

In the High Court of Punjab and Haryana at Chandigarh

1. CRM-M No. 36183 of 2016
Date of Decision: 17.2.2020

Ganesh Medical AgencyPetitioner

Versus

Municipal Council, Maur MandiRespondent

2. CRM-M No. 36290 of 2016

Hare Krishana Medical StorePetitioner

Versus

Municipal Council, Maur MandiRespondent

3. CRM-M No. 36292 of 2016

SG Medical AgencyPetitioner

Versus

Municipal Council, Maur MandiRespondent

4. CRM-M No. 36294 of 2016

Punjab Mecial HallPetitioner

Versus

Municipal Council, Maur MandiRespondent

5. CRM-M No. 36306 of 2016

Goyal Medical HallPetitioner

Versus

Municipal Council, Maur MandiRespondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sherry K. Singla, Advocate for the petitioners.

Mr. Abhishek Singla, Advocate for the respondent.

HARNARESH SINGH GILL, J.

This order of mine shall dispose of above-mentioned five petitions as these have arisen out of the common order.

The facts are being taken from CRM-M-36183-2016.

This is a petition under Section 482 Cr.P.C. for quashing of complaint bearing No. 837 of 2016 dated 29.7.2016 under Section 121 of Punjab Municipal Act, 1911 (hereinafter referred as 'Act') titled 'Municipal Council versus Ganesh Medical Agency' (Annexure P-1) and the summoning order dated 29.7.2016 (Annexure P-2) on the ground that the provisions of Section 121 of the Act are not applicable to the petitioner who is carrying on the business of Chemist as per the license issued under the Drugs and Cosmetic Act, 1940.

Learned counsel for the petitioners has argued that as per Section 121 of the Act, trade in medicines and drugs cannot be taken as an offensive and dangerous trade unless it is shown that person carrying on such trade is also dealing in any inflammable material or explosive.

It is further the case of the petitioners that allopathic medicines and drugs are not covered under Sub Section (1) of Section 121 of the Act and on this ground the complaint filed by the respondent-Municipal Council, Maur Mandi and the summoning order are liable to be quashed. Learned counsel has relied on the judgment of the Co-ordinate Bench of this Court in the case of ***Bhalla Medico, Nakodar versus State of Punjab 1997 (3) R.C.R. (Civil) 381*** on the fact that Municipal Committee had no authority to prescribe license for carrying on the business of chemists and druggists under Section 121 of the Act as the business of medicines and drugs do not fall within the ambit and purview of Sub Section (1) of Section

121 of the Act.

Though no reply has been filed by the respondent-Municipal Council but still learned counsel for the respondent has argued that as per Section 121 of the Act, the petitioner-accused has not get licence from the respondent-Municipal Council for running the above said trade by depositing requisite license fee thus, the petitioner has committed an offence under Section 121 of the Act and has been rightly summoned by the trial Court by issuing summoning order dated 29.7.2016 (Annexure P-2).

I have heard the learned counsel for the petitioners and the learned counsel for the respondent-Municipal Council and with their able assistance, have gone through the documents on the case file.

Section 121 of the Act reads as under:-

Regulation of offensive and dangerous trade.-

- (1) *No place within a municipality shall be used for any of the following purposes:- Melting tallow, dressing raw hides, boiling bones, offal or blood, as a soap house, oil boiling house, dying house or tannery : as a brick-field, brick-kiln, charcoal-kiln, pottery or lime kiln; or any other manufactory engine-house, store-house or place of business from which offensive or unwholesome smell, gases, noises or smoke arise; as a yard or depot for trade in unslaked lime hay, straw, thatching grass, wood, charcoal or coal, or other dangerously inflammable material; as a store-house for any explosive or for petroleum or any inflammable oil or spirit: except under a license from the committee which shall be renewable annually: Provided that no such license shall be necessary in the case of any such premises which were used for any such purposes at the time that the Punjab Municipal Act, 1891, came into force, and were*

registered under that Act and in the case of brick-fields, which were used at the time that this Act come into force, but the owner or occupier of the brick-fields so excepted shall register the same in a book to be kept by the committee for the purpose.

(2)	X	X	X	X
(3)	X	X	X	X
(4)	X	X	X	X
(5)	X	X	X	X

Thus, the mention of the various articles specified in the aforesaid sub-section (1) makes it clear that dangerously inflammable material, explosive articles, petroleum oil and spirit have been included in the list of dangerous or offensive trades. Medicines or drugs do not find any mention in the aforesaid sub-section (1).

It is clear that any trade in medicine cannot be regarded as an offensive or dangerous trade unless it is shown that the persons carrying on such trade are also dealing in any type of inflammable material or explosive. It is clear from sub-section (1) of Section 121 of the Act that dangerously inflammable material, explosive article, petroleum oil and spirit are included in the list of dangerous or offensive trades whereas allopathic medicines and drugs do not fall in the said trade.

Moreover, petitioner is holding a valid licence issued under Drugs and Cosmetic Act, 1940 and the notification dated 19.7.1982 issued by the Department of Local Government, whereby Chemists and Druggists were required to pay the license fee to the Municipal Committees under Section 121 of the Act already stands quashed by this Court in the **Bhalla Medico's case** (supra).

Keeping in view the above facts and circumstances, the

petitions are allowed. Complaint Nos. 837, 249, 834, 835 and 836 of 2016

dated 29.7.2016 under Section 121 of the Act (Annexure P-1) and the summoning order dated 29.7.2016 (Annexure P-2) are quashed.

(HARNARESH SINGH GILL)
JUDGE

February 17, 2020
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No