IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 12TH DAY OF AUGUST 2020 / 21ST SRAVANA, 1942

WP(C).No.29617 OF 2003(S)

PETITIONER/S:

**INDIAN NETWORK OF POSITIVE PEOPLE ,
FLAT NO.6, KASH TOWERS, 93 SOUTH WEST BOAG ROAD,
T. NAGAR, CHENNAI-600 017, REPRESENTED BY ITS
PRESIDENT K.K. ABRAHAM.**

**BY ADVS.
SRI.JOSEPH MARKOSE (SR.)
SRI.JOSEPH KODIANTHARA (SR.)
SRI.MITHUN MARKOS**

RESPONDENT/S:

1. **T.A.MAJEED,
S/O.T.K. MOHAMMED, PROPRIETOR AND LICENCEE, M/S.
FAIR PHARMA, ASHOKA APARTMENTS, MARINE DRIVE,
ERNAKULAM.**

2. **STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF
KERALA, SECRETARIAT, THIRUVANANTHAPURAM.**

3. **DRUGS CONTROLLER AND LICENSING AUTHORITY,
THIRUVANANTHAPURAM.**

4. **DRUG CONTROLLER GENERAL OF INDIA,
HAVING HIS OFFICE AT DIRECTORATE GENERAL HEALTH AND
SERVICES, ROOM NO. 342, A WING NIRMAN BHAVAN,
MAULANA AZAD ROAD, NEW DELHI-110 011.**

5. **KERALA STATE AIDS CONTROLLER SOCIETY,
RED CROSS ROAD, THIRUVANANTHAPURAM.**

6. **NATIONAL AIDS CONTROL ORGANISATION,
HAVING ITS OFFICE AT 9TH FLOOR,
CHANDRALOK BUILDING, 36 JANPATH, NEW DELHI-110 001.**

R1 BY ADVS.SRI.E.K.NANDAKUMAR
SMT.PRIYA MAHESH
SRI.GOPIKRISHNAN NAMBIAR
SR GP SURIN GOERGE IPE FOR R2-R4

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12.08.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

S.Manikumar, CJ.

Instant public interest writ petition has been filed for a mandamus directing the 3rd respondent – Drugs Controller and Licensing Authority to cancel the license issued to the 1st respondent for manufacturing, distributing and selling the drug IMMUNO-QR or any other drug in any form.

2. Further prayers sought for are; to prohibit the 1st respondent from manufacturing, distributing or selling the drug IMMUNO-QR in any form; to take appropriate action in law against the 1st respondent for committing offences under the Drugs and Cosmetics Act and Rules framed there under and directing the respondents 3 to 6 to prevent the 1st respondent to manufacture, distribute and sell drugs that are not scientifically proven.

3. Today, when this matter is taken up for hearing, attention of this Court was invited to the order of the Hon'ble Supreme Court in Civil Appeal No.3 of 2007 arising out of S.L.P.(C).No.5527/2004 dated 03.01.2007, by which the Hon'ble Supreme Court ordered thus:

> "We have heard the learned counsel for the appellant and the first respondent. Learned counsel for the first respondent submits that three writ petitions, namely, O.P.Nos.12883/1998 (T.A.Majeed v. State of Kerala), 37990/2001 (Peoples Union for Civil Liberties v. State of

Kerala & Ors.) and writ petition No.29617/2003 (Indian Network of Positive People v. T.A.Majeed), which were listed before the High Court on 1st Januar, 2007 are now posted for 22nd January, 2007. Having regard to the facts and circumstances above noted, the hearing of the matters before the High Court deserves to be expedited. In the mean time, however, the first respondent in the teeth of the order of the Drug Controller and that of this Court dated 11th March, 2002 cannot be permitted to manufacture and sell the drug in question, namely, Immono-QR. Therefore, we would substitute the impugned order of the High Court by the order passed by this Court on 11th March, 2002. It cannot be a valid ground to stay the order of the Drug Controller that the committee has not been able to examine the drug and file a report. In the teeth of the order dated 11th March, 2002 pass by this Court.

