

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.16751 of 2017 and
WMP No.18194 of 2017

M/s.Sowndhari Pharmacy
Represented by its Partner
V.Srinivasan
No.98-A, Raju Naidu Street,
Sivananda Colony,
Coimbatore. ... Petitioner

v.

- 1.The Director of Drugs Control
O/o Director of Drugs Control
No.359, Anna Salai,
Teynampet, Chennai - 600 006.
- 2.The Assistant Director of Drugs Control,
Coimbatore Zone, Race Course,
Coimbatore 641 018. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, directing the respondents to renew the license of M/s.Sowndhari Pharmacy, situated at No.98-A, Raju Naidu Street, Sivananda Colony, Coimbatore running by the petitioner based on the renewal application dated 24.12.2016, consequential letter dated 21.06.2017.

For Petitioner : Mr.S.P.Sudalaiyandi

For Respondents: Mr.Era Premnath
Government Advocate

O R D E R

The petitioner has filed the above writ petition, to issue a Writ of Mandamus, directing the respondents to renew the licence of M/s.Sowndhari Pharmacy, situated at No.98-A, Raju Naidu Street, Sivananda Colony, Coimbatore, which is being run by the petitioner based on the renewal application, dated 24.12.2016 and the consequential letter dated 21.06.2017.

2. It is the case of the petitioner that the petitioner's Pharmacy, namely, M/s.Sowndhari Pharmacy, is run by a partnership firm from the year 1985. Originally, the second respondent issued licence to the petitioner Pharmacy for a period of 5 years. The licence was renewed periodically and the same was finally renewed up to 31.12.2016 as per Pharmacy Act, 1948. The petitioner made an application on 24.12.2016 to the second respondent for further renewal from 01.01.2017 for a further period of 5 years under Form No.21 and Form No.19 and also paid the necessary renewal charges. In spite of the petitioner's repeated request to renew the licence, the second respondent has not passed any order so far. In these circumstances, the petitioner has filed the writ petition.

3. The first respondent filed a counter affidavit, wherein, he has stated that the petitioner has to produce the Rental Deed as per Rule 65 A of Drugs and Cosmetics Act, 1940 for renewing the licence.

4. The learned counsel appearing for the petitioner submitted that in view of the judgments of this Court reported in (2008) 4 MLJ 1151 [K.Poruthammal and others v. Assistant Director, Drugs Control and Others] and 2011 (2) CWC 257 [S.Hammed Fathimal v. The Assistant Director, Drugs Control, Tirunelveli Zone, Maharaja Nagar, Tirunelveli], the first respondent cannot insist the petitioner for producing Rental Deed for renewing the licence.

5. In the judgment reported in K.Poruthammal (cited supra), this Court has held as follows:-

"I. Rule 64 of the Drugs and Cosmetics Rules, 1945, is focused more on the person who is controlling the pharmacy and it is basically intended for the protection of public from unauthorized persons without qualification selling the drugs and cosmetics and therefore, it does not require a right of a person over the property.

II. Rule 65A of Drugs and Cosmetics Rules, 1945, only deals with the additional information for the purpose of verifying the correctness of statements made by the applicant at the time of applying for licence and the same is relating to the grant of licence originally. Even Rule 66 which deals with cancellation and suspension does not speak about the "right" of person in respect of the property, but in respect of conduct of person".

III. As per Drugs and Cosmetics Rules, 1945, before granting or renewing licence, ownership of the premises is not a statutory requirement. When the Licensing Authority is satisfied with the conditions enumerated under Rule 64 of the Drugs and Cosmetics Rules, 1945, while renewing

licence to the Pharmacist and has renewed the licence, it is not for the Court to interfere to hold otherwise."

6. When the petitioner has been running the business since 1985, non-production of Rental Deed document cannot be put against the petitioner for not renewing the licence. The ratio laid down in the above referred judgments, relied upon by the learned counsel for the petitioner, squarely applies to the present case.

7. In these circumstances, following the ratio down in the judgments reported in (2008) 4 MLJ 1151 and 2011 (2) CWC 257, I direct the second respondent to renew the licence granted to the petitioner, pursuant to the application submitted by the petitioner on 24.12.2016, if the application is otherwise in order, within a period of four weeks from the date of receipt of a copy of this order.

8. With this observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

svki
To

1.The Director of Drugs Control
O/o Director of Drugs Control
No.359, Anna Salai,
Teynampet, Chennai - 600 006.

2.The Assistant Director of Drugs Control,
Coimbatore Zone,
Race Course,
Coimbatore 641 018.

+ 1 cc to Mr. S.P. Sudalaiyandi, Advocate SR.63966

W.P.No.16751 of 2017

CS-V
EU 7.09.17