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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12055 OF 2018

M/s. Patel Pharma	..Petitioner
Versus	
The Minister of State, Food and Drugs Administration and Others	..Respondents

Mr.Ashutosh Kulkarni, for the Petitioner.
Mr.S.H. Kankal, AGP for the State.
Smt.Madhuri M. Pawar, Assistant Commissioner, FDS, Thane, Zone 1.

CORAM : REVATI MOHITE DERE, J.

DATED : 29th OCTOBER 2018

P.C.:

. Heard learned counsel for the parties.

1] Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned Counsel for the Respondents waive service through their respective counsel.

2] The principal grievance of the Petitioner is that, the Hon'ble Minister did not hear the Petitioner before passing the impugned order dated 8th August 2018. Learned counsel for the Petitioner submitted that the Hon'ble Minister issued notice to the Petitioner on 10th April, 2018 and made the same returnable on 11th April, 2018. He submitted that the

Petitioner appeared on the said date i.e. on 11th April, 2018, however, no hearing took place nor any further date for appearance was informed to the Petitioner, as a result, the Petitioner could not participate in the proceedings. According to learned counsel for the Petitioner, even the impugned order dated 8th August 2018 was not communicated to the Petitioner.

3] In view of the allegations made by the learned counsel for the Petitioner, the learned AGP was directed to produce the record of the proceedings, being Appeal No.393 of 2016 decided by the Hon'ble Minister.

4] Today, the learned AGP has produced the record of the proceedings. In the said proceedings, it is recorded that on 11th April 2018 i.e. on the 1st date (returnable date) , arguments were advanced by both the sides and that after perusing the papers a separate order would be passed.

5] Having regard to the rival submissions made by the parties, and in particular, the submission made by the learned counsel for the Petitioner, that the Petitioner was not heard, it would be desirable in the interest of justice, to give an opportunity to the Petitioner, of being heard. Accordingly, the impugned order dated 8th August 2018 is quashed and set

aside. The appeal filed by the Petitioner, being Appeal No.393 of 2016 is restored back to its original file.

6] The Hon'ble Minister shall hear the Petitioner afresh and after hearing the parties and after considering the documents on record, that may be placed by the Petitioner, pass orders, in accordance with law.

7] Parties to remain present before the Hon'ble Minister on 22nd November 2018 at 3.00 p.m., after which the Hon'ble Minister will give dates convenient to him.

8] It is made clear that this Petition has not been heard on merits. All contentions of all parties are kept open.

9] As the order dated 8th August, 2018, passed by the Hon'ble Minister is quashed and set aside, the consequential communication dated 30th September 2018 issued by the Assistant commissioner, Zone-I , Thane is also quashed and set aside.

10] It is informed that pending the Appeal, there was an interim stay to the order dated 28th November 2016. The same to continue till the Appeal is finally disposed off by the Hon'ble Minister.

11] Rule is made absolute on the above terms and accordingly, the Petition is disposed off.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)