

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

rrpa

WRIT PETITION NO.7420 OF 2013

Sadanand Subbanna Prabhu

.. Petitioner

Vs.

Joint Commissioner, Food &
Drug Administration & Ors.

.. Respondents

....

Mr.R.P. Lote, Advocate for the Petitioner.

Mrs.M.P. Thakur, AGP for the Respondent Nos.1 and 3.

....

**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATED : MARCH 18, 2015.

P.C. :

Heard the learned counsel appearing for the petitioner and learned AGP for the first and third respondents. The first substantive prayer in this Petition is for challenging the communication/order dated 16th October, 2002 issued by the second respondent. By the said order, three licenses standing in the name of M/s.Durga Medico were suspended. The said communication itself records that the licenses were valid till 31st December, 2012. As the licenses subject matter of the impugned communication dated 16th August, 2012 have expired and as the same have not been renewed, the prayer clause (b) of this petition does not survive. Prayer

clause (c) relates to an application made by the petitioner for grant of a fresh license. The stand taken in the affidavit-in-reply filed by Shri Sanotsh Nemichand Kale, Drugs Inspector, Food and Drug Administration, Maharashtra State, Thane is that as the petitioner did not comply the procedural requirements, the said application has been returned to the applicant along with letter dated 5th July, 2012. However, the learned counsel appearing for the petitioner invited our attention to letter dated 24th July, 2012, addressed by the petitioner's advocate to the second respondent. Along with the said letter, a new application for grant of license was forwarded to the second respondent.

2 In paragraph 12 of the petition, the avernments based on the said fresh application have been made. In paragraph 13, the petitioner is specifically relying upon the letter dated 10th August, 2012 addressed to the first respondent by which he informed the first respondent that he is closing the entire business of M/s.Durga Medico to enable the consideration of his new application by the authorities.

3 In the reply filed by the Food and Drug Administration, nothing is stated about the outcome of the fresh application made by the petitioner. If the fresh application is pending, the same will have to be decided by the appropriate authority.

4 We, therefore, dispose of the petition by passing the following order:

:: ORDER :

(i) Prayer (b) does not survive as licenses in respect of which communication dated 16th October, 2012 has been issued have already expired. We make it clear that the petitioner is dis-entitled to carry on any business on the basis of the expired licenses;

(ii) If the application made by the petitioner which was submitted along with his advocate's letter dated 24th July, 2012 is still pending, the appropriate authority shall decide the said application as expeditiously as possible and in any event within a period of two months from today;

(iii) Order made on the said application be communicated to the petitioner. If the said application is already decided, the order passed on the said application be forthwith communicated to the petitioner;

(iv) All contentions on merits are kept open;

(v) The Writ Petition is disposed of on the above terms.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)