

THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.30883 OF 2015

ORDER:

There is no representation on behalf of the petitioner.

The prayer sought for in the writ petition is as under:

“to issue an appropriate writ order or order direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in not providing sufficient opportunity to the petitioner for submitting his explanation to the show-cause notice dated 18-9-2015 issued in Rc. No. 1036/Dass/Ad/NLG/2015 issued by him as illegal, arbitrary and unconstitutional and consequently direct the 2nd respondent to provide sufficient opportunity for submitting explanation to the said show cause notice.”

The specific case of the petitioner is that he is running a retail medical shop after obtaining valid licence issued by the 2nd respondent bearing licence No.99/NG/AP/2006/RW for a period of five years. The same was renewed for a further period upto 19.08.2019. On 10.09.2015, the 3rd respondent came to his shop and asked for one strip of Zifi 200. When the petitioner insisted for doctor's prescription, 3rd respondent introduced himself as Drug Inspector, Mehdiapatnam Zone, Hyderabad and he wanted the said drug for test purpose only. Immediately after collecting the said strip and the bill, the 3rd respondent has drawn an inspection report stating that the petitioner sold the said drug to him without prescription at the time of inspection and submitted a report to the 2nd respondent stating that the petitioner sold the said drug without prescription of a doctor, which is in violation of Section 18(a)(vi) of the Drugs and Cosmetics Act, 1940 read with Rule 65(9)(a) of the Cosmetics Rules, 1945. Pursuant thereto, the impugned show-cause notice was issued to the petitioner on 18.09.2015 under Rule

66 of the Rules asking him to submit his explanation on the very same day. Since the petitioner was not given sufficient opportunity to submit his explanation, the present writ petition is filed.

This Court after hearing, on 21.09.2015, granted a week's time to the petitioner to submit explanation to the 2nd respondent and the 2nd respondent, in turn, was given liberty to consider the said explanation and pass appropriate orders in accordance with law.

In the counter affidavit filed on behalf of 2nd respondent, it is stated that pursuant to the orders passed by this Court on 21.09.2015 the petitioner submitted his explanation on 30.09.2015 to the 2nd respondent, apart from other aspects.

In that view of the matter, basing on the explanation submitted by the petitioner, it is for the 2nd respondent to pass appropriate orders. As against any orders passed by the 2nd respondent pursuant to the show-cause notice, an appeal lies under Section 66(2) of the Drugs and Cosmetics Rules, 1945. Therefore, in the light of the interim orders passed by this Court on 21.09.2015 and since the order passed by the 2nd respondent thereafter, is appealable, as stated supra, no further cause would survive for adjudication in the writ petition.

Accordingly, the writ petition is closed. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHA VA RAO,J

06th DEC EMBER 2018.

Tsr

