

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WA.No. 1611 of 2004 (B) IN OP.10793/2002

AGAINST THE JUDGMENT IN OP 10793/2002 DATED 05-12-2003

APPELLANT(S)/3RD PARTY HAVING OBTAINED LEAVE TO APPEAL :-

ALL KERALA CHEMISTS & DRUGGISTS ASSOCIATION,
CHEMIST BHAVAN, ERNAKULAM SOUTH
REP. BY ITS PRESIDENT, A.N.MOHAN, AGED 52
S/O. M.K. NARAYANA PILLAI.

BY ADVS.SRI.VARGHESE C.KURIAKOSE
SRI.JACOB SEBASTIAN
SRI.PRAVEEN K. JOY

RESPONDENT(S)/PETITIONERS AND RESPONDENTS 1 TO 4 IN THE WRIT
PETITION :-

1. M/S INGA LABORATORIES PVT.LTD.
INGA HOUSE, MAHAKALI ROAD, DR.ANDHERI (E)
MUMBAI-400 093, REP. BY ITS MANAGING DIRECTOR
DR.ABRAHAM PATTANI, PATTANI VILLA, MAHAKALI ROAD
ANDHERI (E), MUMBAI - 400 093.
2. DR.ABRAHAM PATTANI,
PATTANI VILLA, MAHAKALI ROAD, ANDHERI (E)
MUMBAI-400 093.
3. MRS.ANNIE A PATTANI,
PATTANI VILLA, MAHAKALI ROAD, ANDHERI (E)
MUMBAI-400 093.
4. MR.VARKEY A.PATTANI,
PATTANI VILLA, MAHAKALI ROAD, ANDHERI (E)
MUMBAI-400 093.
5. DR.GEORGE A.PATTANI,
PATTANI VILLA, MAHAKALI ROAD, ANDHERI (E)
MUMBAI-400 093.

6. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY TO GOVERNMENT
SECRETARIAT, TRIVANDRUM.
7. DRUGS CONTROLLER GENERAL OF INDIA,
NEW DELHI.
8. DRUGS CONTROLLER,
KERALA STATE, TRIVANDRUM.
9. DRUG INSPECTOR,
ZONE NO.III, OFFICE OF THE ASST.DRUG INSPECTOR
KANNUR.

R1 TO R5 BY ADV. SRI.M.K.DAMODARAN (SR.)

SRI.P.SANJAY

SRI.GILBERT GEORGE COREEYA

R7 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 07-07-
2015 ALONG WITH W.A.No.1612 OF 2004, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. Nos.1611 & 1612 of 2004

Dated this the 7th day of July 2015

J U D G M E N T

Ashok Bhushan, CJ

These two writ appeals have been filed against the common judgment dated 5.12.2003 in W.P.(C) No.32594 of 2003 and O.P.No.10793 of 2002. The appellant in both these appeals is a third party, who had sought leave for filing the appeal.

2. The appellant's case in the appeals is that certain general directions were issued by the learned Single Judge in paragraph 6 of the judgment, which directions were issued without hearing the appellant, who is All Kerala Chemists and Druggists Association. It is submitted that the directions are to the effect that if the dealers did not comply the storage conditions, steps will be initiated for cancellation of licence. The ultimate direction which has been issued in paragraph 6 of the judgment is to the following effect :-

“Therefore, the Drugs Controller is directed to issue instructions to all dealers immediately and to ensure compliance of storage condition as in the Rules by all the dealers within a reasonable time, failing which he will arrange for cancellation of licence.

WPC and OP are disposed of as above.”

The direction was to the Drugs Controller to issue instructions to all dealers to ensure compliance of the storage conditions within a reasonable time. The direction was general in nature and not directed to a particular dealer or in a particular case. On the strength of said direction, steps for cancellation of licence can be taken appears to be contrary to facts. For cancellation of licence, individual notice informing violation is necessary and only then, the competent authority can take decision regarding cancellation. Thus, we do not accede to the submission that general direction causes prejudice to any individual dealer nor on the basis of said direction, any cancellation proceedings can be initiated ipso facto. It is further submitted that a circular had been issued by the Drugs Controller on 24.6.2004 in pursuance to the judgment, where, various directions have been issued by the Drugs Controller for the storage of drugs.

3. We have perused the circular dated 24.6.2004 brought on record as Annexure-1 in the writ appeal. It is true that the Drugs Controller has issued directions after noticing the directions issued by the learned Single Judge in the aforesaid judgment. However, the directions, which have been issued are to safeguard the public interest and to ensure proper storage of drugs. We are of the view that if in any event, with regard to any particular

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direction, the appellant has any grievance or suggestion, it shall be open for them to represent the matter to the Drugs Controller, who is the competent authority to consider and take appropriate decision in the matter. We do not find any good ground to interfere with the judgment of the learned Single.

Subject to aforesaid observation, both the writ appeals are disposed of.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

//TRUE COPY//

P.A. TO JUDGE

Jvt