

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)Nos.15242 of 2025 & 4001 of 2023

and

W.M.P(MD)Nos.11516, 3870 & 3871 of 2025

W.P(MD)No.15242 of 2025:

S.Rajendraprasad

Vs.

... Petitioner

1.The State of Tamilnadu,
Rep. by its Additional Chief Secretary,
Home, Prohibition and Excise (VII) Department,
Secretariat,
Chennai- 600 009.

2.The Commissioner,
Prohibition and Excise Department,
Chepauk,
Chennai- 600 005.

3.The District Collector,
Kanyakumari District,
at Nagercoil.

4.The Assistant Commissioner of Excise,
Nagercoil,
Kanyakumari District.

... Respondents



WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent proceedings in G.O(D).No.155 of 2025 dated 19.05.2025 and quash the same and directing the 3rd respondent to renewal the L2 license bearing number 1/2022-2023 dated 23.08.2023 in favour of the petitioner M/s.Anand Ayurveda Pharmacy, 17/103B, Gandhi Nagar, Thengam Puthoor & Village, Agastheeswaram Taluk, Kanyakumari District.

For Petitioner : Mr.H.Velavadhas

For Respondents : Mr.M.Lingadurai
Special Government Pleader

W.P(MD)No.4001 of 2023:

S.Rajendra Prasad

... Petitioner

Vs.

1.The Director,
Office of the State Licensing Authority (IM),
Tamil Nadu,
Arumbakkam,
Chennai- 600 106.

2.The District Collector,
Kanyakumari District,
at Nagercoil.

... Respondents

[R2 is impleaded vide court order dated 10.03.2023 in WMP(MD)No. 4584 of 2023 in WP(MD)No.4001 of 2023 by CVKJ]

2/12



WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned cancellation order in L.Dis.No.985/2012 dated 25.01.2023 passed by the respondent and quash the same and consequently directing the respondent to issue the Drug License in favour of the petitioner by considering the petitioner's application dated 23.12.2019.

For Petitioner : Mr.H.Velavadhas

For Respondents : Mr.M.Lingadurai
Special Government Pleader

COMMON ORDER

Since the issue involved in these two cases are one and the same, these two cases are taken up together and disposed of.

2(i) W.P(MD)No.15242 of 2025 is filed for issuance of Writ of Certiorarified Mandamus to quash the impugned order passed by the 1st respondent proceedings in G.O(D)No.155 of 2025 dated 19.05.2025 and directing the 3rd respondent to renewal the L2 license bearing number 1/2022-2023 dated 23.08.2023 in favour of the petitioner M/s.Anand Ayurveda Pharmacy, 17/103B, Gandhi Nagar, Thengam Puthoor &



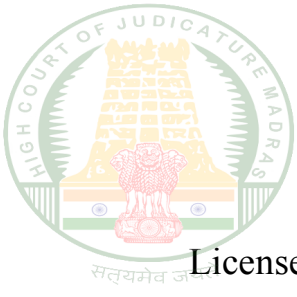
Village, Agastheeswaram Taluk, Kanyakumari District.

WEB COPY

2(ii) W.P(MD)No.4001 of 2023 is filed for issuance of Writ of Certiorarified Mandamus to quash the impugned order and consequently direct the respondents to issue drug license in favour of the petitioner based on the petitioner's application dated 23.12.2019.

3. Through the impugned order dated 25.01.2023, the respondent has cancelled the License No.341 dated 08.11.1989 issued in Form 25 with effect from 25.01.2023 as per Rule 159 of the Drugs and Cosmetics Rules, 1945. Through the impugned G.O. dated 19.05.2025, the respondent had refused to grant L2 license since the petitioner is not possessing valid drug license as per Rule 94 of the Medicinal and Toilet Preparations (Excise Duties) Rules 1956. Aggrieved over the same two writ petitions are filed.

4. The brief facts of the case are that the petitioner was issued drug License in Form 25 D bearing No.341 dated 08.11.1989 by the respondents. The License was being renewed periodically and the License was valid up to 31.12.2004. The petitioner applied for renewal of drug



WEB COPY

License for a period of 2004-2006, 2006-2007, 2010-2014, 2015-2019 and 2020-2024 with necessary fee paid through the challan in favour of the respondent. The renewal application is still pending before the respondent.

5. As per Rule 156, an original license in Form 25D or renewed License in Form 26 D unless sooner suspended or cancelled shall be valid up to 31st December of the following year in which it was granted or renewed. However, if the application for the renewal of License is made before its expiry or within one month of its expiry or within 3 months of its expiry after payment of additional fee of Rupees thirty, the license shall continue to be in force until orders are passed on the application. After expiry of 3 months, additional fee has to be paid. In the present case, the petitioner had filed one month before the expiry.

