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"An Analysis of Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 vis-à-vis Hamdard Dawakhana Case"

Pragya
Amity Law School,
NOIDA

Abstract

A crucial piece of Indian law that controls the promotion of pharmaceuticals and magical cures is the Drugs and Magical Remedies (Objectionable Advertisements) Act, 1954 (DMRAA). The DMRAA was enacted to safeguard consumers from fraudulent claims and ensure the safety and efficacy of medications in response to rising concerns about deceptive advertising for pharmaceutical goods and miraculous cures. The Act created regulations for health-related ads, highlighting the significance of accurate information and ethical marketing in the pharmaceutical sector. This paper examines the DMRAA in detail, focusing in especially on its implications in light of the illustrious Hamdard Dawakhana Case, revealing the subtleties that influenced later legal viewpoints. The narrative that is being told here not only reflects historical settings but also predicts the DMRAA's future course, offering opportunities for changes and advancements in the area of regulating drug advertisements.

Keywords: Drugs and Magic Remedies Act, Objectionable Advertisements, Advertising Standards, Right to Freedom of Speech and Expression, Commercial Speech

Introduction

Advertising directly to patients for specific medical devices intended to treat conditions listed in the Schedule of the Drugs and Magic Remedies (Objectionable Advertisements) Act of 1954 (DMRA), which regulates the promotion of medical devices in India, is prohibited under current marketing regulations. These violations are punishable by up to a year in jail and are regarded as criminal offenses.[1] The DMRAA was enacted to safeguard consumers from fraudulent claims and ensure the safety and efficacy of medications in response to rising concerns about deceptive advertising for pharmaceutical goods and miraculous cures. The Act created regulations for health-related ads, highlighting the significance of accurate information and ethical marketing in the pharmaceutical sector. In 1954, when medical knowledge was less developed and there was a prevalent belief in witchcraft and black magic in India, the legislation was formed. This legislation promised 'magical solutions' in the form of talismans or amulets, which were said to have remarkable powers to treat, detect, prevent, or lessen illnesses in both people and animals.

[1] The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, §7.

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Historical Context

The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 was created in the midst of India's post-independence healthcare and pharmaceutical industries' rapid growth. Before the DMRAA was passed, the market was swamped with deceptive ads offering medications and therapies that made miraculous cure claims for a variety of illnesses, frequently playing on customers' vulnerabilities. Such deceptive advertising not only endangered public health but also presented moral and ethical dilemmas. The Indian government passed the DMRAA in 1954 after seeing the necessity to control the promotion of pharmaceuticals and magical cures. This law was a crucial step in protecting consumers from deceptive advertising and assuring the efficacy and safety of medications.[2]

DMRAA's main goal was to stop the spread of deceptive and inaccurate marketing for pharmaceuticals and magical cures. The measure attempted to accomplish many significant objectives –

- *Consumer Protection* - DMRAA sought to protect consumer interests by ensuring that they were given accurate and trustworthy information on medicines and treatments. Consumers may make ill-informed and perhaps hazardous healthcare decisions as a result of misleading advertising.
- *Public Health* - The statute aimed to safeguard the public's health by restricting the promotion of medications and magical cures. Inaccurate statements about the effectiveness of some goods may cause people to skip getting the required medical care, which might harm their health.
- *Regulation of Pharmaceutical Industry* - DMRAA gave the pharmaceutical sector a foundation by setting moral guidelines for advertising. By supporting the advertising of real and scientifically proven products, this rule attempted to promote a feeling of responsibility among the sector.

To accomplish its goals, the DMRAA adopted a number of significant statutes and regulations, which are as follows[3] –

- *Prohibition of Misleading Advertisements* - Advertisements that said they had magical properties or could treat a specific condition were forbidden under the statute. Additionally, marketing that said the medicine or treatment could ensure pregnancy in situations of infertility were forbidden.
- *Regulation of Advertisements* - DMRAA developed a legal framework for approving ads for pharmaceuticals and supernatural cures. An approval committee had to review advertisements to make sure they didn't make any untrue or deceptive promises.

