

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-2059 of 2017

Date of Decision:- 03.02.2017

Devki Nandan

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. Divay Sarup, Advocate,
for the petitioner.

S.S.SARON, J.

This petition has been filed by the petitioner stating it to be in the nature of a public interest petition. The petitioner claims that he is asserting his right for regulation for sale of drugs within the State of Haryana. It is submitted by the learned counsel for petitioner that the precise case of the petitioner is whether a physician can be allowed to dispense drugs to his patients without there being a qualified pharmacist in his private hospital. In consonance of the said case that the petitioner urges, he has prayed for directions especially in the nature of mandamus directing the respondents to:

- (a) Requiring physicians to dispense drugs if a patient has serious difficulties in obtaining the medicine supplied by a pharmacy, or drugs that are needed in an emergency. Authorities should set standards that regulate dispensing and medicine management related to pharmacy practice and physician dispensing.

- (b) Prohibiting physicians to be licensed to dispense if a pharmacy is within 5 km of his or her practice.
- (c) Requiring physicians to surrender their dispensing licensure if a pharmacy opens within 5 km of his or her practice.
- (d) Specifying minimum standards for setting up a dispensing physician's facility in the Drugs and Cosmetics Act.
- (e) Requiring any physician seeking to dispense drugs to be licensed with the FDA to stock drugs other than those permitted for emergency use. The government should create an emergency drug list and specify which drugs should be listed as such. The doctors will then have permission to stock only these emergency drugs provided they maintain proper conditions for storage.
- (f) Requiring all physicians, dispensing and non-dispensing to be open to inspection by drug inspectors, however, details (as under Schedule K) must be maintained stating whether the doctor stocks emergency or non-emergency drugs for dispensing.
- (g) Prohibiting physicians from selling medications to persons who are not on his or her patients. Physicians should only dispense medically necessary medications to their patients.
- (h) Requiring drugs to be dispensed in person by the physician and not a nurse or their assistant. Alternatively, a pharmacist may be hired to dispense medications for the physician.
- (i) Requiring physicians to keep detailed records indicating batch number expiration date, name of company, name of drug, and price charged to the patient for each medication that is dispensed.
- (j) Creating a mechanism that traces all medications to their manufacturer. Records of medications that are dispensed from the physician's practice should be kept in their office for a minimum of two years.

The Registry raised an objection on 31.01.2017 as to how the present Public Interest Litigation (PIL) fell under the 'Maintainability of Public Interest Litigation Rules 2010' ('the Rules'-for short). Learned counsel for the petitioner in reply to the same stated that the PIL did not fall

under the said Rules. The Registry had also recorded that the petition be filed according to the directions passed by a Division Bench of this Court in case **Ajaib Singh Vs. State of Punjab and others, 2013(4) PLR, 367** which is available on the High Court Website. Learned counsel for the petitioner replied that the petition had been filed according to the directions passed in the said case. However, in terms of the affidavit that has been filed, it is not shown to be filed in accordance with the requirements as contained in **Ajaib Singh's** case (supra).

Learned counsel for the petitioner submits that since his writ/PIL did not fall within the subjects as mentioned in Rule 6 of the Rules, he stated that it did not fall under the Rules, although it raises other public issues and the intention was to project the same. In the aforesaid circumstances, it is submitted by the petitioner that he may be allowed to withdraw the present petition so as to enable him to make necessary amendments or corrections and file a fresh one in order to show that the petitioner has the *locus standi* to file a public interest petition.

The writ petition is accordingly dismissed as withdrawn with liberty to file a fresh one with necessary and complete particulars.

(S.S.SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

February 3, 2017
mohan

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No