

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8130 OF 2023
WITH
INTERIM APPLICATION NO. 9949 OF 2024

M/s. Favourite Medical Stores & Anr.

.. Petitioners

Versus

The State of Maharashtra & Anr.

.. Respondents

.....

- Mr. Atal Bihari Dubey, Advocate for Petitioners
- Dr. Dhruvi Kapadia, AGP for Respondents / State

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 2, 2025

P. C.:

1. Heard Mr. Dubey, learned Advocate for Petitioners and Dr. Kapadia, learned AGP for Respondents / State.
2. On 25.08.2025 after hearing learned Advocates for the parties, following order was passed:-

"1. Heard Mr. Dubey, learned Advocate for Petitioner and Ms. Nadkarni, AGP for Respondents. I have heard the learned Advocates and perused the record of the case.

2. Grievance of Petitioner is challenge to the order dated 28.06.2022 passed by the Minister, Ministry of Food and Drugs Administration, State of Maharashtra, Mantralaya, Mumbai in Appeal No. 259/2022.

3. Briefly stated Petitioner's father was running a medical store under the name of "Favourite Medical Stores" from the premises near Bank of Maharashtra, 9799, Tilak Road, Lonavala, Taluka Maval, Dist. Pune. It is the case of Petitioner that Petitioner's father was issued licence for running a medical store therein since 1983 onwards and the Petitioner has continued in his footsteps thereafter. He would inform the Court that there were eviction proceedings filed by the landlord in the Civil Court which resulted in passing of decree of eviction against the father of Petitioner. He would submit that landlord has thereafter filed execution proceedings which are pending before the Executing Court. He would submit that challenge to the

decree is pending in the District Court in Regular Civil Appeal. In the meanwhile, license of the premises was sought to be renewed and revalidated by Petitioner so as to enable him to run the medical store. He would inform the Court that livelihood of Petitioner and his family is entirely dependent upon the income from the said store but by virtue of the impugned order, for the past several years the store has been shut because without a valid licence Petitioner is not in a position to run the medical store. In support of Petitioner's case, he has drawn my attention to the impugned order appended at page Nos. 13-14 of the Petition passed by the Hon'ble Minister, Ministry of Food and Drug Administration.

4. I have perused the impugned order. The said order incidentally records that parties were heard and on the basis of documents produced by Petitioner, all compliance with respect to issue of licence were duly complied with save and except the fact that Petitioner was not able to produce any documentary evidence with respect to his occupation / legal occupation of the said premises. In that regard, the Minister has noted that Petitioner ought to have produced either the consent letter from the landlord of the premises or a tenancy agreement or any other relevant documentary evidence to enable him to seek renewal / revalidation of the licence for running the medical store. From the record of the case, it is clear that there is a dispute between the parties resulting in the decree of eviction passed against Petitioner's predecessor. Petitioner is already facing execution proceedings. Regular Civil Appeal against the decree is pending before the Appellate Court. All that the concerned Minister ought to have seen in such a case was whether Petitioner's case was bonafide with respect to his running the medical store since possession of the store is still with him.

5. Prima facie from the record of the case, it is seen that there is no dispute about running of the medical store by the Petitioner and his eligibility to run the same. Admittedly one of the issue which appeals to the Court is the fact that possession of the said premises is still with the Petitioner. Mr. Dubey would inform the Court that no order has been passed in execution proceedings directing handing over of the premises to the landlord. He would also inform the Court that the RCA No. 192/2022 is filed against the eviction order before the District Judge, Maval and the same is pending. In that view of the matter, taking cognizance of the above, I am directing the Petitioner to file an appropriate affidavit and place on record all such relevant documents which are noted above on the basis of the averments made in the Petition and submissions made across the bar to enable the Court to determine the present Petition. If such affidavit is filed placing on record the aforestated details, Petition shall be determined by this Court. Let the affidavit be filed within a period of one week from today.

*6. Stand over to **2nd September, 2025** under the caption "**for Orders**".*

2.1. In compliance of the above order, Mr. Dubey has placed before this Court affidavit dated 29.08.2025 filed by Mr. Taher Fakruddin

Dohadwalla, proprietor of Petitioner No. 1 - M/s. Favourite Medical Stores. He has placed on record the material which *prima facie* shows that subject premises are in his possession; that he is paying electricity charges of the subject premises as also the fact that Petitioner was running a medical store until the present dispute occurred leading to rejection of licence on the ground which has been mentioned in the previous order.

3. Considering the fact that Statutory Appeal being RCA No. 192/2022 is pending before the District Court, it is natural that the opponent of Petitioner i.e. landlord will not give his consent. In that view of the matter, if such consent is not forthcoming, Petitioner's livelihood rather Petitioner's family's livelihood cannot be affected by non-renewal of the licence of his business conducted from the subject shop. It has already been affected for sometime as can be seen from the timeline in the present case.

4. Considering the fact that Petitioner and prior to him, his father were running the medical store / pharmacy since 1983 and as yet there is no finality to the dispute / proceedings between the Petitioners and the landlord which is / are pending in the Statutory RCA before the District Court, Petitioners cannot be penalized for the same.

5. In view of the reasons stated in the order dated 25.08.2025 and those stated herein above, impugned order dated 28.06.2022 passed by the learned Minister, Ministry of Food and Drugs Administration, State of Maharashtra, Mantralaya, Mumbai in Appeal No. 259/2022 deserves to be interfered with. Impugned order is quashed and set aside. Resultantly Statutory Appeal being No. 259/2022 stands allowed.

6. Concerned Competent Authority is directed by this Court to immediately and forthwith renew the licence of Petitioner in the name of M/s. Favourtite Medical Stores within a period of one week from today strictly in accordance with law and issue the same. Needless to state that renewal of licence to Petitioners and all such further renewals in future will all be subject to the outcome of the civil dispute between the Petitioners and landlord *qua* the subject premises.

7. Parties shall act on a server copy of this order downloaded from the High Court website and shall not insist on a certified copy of this order.

8. Petition stands allowed and disposed in the above terms. Interim Application is also disposed.

[MILIND N. JADHAV, J.]