[2] Anannya Gupta & Kajal Chandra, 'Misleading Drug Advertisements: Busting the Myth and Protecting Consumers' (2021), 1, Jus Corpus Law Journal, 235.
[3] Saurabh Malik, 'Advertisement: Fabricating Needs and Desire' (2019), 10, Supremo Amicus, 253.

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- *Penalties for Violation* - Penalties were outlined in the legislation for individuals found guilty of breaking its rules. Depending on the offense's nature and seriousness, penalties can include fines and imprisonment.
- *Establishment of Approval Committees* - DMRAA approved the creation of central and state-level approval committees. These committees were in charge of reviewing the substance of advertising and only approving those that followed the rules of the legislation.

Overview of Hamdard Dawakhana (Wakf) Lal v. Union of India And Others (1960 AIR 554, 1960 SCR (2) 671)

Facts

The Hamdard Dawakhana center was represented by the two parties in question, Hamdarad Dawakhana (Waqf) in Delhi and Mutawalli Haji Hakim Hameed. This facility, which was first built in 1906 as a Dawakhana, was subsequently given formal recognition and given the designation of Waqf. Since its founding, the center has been actively engaged in the production and distribution of pharmaceuticals and healthcare goods in accordance with the Ayurvedic and Unani Systems of Medicines, as well as the provision of medical services, clinical studies, and pharmaceutical manufacture. Following a specified preparation procedure, appellant 1 also makes specialized synthetic syrups with fruit juices intended for medical purposes.

In Writ Petition No. 81 of 1959, Hamdard Dawakhana (wakf) and another party alleged that they had trouble getting information about their items following the passage of the Act. Authorities voiced worries about their adverts, which prompted applicants and officials to exchange information. The petitioners were notified by Delhi's Drugs Controller on December 4 that they disagreed with the terms of Section 3 of the Act. So, in Delhi State and other American states where their items were supplied, the sale of 40 of their products was halted. The Drug Controller and the medications Administration in other provinces, including those with ties to the petitioners, expressed concerns in ads about several medications. They maintained that given the historical significance of the name "Unani" throughout the world, certain advertisements opposing Unani medications and programs were unfairly targeted. The objections alleged violations of the rights to free expression under Article 19(1)(a), excessive restriction under Article 14 and 19(1)(f) and (g) of the Constitution, as well as discrimination under those same provisions. Additionally, objections to Articles 21 and 31 were submitted. Therefore, the plaintiffs requested a determination that Part III of the Constitution was violated by the Act and the legislation it was affiliated with. The respondents asked for the issuing of a mandamus and the Prohibition Act as well as the cessation of the procedures and notices sent out by various agencies.[4]

[4] Sohini Chatterjee & Gauri Pillai, 'TRAI's Quantitative Advertisement Regulation: Ensuring a Quality Viewing Experience or Regulatory Overreach?' (2014), 7, NUJS Law Review, 149.

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Issues

The Drug and Magic Remedies (Objectionable Advertisements) Act of 1954 was created to address similar issues and to restrict drug advertising in certain circumstances. It also forbade the promotion of possibly magical treatments. The title of the bill makes clear that it focuses on offensive ads. The validity of this Act was disputed for a following reasons –

- Advertising, it was contended, should not be subject to the limits established by the Act since it is a form of speech protected by Article 19(1)(a) of the Constitution and is not subject to those restrictions under Article 19(2).
- The Act and the implementing regulations imposed permanent restrictions that went beyond the rights protected by Article 19(1)(f) and (g).
- Legal issues were raised about the lack of restrictions on the authority of legislation approved in less than three years.
- Furthermore, it was against Articles 21 and 31 of the Constitution for the Act to have the power to rob people of their rights.

The legitimacy of the Drugs and Magic Remedies (Objectionable Advertisements) Act of 1954, also known as Act XXI of 1954, was contested under Article 32 of the Constitution. These appeals may all be rejected with a single ruling since they involved the same legal issue.

