or seed or for horticulture purpose. Accordingly, provisions in the NDPS Act, 1985 follows the recommendation of UN Convention 1961.

6. That there is not complete ban on the use of cannabis as such, the NDPS Act has made sufficient provisions to allow the use of cannabis for medical and scientific purposes. Further NDPS Act 1985 has adopted graded punishment on violation of the provisions of the Act accordingly quantum of punishment is decided on the basis of quantities of contraband notified as "small quantity" and "commercial quantity". Further through as per the section 27 of the ND'S Act 1985 punishment for the consumption of narcotic drug has been provided however in the section 64A of the NDPA Act provides immunity from prosecution to addicts volunteering for treatment if caught with small quantity of the contraband.



7. The International Narcotics Control Board (INCB) in its Annual Report, 2018 included thematic chapter on the risks and benefits of medical, scientific and "recreational use of cannabis and cannabinoids. It has been mentioned that the Government of several states have passed legislation allowing patients suffering from certain conditions, (such as terminal cancer, epilepsy and neurological illness) to use cannabinoids and cannabis to treat the symptoms of their illnesses. Some medical cannabis programme has had an adverse impact on public health because they have not been effectively regulated in line with the international drug control treaties, resulting in the diversion of cannabis to non-medical use.

That the Cannabis contains more than 500 components, of which 104 cannabinoids have presently been identified. Two of these have been the subject of scientific investigation into their pharmacological properties: 9-tetrahydrocannabinol (9-THC) and cannabidiol (CBD). The INCB report has some important findings on clinical trials of nabiximols (which contains equal amounts of Tetrahydrocannabinol (THC) and Cannabidiol (CBD) when they were compared with medicinal drugs used for curing neuropathic pain, epilepsy or another antiemetic drug. The study found that cannabinoids were only marginally more effective and indicated that there is moderate evidence that CBD may reduce seizure frequency in some genetic intractable childhood epilepsy syndromes. Therefore, the cannabinoids are not a first-line treatment for any of those conditions.

The INCB Report has mentioned that "Medical Cannabis" programmes may also have been used by



advocates of the legalization of cannabis use to facilitate the legalization of non-medical cannabis use, which is contrary to the international drug control treaties. Such programmes have used very broad definitions of "medical use" and allowed commercial businesses to supply illicitly produced cannabis. In the United States, those programmes also appear to have reduced public perceptions of the risks of using cannabis and have weakened public concern about cannabis legalization.

8. That the subject to the provision of Section 8, the State Governments have been empowered under section 10(iii) of the Act to permit and regulate the cultivation of any cannabis plant, production manufacture, possession, transport, import inter-state, export inter-state, sale, purchase consumption or use of cannabis.

Special provision relating to cannabis has also been laid down under Section 14 of the Act which states that:

Special Provision relating to Cannabis:

"Notwithstanding anything contained in Section 8, Government may, by general or special order and subject to such conditions as may be specified in such order, allow cultivation of any cannabis plant for industrial purposes only of obtaining fibre or seed or for horticultural purposes."

That there is no definition of Government in the NDPS Act, as under Section 10 of NDPS Act, the state Government are empowered to license the cultivation of cannabis for industrial and scientific purposes. On the similar lines, it may be inferred that the cultivation for industrial/horticultural purposes, as provided in Section 14 of NDPS Act,



can be considered by the state government. It can therefore be inferred that there is no complete ban on Cannabis under NDPS Act but can be used for medical, scientific, industrial, horticultural purposes by taking requisite permissions from respective State Governments. It has also come to the notice that while exercising the powers under Section 10 of the Act, the State of Uttarakhand has allowed cultivation of hemp for industrial purposes and the hemp-based products are available in the market and also available online. Further, it has been reported in newspaper that Government of Madhya Pradesh has recently announced that the cultivation of cannabis will soon be legalized for medicinal and industrial use.

