

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP(C) 2078/2020
c/w (i) OWP 219/2016
(ii) WP(C) 323/2021**

John Mohammad Mir.

...Petitioner(s)

Through: Mr. Areeb Javed Kawoosa, Advocate.

Vs.

Union Territory of J&K and Others. ...Respondent(s)

Through: Mr. Hakim Aman Ali, Dy. AG.
Mr. Waseem Gul, GA.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER

20.08.2025

OWP 219/2016:

Mr. Areeb Javed Kawoosa, Advocate for the petitioner.

Mr. Hakim Aman Ali, Dy. AG and Mr. Waseem Gul, GA for respondents.

01. The petitioner-John Mohammad Mir came to be registered as Pharmacist under Sections 18 and 19 of the Jammu and Kashmir Pharmacy Act, Svt. 2011 as was then in force, in terms of Registration No. **2040** dated **09.03.1998**.

02. On the basis of said registration as pharmacist, the petitioner applied for license under Drugs and Cosmetics Act, 1940 read with Drugs

and Cosmetic Rules, 1945 (Drugs Rules, 1945 for short) as was then in vogue in the year 1999.

03. The petitioner applied for license in Form 20 and Form 21 respectively under section 18 of the Drugs and Cosmetics Act, 1940 read with Rule 61 (1) (Forms of licenses to sell drugs) of the Drug Rules, 1945 and accordingly, the petitioner came to be issued two licenses i.e. License No. **AR/2480** in Form 20 under Rule 61 (1) and License No. **AR/2481** in Form 21 under Rule 61(2) of the Drugs Rules, 1945.

04. Form 20 Rule 61 (1) of the Drug Rules, 1945 prescribe a license to sell, stock or exhibit or offer for sale, or distribute drugs by retail other than those specified in Schedule C, C (1) and X, whereas form 21 under Rule 61(2) of the Drugs Rules, 1945 prescribe a license to sell, stock or exhibit or offer for sale or distribute by retail drugs specified in Schedules C and C(1) excluding those specified in Schedule X.

05. The original two licenses issued in favour of the petitioner to be run under the name of **M/s Jhon Medical Hall** appear to have been issued in

January, 1980 and thereafter renewed from time to time which the reading of Annexure-B to the writ petition would enable this court to infer, as by virtue of this annexure, the petitioner's said two licenses are being purportedly renewed from **01.01.1998** to **31.12.1999** and the license premises to be situated at Pampore without any specific location or site or shop being mentioned therein.

06. The petitioner's said two licenses are said to have been renewed from time to time for the prescribed period in terms of Drugs Rules, 1945 notwithstanding the fact that Form 21 (C) came to be repealed later in point of time.

07. On the basis of said two licenses, the petitioner is said to have been running his chemist shop in the name of **M/S Jhon Medical Hall** to begin with in a premises located outside Sub Divisional Hospital (SDH), Pampore.

08. In the year 2005, the petitioner is said have earned an allotment of a Fair Price Medical Shop inside the premises of Sub Divisional Hospital SDH, Pampore in an auction conducted in terms of

Government Order No. **708-HME of 2003** dated **04.06.2003**.

09. Said allotment was for a period of three years extendable by another two years meaning thereby, by the expiry of the year 2010 the allotment of the said Fair Price Shop at SDH, Pampore in favour of the petitioner for his medical shop (**M/S Jhon Medical Hall, Pampore**), was to come to an end.

10. For the reasons which are not decipherable from the writ petition, the petitioner is said to have applied to the Assistant Drug Controller, Pulwama/ Shopian as being the Licensing Authority under Drug Rules, 1945 for endorsement of change of license premises with respect to his said two drug licenses to be at SDH, Pampore, but there is no whisper of the fact from February, 2005 till 2015 when the petitioner had so applied to the Assistant Drug Controller being Licensing Authority whereat the petitioner was running his chemist shop, which otherwise as per the original licenses was meant to be outside SDH, Pampore.

11. It is the Assistant Drug Controller/ Licensing Authority's communication bearing No. **ADC/**

DFCO/Pul-Spn/1039 dated **08.06.2015** whereby the petitioner came to be informed about the rejection of his application for shifting of license premises of the chemist shop to SDH, Pampore that petitioner came forward with the present writ petition in assailing the said communication.

