

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.27052 OF 2008

ORDER:

The petitioners seek writ of Mandamus declaring the action of the respondents in refusing to recognize the petitioners as qualified persons under Drugs and Cosmetics Act, 1940 and Drugs and Cosmetics Rules, 1945 though the petitioners possessed certificates issued by the Government of Andhra Pradesh and having renewed the license recognized them as qualified persons for the last 45 years, as arbitrary, illegal and consequently direct the respondents to recognize the petitioners as qualified persons to run the medical shops and pass such orders.

2. The case of the petitioners in brief is that the petitioners have been working as salesmen in medical shops since 1962 as a qualified medical persons incharge for those medical shops. Some of the petitioners have established their own medical shops after obtaining valid permission from respective authorities. The petitioners have passed Compounders' Examination conducted by the Government of Andhra Pradesh in the year 1960-1963 which was recognized by the Government and thereby, they can maintain the medical shop as a qualified person and the license authority can issue the license on the basis of above said certificate. By virtue of those certificates, the petitioners have been working

since 1963 as qualified incharge persons in the medical shops. While so, during the year 2006-2007, when the petitioners submitted applications for renewal of their licenses, the respondents 2 and 3 declined to renew the licenses stating that they were not qualified persons, due to which, the petitioners lost their jobs and could not work in the medical shops. The petitioners' grievance is that the respondents have not given anything in writing, but they orally stated that licenses cannot be renewed.

Hence, the writ petition.

3. Heard both sides.
4. Respondents filed counter and opposed the petition. The substance of the counter averments is that the petitioners were holding Compounders' Examination certificates issued in December, 1960 and March, 1963 and they were working as compounders in the place of qualified persons. Before December, 1969, Drugs Controller, Andhra Pradesh had issued qualified persons certificates to many people who are holding the Compounders' Experience certificates to work in medical shops, since there was shortage of qualified persons/registered pharmacists at that time. However, Vide GSR 676(E), dated 06.09.1994, w.e.f. 06.09.1994, the Government have amended the Rule 65(15) and 65(2) of Drugs and Cosmetics Rules, 1945 to the effect that only the registered pharmacists are eligible in the place

of qualified persons to compound and dispense the drugs as per Rule 65(1) and (2) of the Drugs and Cosmetics Act. The respondent, thus, contended that the petitioners are not registered pharmacists as defined in the Act and they are not the approved qualified persons by the licensing authority on or before 1969 and hence the petitioners are not eligible to work as registered pharmacists as per Rules 65 (1), (2), (3) and 65(15)(c)(i) of Drugs and Cosmetics Act, 1940 and Rules made thereunder.

5. When the matter came up for hearing, learned counsel for petitioners would submit that, since 1960, all the petitioners, by virtue of passing the Compounders' Examination conducted by the Government of Andhra Pradesh, are working as qualified persons in the medical shops and some of the petitioners have setup their own medical shops also and working as such seamlessly. However, of late, in 2006-2007, when they applied for renewal, the authorities without assigning any reason refused to renew the licenses which required to be renewed for every two years. The authorities have not issued any written communication showing the reason for their refusal to renew the licenses of the petitioners. The counsel for respondents, on instructions would submit that no written applications were filed by the petitioners seeking renewal of their licenses and if such

applications are filed, the respondent authorities will pass suitable orders thereon.

7. In that view of the matter, this writ petition is disposed of, giving liberty to the petitioners to submit written applications seeking renewal of their licenses before respondents 2 and 3 within three weeks from the date of this order, in which case, the concerned authorities shall pass an appropriate order on merits within four weeks thereafter.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

18.09.2018

U.DURGA PRASAD RAO, J

*Note: issue C.C. in one week.
B/o.SS*

