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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7189 OF 2022**

Radha Medical and General Stores

Through its proprietor

Mr. Gajendra Baban More

.... Petitioner.

V/s

State of Maharashtra and Ors.

.... Respondents.

Mr. A.S. Rao for the Petitioner.

Mr. P .P. Pujari, AGP for Respondents.

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 30, 2022

P.C.:-

1] Heard.

2] Petitioner holds license under the provisions of the Drugs and Cosmetics Act, 1940 which is governed by the Drugs and Cosmetics Rules 1945 (Hereinafter referred to as “the Act” and “ the Rules”).

3] During inspection of the operation of the license of the Petitioner on 17th June, 2014, Petitioner was observed to have breached conditions as provided under Rule 65 of the Rules which has

prompted respondent-authorities to issue show cause notice on 21st June, 2014. Since the explanation tendered by the Petitioner was not found to be satisfactory, order of suspension of license of the Petitioner came to be passed on 3/8/2015. In an appeal prescribed under sub-rule (2) of Rule 67-H of the Rules against the aforesaid order of cancellation of license, State Government has modified order of cancellation of license to that of suspension for 90 days. As such, this Petition.

4] Contention of Mr. Rao, Counsel for the Petitioner is, violation of conditions of license as reflected during inspection of shop of the Petitioner was not that serious which should invite punishment/penalty of suspension for 90 days. According to him, explanation tendered by the Petitioner was quite satisfactory and that being so, appellate authority i.e. State Government was justified in showing indulgence. However, disproportionate punishment of suspension of license for a period of 90 days is awarded. He has invited my attention to the alleged violation and the explanation tendered.

5] While countering the aforesaid submissions, learned AGP would support the order of the State Government, as according to him, Petitioner is required to conduct business of pharmaceuticals in accordance with the Act and the Rules framed thereunder.

6] Appreciated the submissions.

7] Amongst other shortfalls noticed against the Petitioner were of not maintaining register in a given form, storing medicine in room temperature instead of temperature prescribed, custodian of expired medicines, not maintaining proper orders against which supplies are made etc.

8] It appears that Petitioner has tendered his explanation which has prompted the State Government to accept the same. As such, order of cancellation of license is modified to that of suspension for 90 days.

9] I have perused both the orders and explanation tendered by the

Petitioner. In my opinion, order of suspension ordered for 90 days appears to be not in proportionate to the alleged violation. Inspection of shop premises of the Petitioner was carried out in 2014 and the Petitioner has already suffered for last about 8 years in view of pendency of proceedings before the State Government. That being so, order impugned passed by the State Government on 27/5/2022 stands modified. Period of suspension is reduced to 30 days from 90 days.

10] Petition stands partly allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)