In view of what is stated above, we allow the appeal, set aside the impugned order and direct that till pendency of the matter before the High Court, the order of the Drug Controller dated 6th September, 1997 partially canceling the manufacturing license in respect of the drug 'Immuno-QR' shall remain operative. The High Court is requested to finally hear the matter either on the date fixed or any subsequent date that may be convenient to it and dispose of the three petitions above-mentioned expeditiously and preferably within three months from the date of the receipt of this order. The writ petitions shall be disposed of on merits without

being influenced by this order or the order dated 11th March, 2002 passed by this Court or the impugned order dated 25th August, 2003 passed by this High Court."

4. In addition to the above, inviting attention of this Court to a communication sent by the Secretary to Government, Health and Family Welfare (F) Department, Thiruvananthapuram dated 31.07.2015 addressed to the learned Special Government Pleader to learned Advocate General that consequent to the enquiry conducted by the officers of the Drugs Control Department found that, after 03.01.2007, there is no manufacture or sale of the drug IMMUNO-QR and no advertisement of the drug is seen in the media. Hon'ble Supreme Court as early as on 2007 itself had directed that there shall be no manufacture, distribution or sale of the drug IMMONO-QR.

5. In view of the above, he prayed for disposal of the writ petition.

Nothing survives in this writ petition for further consideration. Hence, this writ petition is dismissed.

Sd/-
S.MANIKUMAR
CHIEF JUSTICE

Sd/-
SHAJI P. CHALY
JUDGE

DG

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF ADVERTISEMENT MADE BY THE 1ST RESPONDENT.**
EXHIBIT P2	**TRUE COPY OF REPORT ON THE DEATH OF CHITRA APPEARED IN HINDU NEWSPAPER DATED 23/07/2001.**
EXHIBIT P3	**TRUE COPY OF REPORT ON THE DEATH OF CHITRA APPEARED IN INDIAN EXPRESS NEWSPAPER DATED 27/07/2001.**
EXHIBIT P4	**TRUE COPY OF CLAIMS MADE BY THE 1ST RESPONDENT AS PUBLISHED BY GEORGE MATHEW IN AN ARTICLE CALLED T.A. MAJEED, BATTLING THE VIRUS.**
EXHIBIT P5	**TRUE COPY OF PRESS NOTE ISSUED BY THE 1ST RESPONDENT AT COIMBATORE.**
EXHIBIT P6	**TRUE COPY OF PRESS STATEMENT ISSUED BY THE 1ST RESPONDENT AT MUMBAI.**
EXHIBIT P7	**TRUE COPY OF PECULIARITY OF P24 ANTIGEN TEST EXPLAINING THE PROGRESSION OF HIV TO AIDS APPEARED IN PAPER.**
EXHIBIT P8	**TRUE COPY OF PECULIARITY OF P24 ANTIGEN TEST EXPLAINING THE PROGRESSION OF HIV TO AIDS APPEARED IN PAPER.**
EXHIBIT P9	**TRUE COPY OF THE ARTICLE PUBLISHED BY GUPTA S K, KALEEKAL T, JOSHI S., DEPARTMENT OF PHARMACOLOGY, ALL INDIA INSTITUTE OF MEDICAL SCIENCES, NEW DELHI ON MISUSE OF CORTICOSTEROIDS IN CERTAIN DRUGS.**
EXHIBIT P10	**TRUE COPY OF ARTICLE PUBLISHED BY INDIAN INSTITUTE OF SCIENCE BANGALORE ON THE 1ST RESPONDENT'S DRUG IMMUNO QR.**
EXHIBIT P11	**TRUE COPY OF I DA PRESS RELEASE ON THE USE OF CORTICOSTEROIDS.**
EXHIBIT P12	**TRUE COPY OF ARTICLE ON CORTICOSTEROIDS GLUCOCORTICOID EFFECTS (SYSTEMIC) APPEARED IN MEDLINE PLUS HEALTH INFORMATION.**

RESPONDENT'S/S EXHIBITS:

EXHIBIT R1 A	**TRUE COPY OF THE WEBSITE HTTP.//64.41.99.118/CHARGE/FORMS/RQ 104-00HTM**