



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.19053 OF 2024

Pradeep Jain

... Petitioner.

Versus

The State of Maharashtra and Ors.

... Respondents.

Mr. Amogh Singh i/by Ashwin Tripathi, for the Petitioner.

Mr. Y.S. Nimbalkar, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : December 20, 2024

P. C. :

1. By this Petition, the challenge is to the order dated 16th September, 2024 passed by the Respondent No.1 pending the hearing before the Respondent No.4 which is the Appellate Authority. As there is no incumbent to the office of Appellate Authority, no hearing could be conducted.

2. Mr. Singh, learned counsel for the Petitioner has tendered a statement in the tabular form juxtapositioning the allegations in the show cause notice and the Petitioner's reply to the same. Perusal of the allegations in the show cause notice would indicate that the allegations are majorly of non updation of the records and incomplete patient prescription details on the sales bills.

3. Mr. Singh would submit that the Petitioner has updated drugs sales record and is maintaining regular entries. He submits that the Drug Inspector can cause a visit to the Petitioner's shop however, since the license has been suspended for a period of 20 days and there is no Appellate Authority, pending the hearing and final disposal of the Appeal before the Respondent No.4, the impugned order be stayed.

4. Learned AGP would vehemently oppose the Application and would submit that although in the reply to the show cause notice, the allegations were denied however, in the hearing before the Commissioner the Petitioner has admitted the allegations. She would further submit that the drugs in respect of which the registers are not updated are TB Drugs. She would further submit that despite time being given, the Petitioner has not updated his records and therefore, the impugned order has been rightly passed as there was violation of the statutory provisions.

5. I have considered the submissions and perused the record.

6. There is no Appellate Authority functioning at present and by virtue of the said position, the present Petition has been filed. *Prima facie*, upon perusal of the allegations in the show cause notice, the allegations majorly pertain to the non updation of the registers and non production of the registers at the time of the inspection by the Drug Inspector.

7. Considering that the suspension is for a period of 20 days, it *prima facie* appears that the violation are not so grave so as to entail the cancellation of the license itself. As the allegations are as regards the non updation of the records, the Drug Inspector is directed to visit the Petitioner's shop and to carry out an inspection of all the records. This Court is also informed that in event, the Petitioner does not succeed in the appellate proceedings, the period of 20 days would commence from the date of passing of the order. Mr. Singh would further submit that the shop has been shut for the past 5 days and therefore accordingly, the period would be reckoned.

8. Considering the nature of allegations, in my view *prima facie* the same are not so grave so as to warrant the suspension of the license for a period of 20 days and coupled with the fact, that there is no Appellate Authority, the impugned order is stayed till the Appeal is heard by the Appellate Authority. In event, the Appellate Authority comes to a finding based on records and the subsequent inspection report of the Drug Inspector that the license was rightly suspended, the period of 15 days would commence from the date of the order of the Appellate Authority.

9. In light of the above, the Petition is allowed in the above terms.

[Sharmila U. Deshmukh, J.]