9. In the survey it has come to the notice that after Alcohol, Cannabis and Opioids are the next commonly used substances in India. About 2.8% of the population (3.1 Crore individuals) reports having used any cannabis product within the previous year. At the national level, about 0.25% (one in eleven cannabis users) suffers from cannabis dependence.

10. The Bhang which is an edible preparations of cannabis is also not controlled under the NDPS Act but controlled by respective state governments.

11. The WHO's Expert Committee on Drug Dependence has recommended in 62nd Session of Commission on Narcotic Drug (CND) for review on change in scope of control of Cannabis related substances. However, the voting on this draft resolution was postponed by CND in order to provide states with more time to consider the recommendations.



12. Though there are evidence of various use of Cannabinoids yet there is huge risk of its diversion to non-medical use. Therefore, Government of India has adopted a balanced approach on Cannabis through NDPS Act by empowering the State Governments to permit control and regular the cultivation of any cannabis plant, production, manufacture, possession, transport inter-state, export inter-state, sale, purchase, consumption or use of cannabis (excluding charas) for medical, scientific and industrial purposes.

13. The Provisions of opium and cannabis are not as par in the NDPS Act 1985 as can be seen that the small and commercial quantity of opium are less than the small and commercial quantity of Cannabis. The same has been done after considering the effect of narcotic content on the basis of recommendation of experts arrived after the scientific analysis.

The "National Policy on Narcotic Drugs and Psychotropic Substances" specially encourages the cultivation of cannabis for horticultural and industrial purposes vide Para 22 and 23 of the same. However, the policy emphasizes development of varieties with low THC content in the varieties which can be exploited for industrial and horticultural purpose ie. as source of biomass and fibre and for production of cannabis seeds oil.

That the Central Government while taking note of the request of Central Institute of Medical and Aromatic Plants (CIMAP), a research institute of Council of Scientific to collect Cannabis germplasm and grow it in their fields located at Lucknow, Uttar Pradesh and Pantnagar, Uttarakhand for R&D work on genetic



improvement of identification and selection of THC, CBD, cannabinoidterpene and THC- a rich strain/ line genotype of Cannabis spp. has asked the Government of Uttar Pradesh and Uttarakhand to allow CMAP for the same.”

9. This Court has perused the material on record and the written submissions filed by the Union of India. The Court has also perused the order dated 28th November, 2024 by which the predecessor Bench of this Court was inclined to direct the Union India to consider the present petition as a representation of the Petitioner.

10. There are various aspects that deserve to be considered in this matter. The material above and the submissions made by Union of India would show that the use of *cannabis*, if to be permitted, has to be under certain formal regulations which are framed for this purpose. Accordingly, the same would also be a policy decision and not an issue for adjudication, at this stage, by the Court.

11. The Union of India is thus directed to undertake a stakeholder consultation and review as to whether there is a need for dilution of the provisions of the NDPS Act and NDPS Rules relating to the use of *cannabis* and if so for what purposes.

12. Accordingly, it is directed that all the material which is being placed along with this writ petition and the writ petition itself can be treated as representation to be considered by the Union of India.

13. For logistical and coordination purposes, the Director, Narcotics Control Bureau, shall act as the nodal officer for convening the stakeholder consultation and facilitating the formulation of a policy decision. The Stakeholders shall include:



(i) Ministries including Ministry of Health and Family Welfare, Ministry of Ayush, Ministry of Home Affairs, Ministry of Finance, Ministry of Agriculture and Farmers Welfare, Ministry of Environment, Forests and Farmers Welfare;

(ii) Organisations such as the Petitioner;

(iii) Doctors and medical professionals, especially Oncologists/cancer specialists, palliative care givers;

(iv) R&D labs, researchers etc.

14. Let a decision in this matter be taken within a period of six months from this order.

15. The present petition is disposed of in these terms. Pending applications, if any, are also disposed of.

16. The petitioner is permitted to revive the petition, if the decision is not taken.

17. Copy of this order be communicated to the Director, Narcotics for commencing and undertaking the stakeholder consultation.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

JANUARY 23, 2026/ys/sm