

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14108 of 2010

Akshaya Kumar Mahapatro

Petitioner

Mr. B. Routray, Sr. Advocate

-versus-

State of Odisha and others

Opp. Parties

Mr. A.P. Das, ASC

CORAM:

THE CHIEF JUSTICE

JUSTICE R.K. PATTANAİK

ORDER

16.02.2022

Order No.

05.

1. The Petitioner who happens to be a fully qualified medical professional having done both MBBS and post-graduation is, however, stated to be ‘unemployed’. In other words, he neither practices as a doctor nor is employed as such in any hospital. He is however operating a 24x7 day-night medicine shop under a license issued by the Government at Gouradeipur in Kodala P.s. in the district of Ganjam.

2. He came to this Court challenging a letter dated 19th March, 2010 whereby recommendation was made for transfer of the licence to some other person thereby rejecting the Petitioner’s request that it be transferred to his brother, and an order dated 11th August, 2010 whereby the license granted to him for running 24 hours day and night medicine shop in the CHC campus at Kodala was cancelled “in view of his appointment as a doctor under the State Government.”

3. While issuing notice in the present petition on 19th August, 2010 stay was granted of both the letter dated 19th March, 2010

as well as the order dated 11th August, 2010. That interim order has continued for more than 11 years now. In other words, in the last 11 years despite the period of renewal being crossed twice, the Petitioner has continued as if the license was renewed in his favour on both occasions. Even today, he continues to run the 24 hours day and night medicine shop at the above location.

4. Today on instructions, Sri Budhadev Routray, learned Senior counsel appearing for the Petitioner states that the Petitioner is no longer insistent on the license being transferred in favour of his brother. He wants to continue to run the medicine shop in the premises himself. This statement is placed on record.

5. The Petitioner's case for renewal of license has to be considered long ago and it is only because of the interim order of this Court that it is not happened so far.

6. In that view of the matter, the following directions are issued:

(i) On or before 4th April, 2022 the Government will take a decision on whether or not the Petitioner's license to run the 24 hours day and night medicine shop at the above location should be renewed.

(ii) The Government will not proceed on the basis that the Petitioner has an appointment under the State Government, since that is factually incorrect. The statement of Mr. Routray that the Petitioner has got no such appointment is also placed on record.

(iii) The above statement will however not prevent the Government for making an independent enquiry and

ascertaining the facts and evaluating the Petitioner's case for renewal of license in accordance with law uninfluenced by the earlier order dated 11th August, 2010 which is hereby set aside.

(iv) The fresh decision of the Government shall be communicated to the Petitioner on or before 4th April, 2022. If aggrieved by such decision, it will be open to the Petitioner to seek appropriate remedies in accordance with law.

(v) The recommendation dated 19th March, 2010 of the Director of Health Services will not be acted upon. It will however be open to the Government to consider any other representation in respect of the same medicine shop.

7. The writ petition is disposed of in the above terms.

8. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

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