Reasoning

According to this law's clauses and Mr. Merchant's declaration, it is intended to limit self-medication and outlaw ads for similar products. It was argued that the preamble of the Act does not mention illness prevention or treatment other than by medical specialists certified under the 1917 English Venereal Diseases Act. Affidavits were frequently permitted to show the justification for the law, including the circumstances leading to pregnancies and the malpractices meant for treatment. This procedure was used in the cases of This is a citation to a case decided by the Supreme Court of India in the case of *Shri Ram Krishna Dalmia vs Shri Justice S. R. Tendolkar & Others*,[5] *Kathi Raning v. State of Saurashtra*,[6] and *Kavalappara Kottarathil Kochunni v. The State of Madras*[7] where specific affidavits were used to explain the events that led to the enactment of appropriate legislation.[8]

Arguments by the Petitioner

According to the claims, the respondents are asking various actions from individuals who violate their fundamental rights as stated in sections 19 (1) (a), 19 (1) (f), and 19 (1) (g) of the

[5] Shri Ram Krishna Dalmia vs Shri Justice S. R. Tendolkar & Others, 1959 SCR 279, AIR 1958 SC 538.
[6] Kathi Raning v. State of Saurashtra, 1952 SCR 435, AIR 1952 SC 123.
[7] Kavalappara Kottarathil Kochunni v. The State of Madras, AIR 1959 SC 725.
[8] Akhil Deo & Joshita Pai, 'Commercial Speech: A Variant or a Step-Child of Free Speech' (2014), 2, Comparative Constitutional Law & Administrative Law Journal, 3.

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India Constitution. Additionally, they have challenged the Act on the basis that it is in violation of paragraphs 14, 21, and 31.

Arguments by the Respondent

The respondents said in their sworn declaration that the complaints' and other people's drug advertising plainly demonstrates the need for a rule similar to the Criticized Act and its strict enforcement. Article 19(1)(a), (f), and (g) claims of discrimination and basic rights breaches, as well as any claims of creative infringement under Articles 21 and 31, were all rejected. The court said that "These restrictions apply to public-facing marketing. I contend that the main goal of this Act is to dissuade people from self-treating a variety of illnesses. The advertising strategies have been carefully studied, and producers are required to submit their goods for approval to respectable organizations. Professional organizations put these items through thorough testing and review."

Decision

Court ruled by stating that *"We rule that a portion of clause (d) in Section 3 and Section 8 is unconstitutional. Consequently, we order the issuance of a mandamus letter instructing the respondents to return the seized property. While the applicants assert the law's constitutionality, it remains partially effective in terms of requiring parties to bear their own costs."*

The proposed constitutional ruling described in section III of the Constitution was immediately reversed by the Supreme Court are as follows –

- It is crucial to comprehend the Law's genuine meaning, which includes its topic, intended use, and intended goal. This entails looking at its historical setting, the issues it is meant to solve, and the driving forces behind its adoption.
- Affidavits can be used to explain the justification for the legislation, including the events that led to its adoption and the seriousness of the problems it seeks to address.
- It is essential to recognize that the Legislature is aware of the requirements of the people and that via the creation of legislation by elected representatives, significant issues are dealt with. This knowledge encourages commitment to constitutional values.
- By taking into account general knowledge, historical timelines, and other pertinent information related to the law's adoption, constitutional reasoning is strengthened. The background and intent of the legislation are carefully examined thanks to this all-encompassing approach.

The Court Act's historical background demonstrates that its goal was to assure accuracy and appropriateness in the broadcast of information, particularly when it came to self-defence, antidepressant therapies, and illness prevention, rather than to limit morally offensive marketing. The court found that while advertising constitute statements, they are fundamentally

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driven by business interests. Commercial advertising, which is motivated by commercial interests, is incompatible with the principle of free speech, which aims to communicate social, political, and economic views as well as literature and human thought. The court specifically classified a case involving the advertising of medication effectiveness under article 19(1)(g) rather than article 19(1)(a), highlighting the fact that such ads do not represent a legitimate use of the right to free speech. As a result, the limitations set out in the Act are seen as legitimate and suitable for the general public, in keeping with the Act's intended objective.