12. By the time the writ petitioner had filed the present writ petition, the original period of allotment of the Fair Price Shop in SDH, Pampore had come to expire.

13. Whether the petitioner was given any fresh extension of allotment of the Fair Price Shop on the basis of which the petitioner could be said to have a continuing right to insist upon the Assistant Drug Controller- Licensing Authority, Pulwama Shopian under the Drugs Rules, 1945 to endorse on his said two licenses the place of business to be SDH, Pampore is a question which ought to have been answered at the very instant moment when the instant writ petition came to be filed by the petitioner that without any allotment obtaining in his favour by reference to SDH, Pampore for use and occupation of Fair Price Shop, the petitioner's

application for endorsement in his two licenses with respect to the place of business to be SDH, Pampore was misconceived from the very inception and that stage continues to be so as the petitioner has not been able to earn any fresh allotment as by way of subsequent writ petitions filed the petitioner is hanging on with the use and occupation of the Fair Price Shop at SDH, Pampore but for the purpose of this writ petition, the same would earn its disposal by virtue of this order, as at the time of its filing the petitioner had no cause of action and that is the reason that petitioner had failed in producing a fresh allotment of Fair Price Shop SDH, Pampore for the sake of seeking endorsement on his two licenses and that was the reason cited and quoted by the Assistant Drug Controller-Licensing Authority, Pulwama/Shopian to reject the application of the petitioner which communication, as such, cannot be held to be illegal, warranting quashment and accordingly, this writ petition is disposed of in the light of the abovesaid, without prejudice to the subsequent two writ petitions so filed by the

petitioner, which surely are based upon the causes of action later accruing to the petitioner.

WP(C) 2078/2020:

Appearance as above.

14. In the light of the disposal of writ petition OWP No. 219/2016, this writ petition has also been rendered infructuous as the subsequent writ petition WP(C) 323/2021 filed by the petitioner is going to determine the actual fate not only of the petitioner's drug licenses but corresponding therewith the place of business where the petitioner would be entitled to house his licensed premises be it outside SDH, Pampore or at the Fair Price Medical Shop, but as on date on the basis of an interim direction operating in the case in terms of an order dated **22.02.2016** passed in writ petition **OWP No. 216/2019** status quo was directed to be maintained by reference to which the petitioner continued to be in use and occupation of the Fair Price Shop at SDH, Pampore although the cause of action which led to the institution of writ petition OWP No. 216/2019 was never relatable to the use and occupation of the Fair Price Shop at SDH, Pampore.

15. Be that as it may, the Hon'ble Division Bench of this court in terms of an order dated **24.06.2020** passed in **LPAOW No. 194/2017** preferred against an order dated **24.08.2017** whereby the writ petition **OWP No. 219/2016** had been dismissed, came to direct continuation of interim order dated **26.10.2017** passed in said **LPAOW No. 194/2017**.

16. Now since writ petition **OWP No. 219/2016** has been dismissed by this court, as such, the interim protection obtaining in favour of the petitioner vis-à-vis premises in reference is no more in existence, but since adjudication of writ petition **WP(C) 323/2021** is to be done on merits, as such, status quo shall continue to exist with respect to Fair Price Shop at SDH, Pampore as it exist as on date vis-à-vis the petitioner.

17. Before proceeding further now with the adjudication of this writ petition, this court directs Mr. Hakim Aman Ali, learned Deputy Advocate General to come forward with personal appearance of Assistant Drug Controller-Licensing Authority, Pulwama/Shopian along with the original file

relatable to two licenses issued in favour of the petitioner.

18. Let the needful compliance be done on the next date of hearing.

19. OWP 219/2016 and WP(C) 2078/2020 be segregated and consigned to record.

20. A copy of this order be placed on the record of each file.

21. List WP(C) 323/2021 again on **03.09.2025**.

22. A copy of this order provided by the learned Registrar Judicial, Srinagar to Mr. Hakim Aman Ali, learned Deputy Advocate General for notice and needful compliance at the end of Assistant Drug Controller-Licensing Authority, Pulwama/ Shopian.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

20.08.2025

"HAMID"