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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-35093-2025 (O&M)
Date of Decision: 10.12.2025

M/S B M PHARMA

....Petitioner(s)

Versus

COMMISSIONER, FOODS AND DRUGS ADMINISTRATION,
PUNJAB AND ANOTHER

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sherry K. Singla, Advocate,
for the petitioner.

Ms. Shruti, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 28.10.2025 (Annexure P-8) passed by respondent No.1 and the order dated 25.06.2025 (Annexure P-3) passed by respondent No.2, whereby Licence No.115521 (Form 20) and Licence No.115522 (Form 21) dated 04.10.2023 (Annexure P-1) issued in favour of the petitioner has been ordered to be cancelled.

2. Learned counsel for the petitioner submitted that the petitioner was holding a retail sale drugs licence and the present writ petition has been filed through its Proprietor, Mohan Lal, who is a qualified Pharmacist and is running a chemist shop. He submitted that a show-cause notice dated 18.06.2025 was issued to the petitioner vide Annexure P-2 by the Zonal



Licensing Authority (Drugs), Bathinda with regard to contravention allegedly made by him under the Drugs & Cosmetics Act/Rules on two grounds. Firstly, during inspection, the qualified person of the firm i.e. aforesaid Mohan Lal was found absent and therefore, there was a violation of Rule 65(2) of the Drugs & Cosmetics Rules, 1945 (hereinafter referred to as 'the Rules of 1945'). Secondly, during inspection, a number of medicines including the salt of Pregabalin were recovered from the premises and were handed over to the police and the petitioner was directed to submit certified copies of purchase bills of the seized drugs along with corresponding sales record of the same. He submitted that the petitioner did not file reply to the aforesaid show-cause notice and vide impugned order 25.06.2025 (Annexure P-3), the aforesaid Zonal Licensing Authority (Drugs), Bathinda cancelled the licence of the petitioner on the aforesaid two grounds being taken in the show cause notice. He submitted that thereafter the petitioner filed an appeal before the Appellate Authority who also dismissed the appeal vide order dated 28.10.2025 (Annexure P-8) and therefore, both the impugned orders (Annexure P-3 and Annexure P-8) are liable to be set aside.

3. Learned counsel submitted that a show-cause notice dated 18.06.2025 was issued to the petitioner granting seven days time and on the seventh day i.e. on 25.06.2025, the licence of the petitioner was cancelled. He submitted that no fair opportunity was given to the petitioner to even file reply to the show cause notice, although he received the notice on 19.06.2025 i.e one day after its issuance but the petitioner required some time to satisfy the Licensing Authority with regard to the aforesaid two allegations made against him. He submitted that in this way, the impugned



order which has been passed by the Licensing Authority is liable to be set aside.

4. Learned counsel also submitted that action against the petitioner was taken under Rule 66 of the Rules of 1945, which empowers the authority to suspend or cancel the licence and in case the licence is to be cancelled, then the same can be cancelled only in respect of those substances which have been allegedly found to be recovered and not with regard to the entire licence. He submitted that the Licensing Authority could have suspended the licence for a specified period but could not have cancelled it indefinitely as the same amounts to taking away the livelihood of the petitioner.

5. On the other hand, Ms. Shruti, learned Assistant Advocate General, Punjab on instructions from Ms. Kamal Kamboj, Zonal Licensing Authority, who is present in the Court, submitted that the petitioner is a firm and the Proprietor of the firm is Mohan Lal, who is a qualified Pharmacist but repeated inspections were carried out at the premises, which is so depicted in the order passed by the Licensing Authority vide Annexure P-3 vide which the licence of the petitioner was cancelled and it was found that the authorised person namely, Mohan Lal was not present at the shop for dispensing medicines to the customers and rather his son, who is not a qualified person, was present there and a FIR has also been registered against him in this regard. She submitted that action against the petitioner was taken due to violations of Rules 65(2) and (4) of the Rules of 1945. She also submitted that when a person who is not qualified to dispense medicines to customers is dealing with the aforesaid medicines, the same can be



hazardous to the lives of the customers. She further submitted that during repeated inspections, various tablets of different companies containing the salt Pregabalin which is a habit-forming drug were found from the premises and nowadays the menace and overuse of such medicines, particularly in the State of Punjab, is well known and therefore, it was imperative for the Licensing Authority to take strict action against such shops which are dispensing Pregabalin based medicines without any authorization or without maintaining purchase or sales records so as to save the lives of the people. She also referred to the instructions dated 18.09.2023 issued in this regard by the Food & Drugs Administration, Punjab, a copy of which has been supplied to this Court and the same is taken on record as 'Mark-X'. She submitted that since there have been repeated violations of the aforesaid Rules by the petitioner, the present petition is liable to be dismissed.