The case is distinctive because it poses a fresh question about the nature of ads, something that has never been addressed in a Supreme Court or Supreme Court case before. Subtly implying that ads intended to increase sales of goods should be characterized as encouraging trade and commerce, the Court's position on this matter seems acceptable. They ought to be covered by Article 19(1)(g) as a result. An advertising that promotes social, political, economic, or literary concepts is likely to fall under Article 19(1)(a) or 19(1)(g), according to the Supreme Court itself.

Critiques and Controversies Surrounding DMRAA

Criticisms from Legal Experts and Scholars

- *Ambiguity in Terminology and Definitions* - The DMRAA refers to 'magic remedies' without providing a definition of what one is. Legal experts contend that the absence of a clear definition results in ambiguous enforcement and interpretation, which is problematic for both firms and regulators. Similar to this, the term 'objectionable advertisements' is not defined with enough detail. Those who disagree claim that this ambiguity permits arbitrary enforcement and the possibility of abuse.
- *Outdated Regulations and Lack of Adaptability* - The introduction of the internet and other digital media has substantially changed how advertising is done. Legal experts contend that the DMRAA is out-of-date and unable to adequately regulate internet advertising activities because it has not kept up with these developments. The complicated claims made by contemporary pharmaceutical goods are not addressed by the Act. Legal experts assert that the DMRAA does not fully account for the sophisticated health claims that have resulted from advances in medical knowledge, making it difficult to judge the veracity of these claims.
- *Limited Scope and Incompatibility with Global Standards* - The DMRAA primarily focuses on ads; it does not include other forms of promotion, such as sponsorships, influencer marketing, or product placement. The statute, according to academics, is unsuccessful at preventing all sorts of deceptive marketing because of its narrow reach. Disparities can be seen when comparing local laws to international ones. Legal experts draw attention to the

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DMRAA's inconsistency with international norms, which raises questions for foreign companies doing business in India.[9]

Public and Industry Reactions to DMRAA

- *Public Concerns* - The safety of items marketed through deceptive ads worries the general population. Consumers may be misled by false health claims, which might jeopardize their health and wellbeing. Public trust in the pharmaceutical sector and regulatory authorities declines as a result of ongoing exposure to misleading ads. Customers develop doubts about the veracity of promoted goods, which influences their purchase choices.[10]
- *Industry Frustrations* - The hazy restrictions provide a challenge for pharmaceutical businesses. Following the hazy instructions frequently results in legal uncertainties and compliance problems. In the sector, innovation is stifled by strict restrictions and imprecise definitions. Companies may hesitate to launch new items out of concern about possible legal implications.

Challenges Faced in Implementing DMRAA

- *Enforcement Difficulties* – Resources are limited, which makes it difficult for regulatory authorities to adequately monitor and control the large and varied advertising environment. Healthcare claims are complicated and need specialist understanding. Regulating organizations frequently misjudge ads due to a lack of experience, which results in uneven enforcement.
- *Legal Complexity and Delayed Resolutions* – Legal processes involving offensive ads can be drawn-out and complicated. Delays in case resolution foster a climate where deceptive advertising circulate for prolonged periods of time, thereby harming consumers more. Courts frequently struggle to interpret confusing statutes, which results in a range of rulings. Contradictory choices are the outcome of a lack of legal clarity, which leaves firms unsure of their legal obligations.

Amendments and Revisions Made to DMRAA in Response to Criticisms

By publishing recommendations for certain industries, regulatory agencies have made an effort to clarify misunderstandings. These guidelines are intended to help businesses in their compliance efforts by clarifying what constitutes inappropriate advertising and miracle cures. There have been suggestions to modify the DMRAA to bring it into line with modern advertising practices in response to concerns. Advocates for complete improvements, such as clear definitions, updated rules, and a wider definition of promotional activities, include legal

[9] Ashwita Ambast, 'Where's Waldo: Looking for the Doctrine of Proportionality in Indian Free Speech Jurisprudence' (2015), 9, Vienna Journal on International Constitutional Law, 344.
[10] Ruchika Chanana, 'Regulation and Advertising - Products or Representation: A Blurred Picture, (1995), 7, Student Advocate, 77.

