



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

Writ Petition No. 3380 of 2025

[Glacier Pharmaceuticals Pvt. Ltd., Maharashtra, through its
Director Mr. Ashok Nanwani ..vs.. State of Maharashtra
through the Principal Secretary, Department of Food
and Drugs Administration and anr.]

with

Writ Petition No. 3384 of 2025

[M/s Rajesh Pharma through its Director Mr. Rajesh V. Gattani
..vs.. State of Maharashtra through the Principal Secretary,
Department of Food and Drugs Administration and anr.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. S. K. Paunekar with Mr. Pravin Tembhekar, Advocate for the
petitioners
Mr. A. V. Palshikar, AGP for the respondents

CORAM : ANIL L. PANSARE J.

DATED : 16-07-2025

Heard.

2. On 7-7-2025, following order was passed.

“Heard.

2. *The license issued to petitioners to sell drugs was cancelled w.e.f. 17.03.2025 by respondent No.2 – licensing authority vide communication dated 13.12.2024.*

3. *The order was challenged by petitioners, before respondent No.1 in appeal under Rule 66 (2) of the Drugs and Cosmetics Rules, 1945. The appeal came to be dismissed vide order dated 21.05.2025.*

4. *Having heard counsel for petitioners and learned A.G.P for some time, it appears that the license was cancelled because the petitioners were blamed to have manufactured and sold fake drugs namely Formox 250. The report analysis to that effect was obtained on 09.05.2023.*

5. *It appears that the Civil Surgeon, Thane placed order of various drugs including Amoxicillin 250. The*

total order placed was for Rs.92,50,000/- which includes other drugs, which includes Amoxicillin 250. The petitioner supplied Formox 250 as against Amoxicillin 250 saying that the contents were same. The drugs were supplied in June, 2022. The petitioner's shop was inspected on 08.12.2023. The drug under question, Formox 250, was found in the shop.

6. The authority then referred to supply orders dated 22.06.2022 and also report of March, 2023 to infer that the petitioners have manufactured fake drugs in the name of Formox 250. Another reason why the authorities have justified the inference is that the Civil Surgeon, Thane has placed the order on 23.06.2022. The petitioners had shown that the drugs were purchased by them from M/s. Rajesh Pharma, on 22.06.2022 i.e. one day prior to placing the order by Civil Surgeon. It appears that M/s. Rajesh Pharma has allegedly purchased these drugs on 22.06.2022 from Milton Generic Pvt. Ltd., which has its office at Mumbai whereas M/s. Rajesh Pharma is situated at Amravati. The authorities, therefore, doubted transaction because drugs were transferred from Mumbai to Amravati on same day viz. 22.06.2022 itself.

7. The authority below then lodged First Information Report against the petitioner under Sections 420, 468, 471, 328, 276 read with 34 of the Indian Penal Code, 1860 read with Sections 18(a)(i) read with Section 17(B) of the Drugs and Cosmetics Act, 1940 and Rules, 1945.

8. Thus, *prima facie*, the action appears to be in tune with the material placed before the authorities below. Nonetheless, to test correctness of the orders, issue notice returnable on 17.07.2025.

9. The petitioners shall, however, deposit Rs.2,00,000/- each to show their bona fides. The amount shall be deposited on or before 14.07.2025 with the Registry of this Court.

10. At this stage, counsel for the petitioners submits that the Appellate Authority has modified the order of termination of license. Instead of 17.03.2025, the license is now terminated with effect from 10.07.2025 and accordingly makes request to permit the petitioners to continue the business.

11. I am not inclined to grant the relief. The petition, however, shall be heard on 10.07.2025. The petitioners shall deposit Rs.2,00,000/- each with the Registry of this Court by 09.07.2025, failing which the petitions shall stand dismissed without further reference to the Court and in that eventuality, Registry shall proceed to recover the amount as land revenue.”

3. As could be seen, the first impression was that it is petitioners, who had manufactured and sold fake drugs, namely, Formox 250. As such, there appears no dispute that these drugs were fake but what is revealed during the course of argument is that the drugs were manufactured by company named M/s. Anupam Medicose located at Kanpur, Uttar Pradesh. The drugs were purchased by M/s. Cabhi's Generic House from M/s. Anupam Medicose. Thereafter M/s. Shree Ganesh Pharma purchased the drugs from M/s. Cabhi's Generic House. The drugs were then purchased by M/s. Milton Generic Pvt. Ltd. from M/s. Shree Ganesh Pharma. M/s. Rajesh Pharma, the petitioner in Writ Petition No. 3384/2025 purchased the drugs from M/s. Milton Generic Pvt. Ltd. Lastly, M/s. Glacier Pharmaceuticals Pvt. Ltd., the petitioner in Writ Petition No. 3380/2025 purchased the drugs from M/s. Rajesh Pharma.

4. There is nothing on record nor could learned Assistant Government Pleader point out that the petitioners had any nexus with the manufacturing of the drugs. Rather, there is no evidence to show that petitioners had dealt with M/s. Anupam Medicose. In other words, there appears no evidence of petitioners having knowledge that the drugs which they have purchased were fake drugs.

5. It further transpired during the course of hearing that M/s. Glacier Pharmaceuticals Pvt. Ltd. placed orders with M/s. Rajesh Pharma with instructions to deliver drugs at Thane

because Thane Civil Hospital had placed purchased order with M/s. Glacier Pharmaceuticals Pvt. Ltd., which considering the urgency, instructed M/s. Rajesh Pharma, whose office is situated at Mumbai to deliver drugs at Thane.

6. It is nobody's case that merely because such instructions were given, the petitioners can be blamed of procuring or selling fake drugs. In the circumstances, merely because order was placed on 22-6-2022 and the goods were delivered on 23-6-2022, one cannot jump to the conclusion that the petitioners had knowledge of the fake drugs. The inference drawn by respondent no. 2 that since the drugs were delivered from Mumbai to Thane, the petitioners have admitted the guilt is apparently illegal. Respondent no. 2 must be aware of the practicalities in the business.

7. M/s. Glacier Pharmaceuticals Pvt. Ltd. has, considering urgency, instructed M/s. Rajesh Pharma to deliver drugs at Thane. This arrangement is said to have been routine business which naturally will save costs of transportation and also time. Respondent no. 2 is not oblivious to such arrangements. The finding rendered by respondent no. 2 is, thus, apparently perverse. Respondent no. 1 has blindly believed the theory put forth by respondent no. 2 and certified its finding. Thus, both the authorities have committed serious error in appreciating facts and evidence. The orders impugned are thus unsustainable.

8. Resultantly, both the petitions are allowed. Orders dated 21-5-2025 passed by the Minister, Department of Food and Drugs Administration, Maharashtra State confirming order dated 13-12-2024 passed by respondent no. 2 are quashed and set aside.

9. The amount deposited by the petitioners shall be returned back to them within seven working days.
10. Writ petitions are disposed of in above terms.

(Anil L. Pansare, J.)

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