6. I have heard the learned counsels for the parties.

7. A perusal of the show-cause notice (Annexure P-2) would show that on two grounds, the petitioner was issued the aforesaid show cause notice. Firstly, a qualified person of the firm namely, Sh. Mohan Lal was found absent at the time of inspection and therefore, there was a violation of Rule 65(2) of the Rules of 1945 and secondly, a number of tablets of different companies having the salt of Pregabalin were found from the shop of the petitioner and the petitioner was directed to submit certified copies of purchase bills of the seized drugs along with corresponding sales record of the same. The aforesaid show-cause notice was issued on 18.06.2025 and as per learned counsel for the petitioner, the same was received by the petitioner on 19.06.2025 i.e. on next day and in the aforesaid show-cause



notice, seven days time was given but the petitioner did not file any reply to the aforesaid show-cause notice and on the seventh day i.e. on 25.06.2025, the licence of the petitioner was cancelled.

8. The provisions of Rule 65(2), 65(4) and 66 of the Rules of 1945 are reproduced as under:-

“65(2) The supply, otherwise than by way of wholesale dealing of any drug supplied on the prescription of a Registered Medical Practitioner shall be effected only by or under the personal supervision of a [registered pharmacist].

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65(4)(1) The supply by retail, otherwise than on a prescription of a drug specified in Schedule C shall be recorded at the time of supply either-

(i) in a register specially maintained for the purpose in which the following particulars shall be entered:-

(a) serial number of the entry,

(b) the date of supply,

(c) the name and address of the purchaser,

(d) the name of the drug and the quantity thereof,

(e) in the case of a drug specified in Schedule C, the name of the manufacturer, the batch number and the date of expiry of potency,

(f) the signature of the person under whose supervision the sale was effected, or

(ii) in a cash or credit memo book, serially numbered containing all the particulars specified in items (b) to (f) of sub-clause (i) above.

Note. - The entries in the carbon copy of the cash or credit memo which is retained by the licensee shall be maintained in a legible manner.



(2)The option to maintain a register or cash or credit memo book shall be made in writing to the licensing authority at the time of application for the grant of a license to sell by retail:

Provided that the licensing authority may require records to be maintained in a register if it is satisfied that the entries in the carbon copy of the cash or credit memo book are not legible.

(3)(i)The supply by retail of any drug shall be made against a cash or credit memo which shall contain the following particulars:-

(a)name, address and sale license number of the dealer,

(b)[serial number of the cash or credit memo,

(c) the name and quantity of the drug supplied.

(ii)Carbon copies of cash or credit memos shall be maintained by the licensee as record.

(4)[(i) Records of purchase of a drug intended for sale or sold by retail shall be maintained by the licensee and such records shall show the following particulars, namely:-

(a)the date of purchase,

(b)the name and address of the person from whom purchased and the number of the relevant license held by him,

(c)the name of the drug, the quantity and the batch number, and

(d)the name of the manufacturer of the drug.

(ii)Purchase bills including cash or credit memos shall be serially numbered by the licensee and maintained by him in a chronological order.]

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66. Cancellation and suspension of licenses.

(1)The licensing authority may, after giving the licensee an opportunity to show cause why such an order should not be passed by an order in writing stating the reasons therefore, cancel a license issued under this Part or suspend it for such period as he thinks fit, either wholly or in respect of some of the



substances to which it relates, if in his opinion, the licensee has failed to comply with any of the conditions of the license or with any provisions of the Act or rules thereunder:

[Provided that, where such failure or contravention is the consequence of an act or omission on the part of an agent or employee, the licence shall not be cancelled or suspended if the licensee proves to the satisfaction of the licensing authority-

(a) that the act or omission was not instigated or connived at by him or, if the licensee is a firm or company, by a partner of the firm or a director of the company, or

(b) that he or his agent or employee had not been guilty of any similar act or omission within twelve months before the date on which the act or omission in question took place, or where his agent or employee had been guilty of any such act or omission, the licensee had not or could not reasonably have had knowledge of that previous act or omission, or

(c) if the act or omission was a continuing act or omission, he had not or could not reasonably have had knowledge of that previous act or omission, or

(d) that he had used due diligence to ensure that the conditions of the licence or the provisions of the Act or the rules thereunder were observed.]