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professionals and lawmakers. To get opinions and views, regulatory organizations undertake conversations with industry stakeholders. Collaboration aims to fill knowledge gaps and provide rules that are useful, enforceable, and supportive of the expansion of the pharmaceutical industry. In an effort to bolster enforcement procedures, more funding for regulatory organizations has been given. Officials have begun training programs to improve their proficiency in assessing complicated health claims and inappropriate commercials.[11]

Comparative Analysis with International Standards

International Regulations and Standards on Advertisement of Drugs and Remedies

- *World Health Organization (WHO) Guidelines* - The WHO's recommendations place a strong emphasis on the necessity of accurate, fair, and truthful advertising. They emphasize the necessity for trustworthy information for customers, particularly when it comes to the efficiency and security of medications and treatments. In keeping with WHO recommendations, information about potential dangers and adverse effects of promoted goods should be openly disclosed. These recommendations are made to protect the public's health and encourage wise decision-making.
- *International Conference of Drug Regulatory Authorities (ICDRA)* - Resolutions and recommendations from the ICDRA provide a framework for cooperation among regulatory bodies on a worldwide scale. Here, the emphasis is on mutual recognition of approvals and establishing global standardization. Collaboration at ICDRA facilitates the sharing of knowledge, skills, and best practices, fostering a unified approach to drug advertising laws. Countries may promote global pharmaceutical cooperation by following the ICDRA's suggestions.
- *International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH)* - The promotion and dissemination of medication information is explicitly covered in ICH recommendations. These rules are essential for making sure that marketing communications, including advertising, present accurate and impartial information. The need of avoiding advertising materials that could be deceptive is emphasized in ICH standards. The emphasis is on upholding a high level of ethical behaviour and making sure that consumers and healthcare professionals are given accurate information regarding medications.

How DMRAA Aligns or Differs from International Standards

- *Alignment with International Standards* - DMRAA mandates that ads cannot be deceptive or fraudulent, in line with international norms. To guarantee that customers have access to correct information about the items being advertised, it necessitates transparency with regard to the content. The Act frequently reflects WHO recommendations about the need

[11] Pandhare Balasaheb Dashrath, 'Startups in the Health Care Sector and Advertisement Regulation in India' (2022), 2, Jus Corpus Law Journal, 816.

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for accurate and non-exaggerated advertising, aligning itself with the global focus on ethical advertising practices.

- *Divergence from International Standards* - Despite similarities in a number of areas, DMRAA's implementation and enforcement may be different from those of international standards. A deceptive advertising may be defined differently or the consequences for breaking the law may differ. Furthermore, DMRAA could have particular provisions that are not directly comparable to international norms, resulting in distinctive regulatory procedures in the country setting.

Implications of Compliance or Non-Compliance with International Standards

- *Implications of Compliance* - Pharma firms are more credible when they adhere to international norms. Such compliance shows a dedication to moral behaviour and promotes confidence between patients and medical personnel. It is simpler for businesses that follow international standards to join international partnerships, penetrate new markets, and take part in international bids and trade agreements. Compliance creates a favourable public perception, which may improve sales and market share since consumers are more confident.
- *Implications of Non-Compliance* - Non-compliance harms a business' reputation and causes a decline in customer, medical, and regulatory authority confidence. The financial stability of a corporation may be affected by fines and penalties imposed by regulatory organizations for infractions. If there are repeated infractions, there may even be product bans or market restrictions. Trade obstacles that hinder the impacted firm from entering specific foreign markets might result from non-compliance. This restriction may seriously impede international growth and economic growth.[12]

Case Laws – DMRAA in Action

- *Amit Singh and Anr. v. The State*[13]
  As seen in this specific instance, the judiciary regularly and again defines the purpose of the Act in instances. The Hon'ble High Court of Delhi held that *"an attempt to bring awareness of the new technology which had been pioneered, the same in no way amounts to advertising a drug within the meaning of Section 3 of the Act; whether the advertisement amounts to advertising a drug within the meaning of Section 3 of the Act or is just informative of improved methodology and improved equipment availability of the procedure."*

[12] Raghavi Viswanath & Twinkle Chawla, 'Two Minute Experiment Gone Bad: Stars to Bear Liability' (2017), 11, NALSAR Student Law Review, 169.
[13] Amit Singh and Anr. v. The State, CRL. M.C. No. 648/2011.

