

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.5937 of 2018 (O&M)
Date of Decision: April 25, 2022

Tarsem Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D.S. Gurna, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG Punjab.

JAISHREE THAKUR, J. (Oral)

1. The instant writ petition has been filed by the petitioner for issuance of a writ of *mandamus* to the respondents to renew his Drug Licences bearing No.20-18550NB and 20-18550B issued in the name of M/s Public Medical Store, Barwala Road, Saidpura, Tehsil Dera Bassi, District SAS Nagar (Mohali) in view of request submitted vide application dated 16.07.2013 (Annexure P-6) and appeal/representation dated 28.12.2016 (Annexure P-7).

2. In brief, the facts of the case are that, the petitioner is sole proprietor of M/s Public Medical Store and he has been running the said medical store under the aforesaid licences issued by respondent No.3 on 19.01.2004. In the year 2008, the petitioner became sick and his shop remained closed and due to these circumstances, he could not apply for the renewal of his licence before its expiry. As the term of the licence had

expired, he applied for renewal of his licence, however, no action has been on the said application. Thereafter, the petitioner submitted his representation dated 28.12.2016 (Annexure P-7) in the form of an appeal, however, no action has been taken on the same too. It is claimed that the petitioner is an unemployed person and has no other occupation for his livelihood, as such, directions have been sought in the instant writ petition to the respondents to renew his licence by deciding his representation.

3. Notice of motion was issued in the matter, pursuant to which, appearance has been caused on behalf of the respondents.

4. Mr. D.S. Gurna, learned counsel appearing on behalf of the petitioner would argue that the respondents have intentionally not decided the application dated 16.07.2013 submitted by the petitioner for renewal of his licence and subsequently, the representation dated 28.12.2016. It is argued that the petitioner has already deposited the requisite fee and complied with all other formalities as required for renewal of licence.

5. Per contra, Mr. Pawan Sharda, learned DAG Punjab appearing on behalf of the State would argue that first of all the petitioner has not disclosed the intention behind submitting his application for renewal of licence on 16.07.2013 i.e. after more than 4 ½ years of expiry of his licence, because on 27.06.2013, the Drug Inspector on a surprise checking, seized 54 types of allopathic drugs in Form-16 from the unlicensed premises of the petitioner and on being asked, the petitioner could not produce any drug licence in respect of the premises or a valid registered medical practitioner certificate, so as to justify the stocking of huge quantity of allopathic drugs for the purpose of sale. It is submitted that because of non-production of

any valid licence to purchase/sale the seized allopathic drugs, a criminal complaint has already been filed against the petitioner for contravening the provisions of Section 18(c) and 18-A, punishable under Section 27(b)(ii) and Section 28 of the Drugs and Cosmetics Act, 1940, in which charges were framed against the petitioner on 01.07.2016 and the same is still pending consideration. It is further argued that under Rule 63 of the Drugs and Cosmetics Rules, 1945, the petitioner was required to get the licences renewed either before expiry of the said licences or within six months of its expiry together with additional fee in Form 19 of the Drugs and Cosmetics Rules, 1945 whereas, he did not do so on or before expiry of his licences on 18.01.2009.

6. I have heard learned counsel for the parties, apart from perusing the pleadings of the case.

7. Some of the facts, which are admitted in the present case are that, the drugs licences were issued to the petitioner on 19.01.2004 and the same were valid for a period of five years i.e. upto 18.01.2009, as per Rule 63 of the Drugs and Cosmetics Rules, 1945. Further, as per Rule 63 of the Drugs and Cosmetics Rules, 1945, the petitioner was required to get the licences renewed either before expiry of the said licences or within six months of its expiry together with additional fee in Form 19 of the Drugs and Cosmetics Rules, 1945.

8. It is pertinent to mention herein that during a surprise checking on 27.06.2013, 54 types of allopathic drugs were seized from his unlicensed shop by the then Drug Inspector and on asking, the petitioner could not produce any valid licence, to justify the stocking of huge quantity of said

allopathic drugs. Consequently, a criminal complaint came to be filed against the petitioner and the same is pending consideration before the Addl. Sessions Judge, Mohali, in which proceedings the Registered Medical Practitioner (RMP) certificate produced by the petitioner, in order to avoid his criminal prosecution, has been found to be false on verification.

9. In the instant writ petition as well as in the application dated 16.07.2013 (Annexure P-6), the petitioner has claimed that due to ill-health, his shop remained closed since the year 2008, however, no such document has been produced on record in support of the said contention, as such, this court is of the considered view that in the absence of any document, the contention of the petitioner cannot be accepted as gospel truth. Further, Rule 63 of the Drugs and Cosmetics Rules, 1945, is clearly in its terms, which provides that an original licence or a renewed licence to sell drugs, shall be valid period of five years from the date on which it is granted and an application for renewal of licence in force is required to be made before its expiry or within six months of its expiry, otherwise, the licence shall be deemed to have been expired.

10. In view of the above discussion, there is no ground made to issue any direction to the respondents to renew the licences of the petitioner, as such, the instant writ petition is hereby dismissed, being devoid of any merits.

April 25, 2022

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No