

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_

WP(C). No.231 of 2023

Manika Debnath

.....Petitioner

_V_E_R_S_U_S_

The State of Tripura & 3 Others

.....Respondents.

For Petitioner(s)	:	Ms. A. Debbarma, Advocate.
For Respondent(s)	:	Mr. M. Debbarma, Addl. G.A.
Date of hearing and delivery of judgment and order	:	14.12.2023
Legal reporting	:	YES/NO

HON'BLE MR. JUSTICE T. AMARNATH GOUD
_J_U_D_G_M_E_N_T_O_R_D_E_R_[ORAL]

Heard Ms. A. Debbarma, learned counsel appearing for the petitioner also heard Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents.

[2] The present petition has been filed under Article-226 of the Constitution of India for quashing and cancelling the impugned order dated 21.02.2023 passed by the Secretary, Health & Family Welfare Department, Government of Tripura and further for directing the respondents to grant restricted license in Form 20A & 21A in favour of the petitioner under the Drugs & Cosmetics Rules, 1945.

[3] The petitioner has prayed for the following reliefs:

i. Issue rule upon the respondents to show cause as to why a writ in the nature of mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing and cancelling the impugned order dated 21.02.2023 passed by the Secretary, Health & Family Welfare Department, Government of Tripura (Appellate Authority).

ii. Issue rule upon the respondents to show cause as to why a writ in the nature of mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the respondents to grant restricted license in Form 20A & 21A in favour of the petitioner under the Drugs & Cosmetics Rules, 1945.

iii. Call for the records pertaining to the instant writ petition from the custody of the respondents.

iv. Make the rules absolute after hearing the parties.”

[4] The facts in brief are that the petitioner had prayed for granting license under Rule 62A of the Drugs & Cosmetics Rules, 1945, but the prayer was rejected by the Deputy Drugs Controller, Govt. of Tripura. The appellate authority also, vide order, dated 21.02.2023, did not consider the prayer of the petitioner based on the committee report wherein it is stated, that, there was no requirement of any restricted licence shop as the said area is well connected and sufficient retail medicine shops available in the surroundings. But it is necessary to mention here that there is no bar/limitation as to the total number of medicine shops in a locality under the Drugs & Cosmetics Rules, 1945, and the petitioner is well within her right to pray for granting of licence in her favour to run a business as her right to business has been protected under Article 19(1)(g) of the Constitution of India.

[5] Hence, the instant petition has been filed by the petitioner praying for quashing and cancelling the order, dated 21.02.2023, passed by the Secretary, Health & Family Welfare Department, Govt. of Tripura, and for granting restricted license in Form 20A & 21A in favour of the petitioner under the Drugs & Cosmetics Rules, 1945.

[6] Under the rules, there is specific discretion that has been vested with the licensing authority and in the impugned proceeding by the appellate authority passed on 21.02.2023, it has been categorically reiterated in the report submitted by the Drug Licensing Authority. In view of the same, Article-19 (1) (g) of Const. of India though provides for trade but the same would be with reasonable restrictions and the restrictions have been indicated property. Accordingly, this Court finds that there is no merit in the present case and hence, the same is dismissed.

[7] In view of above, the present petition preferred by the petitioner stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

T. AMARNATH GOUD, J

A. Ghosh

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