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- *H.T Media Ltd. & Ors. v. State*[14]
  The Delhi High Court determined that no drug was being promoted in this instance. The commercial claimed that diabetes and high blood pressure could both be treated with an Ayurvedic drug. Because the drug's name has not been disclosed and the patient has been instructed to get in touch with Dr. Bengali (Kishan Malik), it cannot be inferred that the advertisement is for a pharmaceutical intended for use in the diagnosis, treatment, etc., of any ailment listed on the Schedule.

- *Bhanwar Kanwar v. R.K. Gupta & Anr.*[15]
  In this instance, the respondent issued an advertising in the newspaper 'JanSatta' offering a complete treatment for fits using Ayurvedic medicine by Dr. R.K. Gupta. The newspaper-reading appellant brought her son to the clinic. The appellant was required to pay INR 2150 for the cost of the drugs and consulting fees. Respondents said that the medications they provided were a blend of 100 different herbs. The appellant son's health circumstances began to deteriorate day by day while he took the medications as prescribed. The patient now experiences fit without a temperature, while previously, he only experienced fits when he had a high fever. Five years into the course of therapy, a question was raised about prescribing pills. After an investigation, it was discovered that the little, white pills the doctor had prescribed were being sold even though they were not intended for children. It was also discovered that the responders were passing off allopathic medications as ayurvedic ones even though the doctor was not qualified to do so. The doctor was found responsible for medical negligence, criminal negligence, false advertising, and breach of duty and was ordered to pay the appellant INR 5 lakhs in damages.

- *Ajay Gautam v. Amritsar Eye Clinic & Ors.*[16]
  By placing a deceptive ad in the newspaper, the doctors in this instance engaged in unfair business practices. The newspaper advertising gave the complaint the idea that the doctor could use an excimer laser machine to utilize the excimer laser machine to repair the deficient vision to normal vision. The doctor and hospital were at fault since the complainant's vision was not totally corrected, as was noted in the article. By publishing the deceptive statement, the doctor and hospital engaged in unfair business practices and violated the code of ethics, and they were responsible for paying the complaint INR 1 lakh as punishment.

[14] H.T Media Ltd. & Ors. v. State, Crl. M. C. Nos. 3060, 3922 of 2010, 3456 of 2011, 837 of 2012 and Cr. M. A. No. 3466 of 2012.
[15] *Bhanwar Kanwar v. R.K. Gupta & Anr*., 2013 4 SCC 252.
[16] *Ajay Gautam v. Amritsar Eye Clinic & Ors.,* Review Application No. 79 of 2010 & Review Application No. 209 of 2011 in First Appeal No. 428 of 2004 of National Consumer Disputes Redressal Commission, August 28, 2012.

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- *Kunnath Pharmaceuticals v. State of Kerala*[17]
  The Additional Chief Judicial Magistrate in Kerala's Ernakulam has declared the managing director of Kunnath Pharmaceuticals guilty. This conviction is associated with their ownership and approval of the natural aphrodisiac "Muslin Power Extra," which is made by Kunnath Pharmaceuticals in Kerala. A breach of the rules specified in the Drugs and Magic Remedies Act (Objectionable Advertisement) Act of 1954 led to the conviction. The court also sentenced the defendant to a fine of Rs. 50,000 in addition to the four-month term. The Department of Ayurveda Drugs Control, Government of Kerala, Ernakulam Zone, started the case against the firm back in 2009. The firm allegedly broke section 7 and section 1(3) of the Drugs and Magical Remedies Objectionable Act, according to the complaint.