6. The contention of the petitioner is that in Ayurvedic preparations due to its components generates alcohol which is known as self generates alcohol and the same is not subjected to any restrictions. As per Section 32 G of the Act, the Central Government constituted Ayurvedic Unani Drugs Technical Advisory Board to advise the Central Government and State Government on Technical matters. Till now the Ayurvedic



WEB COPY

preparations are not prohibited by the State Government. While so, the State Government authorities has issued a direction to take L2 License under the provisions of the Medical and Toilet Preparations (E.D.) Rule 1956 in addition to drug license. The Drug License is the basic requirement of getting L2 License. Hence, the persons having Drug License only are eligible for L2 License. Some procedures are prescribed for getting L2 License. The petitioner was already granted L2 License, but subsequently the same was rejected by the District Collector which was put to challenge in W.P.(MD) No.6859 of 2021, wherein the Court has directed the District Collector to dispose the petitioner's application. Thereafter L2 License was issued to the petitioner which was valid up to 31.03.2023. Now the petitioner is seeking Drug License in Form 25D and the same was rejected on the ground that the petitioner's factory is closed. Further reasons are that the petitioner has not submitted any relevant documents which the respondent directed the petitioner to produce. In fact, in one occasion, the petitioner has submitted photo copies and not the original copies. The petitioner has not attended the enquiry and has not responded to any of the notices. On these grounds, the respondents have rejected License. The said rejection order is put to challenge before this Court in W.P(MD)No.4001 of 2023.

6/12



WEB COPY

7. The learned counsel for the petitioner submitted that the respondent ought to inspect the factory if the Form 25 D License ought to be issued, but the same is sealed by the respondents as early as 2004. The contention of the respondents is that the petitioner failed to approach the authorities within the stipulated period of three months. It is seen that the petitioner has approached the respondents after 8 years i.e., on 21.12.2012. The factory was closed as early as 2004. Hence, the same has not been considered. But there is a provision for deemed License and in the present case, it is until 2005. The petitioner has not availed the deemed License provisions as well but applied after lapse of 8 years.

8. After hearing the rival submissions on this issue, this Court is of the considered opinion that the deemed provision is there for a period of one year. However, there is no complete ban or there is no power for the respondents to completely close the factory. Even if it is applied after 8 years, the respondents have to consider. In fact, the respondents have also considered by issuing several communications thereafter. One such communication is dated 23.11.2022 wherein the petitioner was directed to produce 16 documents before the authorities. Therefore, 8 years lapse cannot be a ground to reject the petitioner's application.



WEB COPY

9. The next contention of the respondents is that the petitioner has not even responded to any of the communication. Further, the L2 License was also renewed based on the petitioner's application and fee. But the petitioner has completely concealed the fact that the factory was closed. Such contention of the respondents cannot be accepted for the sole reason that the respondents ought to have carried out spot inspection before issuing such license. The respondents cannot monotonously without application of mind, cannot issue L2 License by accepting the fee alone. In other words, the fee was collected and L2 License was renewed periodically without ascertaining whether the Form 25 D License is alive or not. In fact the entire issue revolve around closure of the factory alone and the same was closed by the respondents, for which the petitioner cannot be blame, Therefore, the plea of the respondents are liable to be rejected.

10. It is seen there were allegations against several Ayurvedic Medical practitioners especially in Kanyakumari and the factories were closed. The allegation against the petitioner is that he has prepared Mathu Kashayam which is equivalent to spirit. If it is taken, it will affect the liver. Even though such allegation is made against the petitioner, it was general allegation from the common public against all Ayurvedic practitioners. By



WEB COPY

taking note of the same the respondents have taken strict action against the several Ayurvedic practitioners. Admittedly, no steps were taken by the respondents for collecting the sample or putting them for verification. There is no medical report stating that Mathu Kashayam contains Spirit and no FIR was filed. In the counter, the respondents have not stated the FIR has been filed against the petitioner. Hence, no evidence produced to substantiate the allegation. In such circumstances, the respondents cannot close the petitioner's shop, consequently cannot decline Drug License in Form 25 D. Therefore, the impugned orders are quashed. However, the petitioner is directed to co-operate by submitting all originals and also allow the respondents to inspect the premises. The respondents are directed to inspect the premises. If it is in accordance to the drug provisions the respondents shall consider for issuing Form 25 D License as well. The delayed submission of license application is condoned and the respondents shall not raise the plea of delay while considering the application. The already issued L2 License was in force at the time of filing the writ petition. If any time is lapsed and if extension of license is necessary, the same shall be granted on payment of charges. Accordingly, the impugned orders are quashed.



WEB COPY

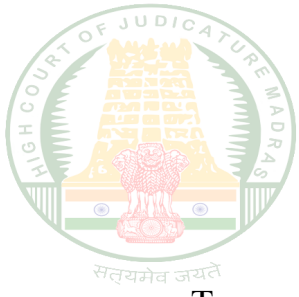
11. At this juncture, the learned counsel for the petitioner submitted that the petitioner has submitted all his original educational qualification certificates to the respondents. In case if the respondents are having all originals, the same may be handed over to the petitioner after verification. Insofar as the other certificates are concerned, the petitioner shall submit originals after obtaining from the appropriate authority. The petitioner shall submit all the documents at the earliest. On such submission, the respondents shall consider and pass orders within a period of six weeks therefrom.

12. With all these directions, these writ petitions stand allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

PJL



To
WEB COPY

1.The Additional Chief Secretary,
State of Tamilnadu,
Home, Prohibition and Excise (VII) Department,
Secretariat,
Chennai- 600 009.

2.The Commissioner,
Prohibition and Excise Department,
Chepauk,
Chennai- 600 005.

3.The District Collector,
Kanyakumari District,
at Nagercoil.

4.The Assistant Commissioner of Excise,
Nagercoil,
Kanyakumari District.

5.The Director,
Office of the State Licensing Authority (IM),
Tamil Nadu, Arumbakkam,
Chennai- 600 106.



WEB COPY



S.SRIMATHY, J.

PJL

**ORDER MADE IN
W.P(MD)Nos.15242 & 4001 of 2025**

DATED : 04.08.2025