

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

PUBLIC INTEREST LITIGATION NO.170 OF 2015

Mayuri Mithun Patil	..Petitioner
Versus	
Union of India and others	..Respondents

None for the Petitioner.

Dr. G. R. Sharma, Special Counsel a/w Mr. D. P. Singh, S. Pathak,
Advocate for Respondent No.1 – Union of India.

Mr. M. M. Pabale, AGP for Respondent Nos.2 & 4.

**CORAM : PRADEEP NANDRAJOG, C.J. &
NITIN JAMDAR, J.**

DATE : 7th AUGUST, 2019

P.C.

1] The Petitioner has filed the above referred PIL pointing out that Schedule H and Schedule X drugs cannot be sold by a pharmacist except on a prescription prescribed by a registered Medical Practitioner. The PIL draws attention of the Court to the Forms in which licences have to be obtained by those who are engaged in the business of manufacture, distribution or sale of drugs. Grievance in the PIL is to online sale of Schedule H and Schedule X drugs.

2] The companies selling drugs online, claim that they have statutory licences prescribed under Form 20, 20A, 20B, 20BB, 20C, 20D, 20F, 20G, 21, 21A and 21B. All of them claim that they do not

sell Schedule drugs merely on the asking. All of them claim that the person desirous of purchasing the drug has to upload the prescription by a doctor and transmit the same to them on Whatsapp.

3] The fact that online sale of pharmaceuticals drugs is taking place has been noticed by the Ministry of Health & Family Welfare which has proposed to amend the Drugs and Cosmetics Rules 1945 by inserting Part VIB in the Rules defining e-pharmacy portals and providing for registration of the same. The draft rules were promulgated on 28th August 2018 inviting objections and suggestions.

4] We have perused the draft rules and note that an attempt is being made to ensure that e-pharmacy portal comply with substantive laws.

5] The purpose of Public Interest Litigation is served when omission in the existing law resulting in possibility of harm to the public or large scale violation of existing laws is brought to the notice of a Court and based thereon the Competent Authority takes cognizance of the omission and proceeds to take action to rectify the omission. At that stage the Public Interest Litigation has to be terminated.

6] Learned counsel for the Union of India states that considering the suggestions and objections to the draft notification dated 28th August 2018 final notification is likely to be issued within

four months from today.

7] Thus, we terminate further proceedings in the Public Interest Litigation observing that if within a reasonable time the amendments proposed are not incorporated the Petitioner may move an application in the instant Petition seeking suitable directions.

NITIN JAMDAR, J

CHIEF JUSTICE