

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

WRIT PETITION NO.168 OF 2021

M/s. Dinesh Medicose,
51/2 Dr. Ambedkar Marg, Near
Kamal Talkies Chowk, Indora Road,
Nagpur-440017.

Through Partner Mr. Amarlal s/o
Nenumal Virani, Aged Major,
R/o 25, Kungu Colony,
Jaripatka, Nagpur.

.....PETITIONER

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

- 1) The State of Maharashtra
Through Ministry of Food and
Drug Administration, Mantralaya,
Mumbai 400 032.
- 2) The Licensing Authority and Joint
Commissioner, Food and Drug
Administration, Nagpur (M.S.)

...RESPONDENTS

Shri A.M. Quazi, Advocate for petitioner.
Ms. M.A. Barabde, AGP for respondents.

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

ORAL JUDGMENT

Rule. Rule is made returnable forthwith.

- (2) Heard Shri A.M. Quazi, learned counsel for the petitioner and Ms. M.A. Barabde, learned Assistant Government Pleader for respondents.

(3) Initially, the Licensing Authority on 30.08.2019 cancelled the license of the petitioner's medical shop permanently w.e.f. 28.11.2019. Against that a statutory appeal was filed by the petitioner before the Hon'ble Minister. The Hon'ble Minister vide order dated 20.09.2019 granted interim stay in favour of the petitioner, thus the petitioner continued to run his shop. By notice dated 31.01.2020 petitioner was informed that hearing of the petitioner's appeal will be taken on 03.02.2020 at Ravi Bhavan, Nagpur by the Hon'ble Minister. Accordingly, the petitioner appeared before the Hon'ble Minister on the date fixed. The matter was heard by giving opportunity to the petitioner by the Hon'ble Minister. The Hon'ble Minister interfered with the order of Licensing Authority cancelling the license of the petitioner permanently and instead of the said, in view of the undertaking given by the petitioner that in future petitioner will not commit any mistake, the Hon'ble Minister suspended the license for a period of 30 days. Accordingly, the Department issued the order on 01.01.2021 whereby it was informed that the petitioner shall not run the medical shop for a period of 30 days from 10.01.2021 to 09.02.2021 inclusive of both days. In this writ petition these actions are questioned.

(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 Ms. Barabde, learned Assistant Government Pleader, on the written instructions given to her submitted that in the vicinity of M/s. Dinesh Medicose, Kamal Chowk, Nagpur there are 8 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 8 other medical shops situated in the vicinity where the petitioner's shop is situated.

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

(8) Show-cause notice was given to the petitioner and the show-cause notice was replied. In the reply to the show-cause notice the petitioner has accepted the mistakes committed by him. Further, personal hearing was given to the petitioner by the Licensing Authority and also by the Hon'ble Minister. The Hon'ble Minister has already taken a lenient view by converting the order of cancellation of the license permanently to suspension of license for 30 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

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