

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.164 OF 2021

Santosh s/o Ratanlal Shahu,
Aged about 51 years, Occ: Business,
Proprietor M/s. Shahu Medical Stores,
Shop No.12, Corporation Chawl,
Gaddigodam Square, Police Station Road,
Nagpur- 440 001 (M.S.)

...PETITIONER

...V E R S U S...

- 1) The State of Maharashtra
Through Honorable Minister,
Food and Drugs Administration,
Mantralaya, Mumbai - 400 032.
- 2) The Assistant Commissioner,
Food and Drugs Administration,
Nagpur Circle, New Administration
Building, Building no.2, 5th Floor,
B Wing, Civil Lines, Nagpur- 440 001.

...RESPONDENTS

Shri S.R. Gupta, Advocate for petitioner.
Shri K.L. Dharmadhikari, AGP for respondents.

CORAM:- V. M. DESHPANDE, J.
DATED :- JANUARY 13, 2021.

ORAL JUDGMENT

Rule. Rule is made returnable forthwith.

- (2) Heard Shri S.R. Gupta, learned counsel for petitioner
and Shri K.L. Dharmadhikari, learned Assistant Government
Pleader for respondents.

(3) In this writ petition, the petitioner is challenging the order dated 21.12.2020 passed passed by the respondent No.1 suspending the license of the petitioner for a period of 45 days.

(4) This writ petition was listed before this Court on 09.01.2021. This Court found that upon inspection by the Authority serious discrepancies were found and out of that two were of very serious in nature. This Court directed on the said date to the learned Assistant Government Pleader to take instructions and make a statement as to whether in the locality where the petitioner's medical shop is situated, whether it is the only shop or there are other medical shops.

(5) In pursuance to the said order, today Shri Dharmadhikari, learned Assistant Government Pleader, on the written instructions given to him submitted that in the vicinity of M/s. Shahu Medical Stores, Gaddigodam Square, Nagpur there are 6 other medical shops. Obviously, these directions were given by the Hon'ble Judge to see that there should not be any inconvenience to the public, if the medical shop is closed and if it is only shop in the locality.

(6) The learned counsel for the petitioner is also not disputing the statement of the learned Assistant Government Pleader that there are 6 other medical shops situated in the vicinity where the petitioner's shop is situated.

(7) One of the serious charge against the petitioner was that he was found to be giving medicines without prescription from the doctor and outdated medicines were not kept properly, which were found to be very serious by this Court on 09.01.2021.

(8) Learned counsel for the petitioner submitted that the some leniency be shown in favour of the petitioner and instead of 45 days the license be suspended for lesser period. I am not prepared to accept this submission because the petitioner was found to be committing a very serious lapses by giving medicines without thereby prescription like alprazolam tablets and for that even invoices were not issued.

(9) It is not the case of the petitioner before this Court that there is any breach of principles of natural justice.

(10) Proper opportunity of hearing was given to the petitioner by issuing show-cause notice. The said show-cause notice was replied and thereafter the suspension order of license

was passed by Licensing Authority, which was appealed before the Hon'ble Minister. In appeal, after giving opportunity of personal hearing the Hon'ble Minister has passed order thereby confirmed the suspension of license for 45 days. Looking to the seriousness of the matter and the petitioner who runs a medical shop is having great responsibility during this pandemic situation, it was expected from the petitioner to run the shop as per license conditions. Since, petitioner has admitted candidly the mistake and lenient view is already taken by the Hon'ble Minister, I am of the view, this is not a case wherein this Court should interfere with the order. Hence, writ petition is dismissed. No order as to costs.

Rule is discharged.

JUDGE

Wagh