

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1264 of 2017

1. M/s Kawatiya Medicose A Proprietorship Firm Through Its Proprietor Namely Shri Anup Kumar Agrawal, S/o Shri Shiv Kumar Agrawal, Aged About 39 Years, R/o Gudri Bazar, Ambikapur District Surguja (Chhattisgarh).
2. Anup Kumar Agrawal, S/o Shri Shiv Kumar Agrawal, Aged About 39 Years R/o Gudri Bazar, Ambikapur District Surguja (Chhattisgarh).

---- Petitioners

Versus

1. State Of Chhattisgarh Through : Secretary, Food And Drugs Administration, Mahanadi Bhawan, Capital Complex, New Raipur, District Raipur (Chhattisgarh).
2. Deputy Director, Food And Drugs Administration, Ambikapur, District Surguja (Chhattisgarh).
3. Controller, Food And Drugs Administration Chhattisgarh, New Raipur District Raipur (Chhattisgarh).
4. Drugs Licensing Authority Cum Assistant Drugs Controller, Food And Drugs Administration, Surguja, District Surguja (Chhattisgarh).

---- Respondents

Shri Manoj Paranjpe, counsel for the petitioner/s.
Shri Sangharsh Pandey, Dy.G.A. for the State / respondents on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

05/05/2017

Heard.

The petitioner has filed this petition aggrieved by order dated 25/04/2017, by which, the drug license has been cancelled by the Deputy Director on the allegation of violation of statutory terms and conditions of the license.

2. Though number of grounds have been raised, considering that the petitioner was noticed and heard and an order was passed by the authority who is competent to pass the order, in view of existence of alternative and statutory

remedy of appeal under Section 66 (1) (d) of the Drug and Cosmetics Rules, 1945 (for short 'the Rules of 1945'), I am not inclined to examine the merits of the case. It is open for the petitioner to challenge the legality of the impugned order before the appellate authority.

3. Learned counsel for the petitioner also submits that simultaneously, an application for grant of license has been moved by the partnership firm which has remained pending before the competent authority. There are allegations against the petitioner that he has misused the license and has violated terms and conditions in the matter of sale and purchase of drugs. Therefore, looking to the limited aspect of change of management of the concern, the authority may be directed to consider the aspect of grant of fresh license in the name of newly constituted partnership firm.

4. Irrespective of the decision that may be taken in appeal, if the petitioner prefers appeal against order dated 25/04/2017, if application by partnership is moved by the partnership firm, the competent authority shall consider and decide the same at the earliest, taking into consideration that there are no allegations of petitioner engaged in any other irregularity except that the management of the concern has been changed in violation of the Rules. It is expected that the licensing authority / respondent No.4 shall expeditiously decide the application of the partnership firm as early as possible, preferably within 30 days.

5. With the said observation, this petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge