



At the Supreme Court sitting as the High Court of Justice

High Court Case Number 8173/12

Before: The Honorable Deputy Chief Justice M. Naor
The Honorable Justice U. Fogelman
The Honorable Justice D. Barak-Erez

The Petitioners: 1. Izun Hozer Association for Dissemination of Health
Education in Israel
2. Yaacov Gurman

Vs.

The Respondents: 1. State of Israel
2. Minister of Health

Petition for granting a decree nisi

On behalf of the Petitioners: Advocate Ashkenazi Dan

On behalf of the Respondents: Advocate Liora Weiss-Bansky

Ruling

Justice D. Barak-Erez:

1. The Petition before us was submitted on November 12, 2012, and at its center is the Petitioners' demand that Respondent 1, the Ministry of Health, order the cessation of adding fluorine to drinking water. Fluorination, as aforesaid, has been performed according to the concept supporting it as an act of preventative medicine for protecting the population's dental health, and was set in the Public Health Regulations (Health-Related Quality of Drinking Water), 1974 (hereinafter: the Original Regulations). The Petitioners have indicated the dangers that this policy entails and have claimed that the concept on which the Original Regulations were based is outdated and is no longer widely accepted.

2. On May 5, 2013 the Respondents (having been granted several continuances for this purpose) submitted their preliminary response, in which they stated that the new Minister of Health, Ms. Yael German, had on April 9, 2013 signed the Public Health Regulations (Sanitary Quality of Drinking Water and Drinking Water Facilities), 2013 (hereinafter: the New Regulations), which cancel the Original Regulations. Regulation 20 of the New Regulations does indeed set an obligation of adding fluoride to drinking water under certain circumstances, but Regulation 40 of the New Regulations adds that Regulation 20 shall be valid for a period of one year only. Subsequently, the Respondents have updated that on June 26, 2013 the New Regulations were published, and claimed that under these circumstances this petition became redundant.

3. We have noted before us the State's obligation to stop the fluorination of drinking water within one year. Due to the cancellation of the Original Regulations and the fact that Regulation 20 of the New Regulations shall expire within a year, and since neither the Petitioners nor the Respondents have indicated another source of authorization for water fluorination, the Petition has been exhausted and is to be stricken. Incidentally, it should be noted that apparently, the way by which the New Regulations were phrased is not optimal as far as the clarity of the law is concerned – once the Respondents have decided to stop the water fluorination, it would have been better to set the rule of non-fluorination as a primary arrangement, and the continuation of the fluorination as a temporary transitory provision, instead of the manner by which it had been done.

4. Conclusion: the Petition is stricken. Under the circumstances, and due to the essence of the dispute in this Petition, which concerned a question of policy, and as the decision to change the policy was made prior to discussing the petition, the Respondents shall bear the Petitioners' costs at a total of 5,000 NIS.

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