

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 5207 OF 2022

M/s Namita Medicals, a proprietorship firm
situated at Shop No. 1 and 2,
Property No. 152/1, Ward No.28, Gajanan Nagar,
Near Andh Vidyalaya, Wadali Road,
Amravati-444602, represented through its proprietor
Smt. Namita w/o Yogesh Mahure,
aged about 28 years, Occ. Business,
Resident of Sant Gadgebaba Coloney,
Mardi Road, Amravati.

PETITIONER

.....VERSUS.....

1. State of Maharashtra
through the Principal Secretary,
Food and Drugs Department,
Maharashtra State, Mantralaya, Mumbai – 32.
2. Assistant Commissioner and Licencing Authority,
Food and Drugs Department, (M.S.) Amravati.

RESPONDENTS

Shri S.Y. Deopujari, Advocate for the petitioner.
Ms. S.S. Jachak, Assistant Government Pleader for the respondents/ State.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : 26/8/2022

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

Considering the short issue involved, **RULE.** Rule made returnable forthwith and heard the learned counsel for the parties.

2. The learned Assistant Government Pleader waives notice for the respondents.

3. The petitioner is a proprietor of a medical shop. On 1/6/2022, respondent No.2 passed an order cancelling the licenses issued in favour of the petitioner on account of breach of the provisions of The Drugs And Cosmetics Act, 1940 (for short “Act of 1940”) as well as the Rules of 1945 thereunder. While passing that order, it was directed that the licenses would cease to operate from 1/9/2022. The petitioner being aggrieved by the said order has preferred an Appeal before the State Government under Rules 66(2) and 67(H)(2) of the Act of 1940. Along with the Appeal, an application for stay has also been filed. The grievance of the petitioner is that the application for stay has also not been taken-up for consideration by the Appellate Authority.

4. In view of aforesaid, the learned Assistant Government Pleader was directed to obtain instructions from respondent No.1 as regards the period within which the Appeal preferred by the petitioner would be decided. On instructions it is submitted that the Appeal would be decided within a period of four weeks from the date of the petitioner’s appearance. Accordingly, the following order is passed :

i. The petitioner shall appear before respondent No.1 – Appellate Authority on 12/9/2022 at 11:30 am. The Appellate Authority shall consider the Appeal on its own merits and decide the same preferably within a period of six weeks from that date. For a period of two

months from 1/9/2022, the petitioner would be permitted to operate the aforesaid licenses since time till 1/9/2022 was granted by the Assistant Commissioner for preferring the Appeal. All points raised in the Writ Petition are kept open.

ii. The Writ Petition is accordingly allowed. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI - PHALKE, J.)

(A.S. CHANDURKAR, J.)

SUMIT