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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.34416 OF 2017

M/s.Ramdev Medical & General Stores	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr.Rahul M. More for the Petitioner.
Mr.J.A. Madane, A.G.P. for the State – Respondent Nos.1 and 2.

CORAM : R.D. DHANUKA, J.
DATE : 13TH DECEMBER, 2017.

P.C. :-

1. Rule. Learned counsel for the respondents waives service.
Heard forthwith.
2. By this petition filed under Article 227 of the Constitution of India the petitioner has prayed for quashing and setting aside the impugned order dated 20th September, 2017 and also the order dated 25th July, 2017 passed by the Learned Minister, Food and Drugs, State of Maharashtra and the learned Assistant Commissioner, F.D.A., Raigad, respectively.
3. Learned counsel for the petitioner submits that the learned Assistant Commissioner, F.D.A., Raigad, before passing the impugned order dated 25th July, 2017 did not render any personal

hearing to the petitioner and passed an order in violation of the principles of natural justice. Insofar as the order dated 20th September, 2017 passed by the learned Assistant Commissioner, F.D.A., Raigad, is concerned, it is submitted that the Learned Minister has dismissed the appeal filed by the petitioner mainly on the ground that the petitioner has committed violation of the provisions of the Drugs And Cosmetics Act, 1940 and rules framed therein in the past and its license was suspended for a period of 20 days. He submits that the said alleged violation committed by the petitioner was for a period prior to more than about two years and thus could not have been considered by the learned Minister while rejecting the appeal filed by the petitioner.

4. A perusal of the order passed by the Learned Minister, Food and Drugs Department indicate that the impugned order is also passed considering certain admissions alleged to have been made by the petitioner of the alleged violation committed by him and also considered the alleged violation of the provisions of the Drugs And Cosmetics Act, 1940 which alleged violation was prior to about two years before the date of passing the impugned order by the learned Minister, Food & Drugs Department.

5. Learned counsel for the respondents does not dispute that no personal hearing was given by the learned Assistant

Commissioner, F.D.A., Raigad, to the petitioner before passing the impugned order dated 25th July, 2017. I am inclined to accept the submission of the learned counsel for the petitioner that the impugned order dated 25th July, 2017 passed by the learned Assistant Commissioner, F.D.A., Raigad, has been passed in violation of the principles of natural justice. Learned Minister, Food & Drugs, State of Maharashtra has also considered the past alleged violation committed by the petitioner, which was about two years prior to the date of the impugned order passed by the learned Minister, Food and Drugs, State of Maharashtra.

6. I therefore, pass the following order :-

a). The writ petition is made absolute in terms of prayer clause (a). The show cause issued by the learned Assistant Commissioner, F.D.A., Raigad, dated 27th April, 2017 under Rule 66 of the Drugs And Cosmetics Rules, 1945 is restored to file. The learned Assistant Commissioner, F.D.A., Raigad, shall pass a fresh order after rendering an opportunity of being heard and of filing reply to the show cause notice. Learned Assistant Commissioner, F.D.A., Raigad, shall pass a fresh order without being influenced by the earlier order passed by him and also the order passed by the learned Minister, Food and Drugs, State of Maharashtra.

b). Reply, if any, shall be filed by the petitioner before the learned Assistant Commissioner, F.D.A., Raigad, within two weeks from today. A fresh order shall be passed by the learned Assistant Commissioner, F.D.A., Raigad, within eight weeks from today and a

copy of the fresh order shall be communicated to the petitioner within one week from the date of passing of the order. If any adverse order is passed by the learned Assistant Commissioner, F.D.A., Raigad, against the petitioner, the same shall not be implemented for a period of two weeks from the date of communication of such order to enable the petitioner to file an appeal before the learned Minister, Food & Drugs, State of Maharashtra.

c). The parties as well as the authorities to act on the authenticated copy of this order.

d). In view of this Court allowing the writ petition in terms of prayer clause (a), notice dated 6th October, 2017 issued by the learned Assistant Commissioner, F.D.A., Raigad, annexed to the petition at Exhibit "G" by the petitioner is also quashed and set aside.

e). It is made clear that if during the pendency of the proceedings before the learned Assistant Commissioner, F.D.A., Raigad, if any violation is committed by the petitioner, this order would not protect the petitioner and action can be initiated against the petitioner in respect of such alleged violation, if committed.

(R.D. DHANUKA, J.)