  The firm advertised their medication in a well-known magazine in 2009, claiming that it could treat infertility by enhancing fertility and sexual prowess. But this advertisement was in violation of the rules specified in Section 3(b) of the Act. The potential of 'Muslin Power Extra' as an ayurvedic product was recognised by the drug inspector. Nevertheless, the proprietor of the firm was found accountable for violating the substances and Magic Remedies Act, which expressly forbids promoting substances referred to as aphrodisiacs.

Drugs and Magic Remedies Objectionable Advertisement Rules, 1955

If a person authorized by the state government is convinced that a drug advertisement violates Drugs and Magic Remedies Objectionable Advertisement Act 1954,[18] they may direct the manufacturer, packer, distributor, and seller to provide a sample of the drug, in accordance with Rule 3 of the 1955 Drugs and Magic Remedies Objectionable Advertisements Rule.[19] To make sure that it follows the instructions provided by the authorized person, this sample will be evaluated. Drugs and Magic Remedies Objectionable Advertisement Act, 1954 imposes penalties for violating this instruction.[20]

Drug ads stated in clause (c) of sub-section (1) of Section 14 must be sent to registered medical practitioners, retail chemists, or wholesale chemists by registered mail, according to Rule 5 of the Drugs and Magic Remedies Objectionable Advertisements Rule, 1955.[21]
Rule 6 of the Drugs and Magic Remedies Objectionable Advertisements Rule, 1955 states that it is illegal for anyone to take part in the publication of advertisements for medicines that make claims about their ability to treat or prevent the diseases, disorders, or conditions listed in the schedule.[22]

[17] *Kunnath Pharmaceuticals v. State of Kerala*, AIR 2013 Kerala 293.
[18] The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, §4.
[19] The Drugs and Magic Remedies (Objectionable Advertisements) Rule, 1955, §3.
[20] The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, §7.
[21] The Drugs and Magic Remedies (Objectionable Advertisements) Rule, 1955, §5.
[22] The Drugs and Magic Remedies (Objectionable Advertisements) Rule, 1955, §6.

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Conclusion and the Way Forward

A significant decision in the interpretation of the Drugs and Magical Remedies (Objectionable Advertisements) Act, 1954 is the Hamdard Dawakhana Case. This decision has had a big impact on how courts handle matters involving unpleasant medication and miraculous remedy marketing. Legal experts have learned a lot about the complex execution of DMRAA regulations by examining the particulars of this case. The case acts as a precedent, directing subsequent legal judgments and interpretations in related situations. It resolved misunderstandings and created a framework for assessing advertising to make sure they adhere to the DMRAA's objective.

Future pharmaceutical and healthcare advertising in India will continue to be shaped by the effects of the Hamdard Dawakhana Case. The issues relating to offensive marketing continue to be a problem as the market changes and new items are introduced. Technology advancements and alterations in consumer behaviour create new problems that the DMRAA must continually address in order to successfully regulate advertising tactics. It is essential to make sure that the legislation keeps up with the dynamic advertising media and changing healthcare scene.

One of the difficulties is in the digital sphere, where ads use social media and internet platforms to reach a larger audience. Innovative approaches and global collaboration are needed for monitoring and regulating these platforms in order to successfully counteract potentially hazardous marketing. In addition, regulatory agencies and lawmakers must continue to focus on issues like dealing with fraudulent claims, maintaining openness, and protecting vulnerable customers.

To solve the issues and improve DMRAA's efficiency, thoroughly oversee online ads, create specialist digital oversight authorities or work with international organizations. In order to reduce deceptive pharmaceutical marketing, this may require collaboration with important social media sites. Start public awareness initiatives to teach customers how to spot deceptive or fraudulent advertising. Giving customers awareness about potentially dangerous items can serve as a deterrent. Increase the severity of the penalties for breaking the DMRAA in order to discourage pharmaceutical corporations from using offensive advertising tactics. Increased penalties and negative legal repercussions may act as a deterrent to unethical advertising.