

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.161/2023

Vertex Pharmaceuticals, a sole proprietorship unit represented by its
Proprietor Sri Narayan Datta Gupta

.....Petitioner(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

For Petitioner(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. S.C. Sen, Advocate,
Mr. B. Paul, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharya, G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

27/03/2023

Heard Mr. B.N. Majumder, learned senior counsel assisted
by Mr. S.C. Sen and Mr. B. Paul, learned counsel appearing for the
petitioner. Also heard Mr. Debalay Bhattacharya, learned Government
Advocate appearing for the respondents.

2. This instant writ petition has been filed under Article 226 of
the Constitution of India for setting aside the impugned order dated
10.03.2023 issued by the Deputy Drugs Controller (Licensing
Authority) whereby the drug licence of the petitioner was cancelled.

3. The case of the petitioner, in brief, is that the petitioner is a licensee under the Drugs and Cosmetics Act, 1940 dealing with wholesale business of drugs since 1980 in terms of the license issued to him under Rule 64 of the Drugs and Cosmetics Rules, 1945. On 02.12.2022 when the petitioner was outside the State, the Inspecting Officer (Drugs), respondent No.3 herein, along with other officials visited the shop premises of the petitioner and seized some medicines alleging that the same were stored without any valid license. Thereafter, on 20.12.2022 notice was issued to the petitioner for production of documents which the petitioner produced in due compliance. Subsequently, the Deputy Drugs Controller, respondent No.2 herein, being the Licensing Authority issued show-cause notice to the petitioner vide memorandum dated 03.02.2023 asking him to give explanation as to why his license shall not be cancelled for violation of Drugs and Cosmetics Rules. Petitioner replied to the show-cause notice on 10.02.2023 giving his explanation. But the respondent No.2 without considering the facts and relevant provision of the Rules cancelled the licence of the petitioner vide order dated 10.03.2023. Aggrieved thereby, the petitioner has approached this Court by filing this writ petition. Hence, this case.

4. Petitioner has prayed for the following reliefs:

- "(i) Issue RULE NISI;
- (ii) Issue Rule calling upon the Respondents or each one of them to show cause as to why a Writ in the nature of Certiorari shall not be passed quashing/ cancelling/ setting aside the impugned Memo No.F.1(49-AGT)/DC-92/6706-10, dated 10.03.2023 issued by the Respondent No.2 (Annexure-6 supra);
- (iii) Issue Rule calling upon the Respondents or each one of them to show cause as to why a Writ in the nature of Mandamus should not be issued directing/ commanding/mandating the Respondents to act in strict compliance of the Provisions of Drugs and Cosmetics Act, 1940 and Drugs and Cosmetics Rules, 1945;
- (iv) Issue Rule calling upon the Respondents or each one of them as to why a writ in the nature of prohibition prohibiting the Respondents from acting upon the impugned order of suspension of license of the petitioner dated 10.03.2023 issued by the Respondent No.2 (Annexure-6 supra) in any manner;
- (v) Issue any other appropriate writ or writs shall not be passed for giving full reliefs to your petitioner and to pass such other order/orders as to your Lordships may deem fit and proper;
- (vi) In case the Respondent show caused or not your Lordships may be pleased to make the Rule absolute in terms of the prayers made in Sl. i, ii, iii & iv as above;

A N D

Pending disposal of this writ petition, your lordships would be graciously pleased to stay execution/operation of the impugned order dated 10.03.2023 (Annexure-6).”

5. Mr. B.N. Majumder, learned senior counsel assisted by Mr. S.C. Sen, learned counsel appearing for the petitioner, contends that though the petitioner produced all required documents and also made a representation on 31.12.2022, a show-cause notice was issued to him on 03.02.2023 asking him to give explanation as to why his licence should not be cancelled. Counsel also contends that the petitioner replied to the show-cause notice on 10.02.2023 giving his explanation but the respondent No.2, the Deputy Drugs Controller without following the provisions of Drugs and Cosmetics Rules suspended the drug licence of the petitioner vide order dated 10.03.2023 which is absolutely harsh, illegal and contrary to the provisions of the said Rules. Accordingly, he prays for setting aside the impugned order dated 10.03.2023 issued by the Deputy Drugs Controller (Licensing Authority).

On the other hand, Mr. Debalay Bhattacharya, learned Government Advocate appearing for the respondents, fairly submits to pass orders in accordance with law.

6. Having heard the submissions of learned counsel of respective parties, this Court is of the considered opinion that the respondent-authority without proper application of the prescribed provisions of the Drugs and Cosmetics Rules has suspended the drug licence of the petitioner by issuing an unreasoned order which needs to be quashed. Accordingly, the impugned order dated 10.03.2023 issued by the respondent No.2, the Deputy Drugs Controller (Licensing Authority), is set aside. The respondent No.2 is directed to pass a speaking order in accordance with law within a period of one month from the date of receipt of the copy of this order.

7. With the above observation and direction, the writ petition is allowed and disposed of.

Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Pulak