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9. The instructions which have been issued by the Government of Punjab vide Mark-X as supplied by learned State counsel are also reproduced as under:-

***“Food & Drugs Administration, Punjab
Near Civil Hospital, Kharar, District Sahibzada Ajit Singh Nagar, Punjab***



To

- (1) All the Zonal Licensing Authorities,
- (2) All the Drugs Control Officers,
Of the State of Punjab.

No.Drugs/JC(D)/Pb.2023/1063Dated:18/09/2023

Subject: Regarding control of misuse of drugs formulations containing Pregabalin 150mg & 300mg under the provisions of Drugs and Cosmetics Act & Rules made there under.

In reference to the subject cited above, it has been observed that the drugs formulations containing Pregabalin 150mg & 300mg are being misused for intoxication as is evident from the recent seizures being made by the officers of FDA Punjab and various media reports.

Taking into consideration the above, all of you are directed to keep a vigilant eye on the unethical sale & purchase of drugs formulations containing Pregabalin 150mg & 300mg. In this regard, you are further directed to conduct a special inspection drive so as to control the misuse of above said drug formulations.

Wherever, seizure of the said drugs formulations is effected, strict and immediate action should be initiated against the erring chemist / person under the provisions of Drugs & Cosmetics Act, 1940 & Rules made there under.

Further, all the Zonal Licensing Authorities are requested to monitor the special drive, conduct fortnight review meetings with DCOs of their respective zones and report be sent to the head office regularly, so as to effectively control the misuse.

This should be treated as most urgent.

Sd/-

Joint Commissioner (Drugs)
Food & Drugs Administration, Punjab”

10. The first argument which was raised by the learned counsel for the petitioner was that adequate time was not given to the petitioner to file reply to the show-cause notice and therefore, he could not have confronted the Licensing Authority with regard to the aforesaid allegations made against



him. However, he has not disputed that the show-cause notice dated 18.06.2025 was received by him on 19.06.2025 and the impugned order of cancellation was passed on 25.06.2025. Therefore, seven days time was given to the petitioner regarding which there is no dispute. When a notice regarding violation of Rule 65 (2) of the Rules of 1945 for dispensing medicines in the absence of an authorized person and seizure of medicines especially containing the salt of Pregabalin without any record is issued, the same attains seriousness. Therefore, this Court is of the considered view that the aforesaid period of seven days, which was granted to the petitioner was a reasonable period of time because otherwise it would have affected the lives of many customers and people to whom the medicines were to be sold. There is no reasonable justification given by the petitioner as to why he did not file reply to show cause notice despite clear six days were at his disposal. Therefore, the aforesaid argument raised by the learned counsel for the petitioner is unsustainable and is rejected.

11. Another argument which was raised by the learned counsel for the petitioner was that the mere fact that qualified person namely, Sh. Mohan Lal was absent as he had gone to another place for a while would not mean that there was a violation of Rule 65(2) of the Rules of 1945. The aforesaid argument of the learned counsel for the petitioner is also unsustainable in view of the fact that when a shop is selling medicines to customers on the basis of the prescription slips, then it is only the qualified person who can do so. As to whether his absence was for a while or otherwise is a disputed question of fact which cannot be gone into by this Court in the present proceedings under Article 226 of the Constitution of



India. Even otherwise also, if a person who is not qualified to sell medicines and in fact he sells medicines to customers on the basis of prescription slips, there is every possibility of misreading the prescription or misinterpreting the salt or the medicine, which would otherwise be counterproductive to the lives of the citizens of India who are the customers. Therefore, no leniency can be shown in this regard when a qualified person is not present in the shop and the shop continues to run its business.

12. Another argument which was raised by learned counsel for the petitioner was that if the action was to be taken under Rule 66 of the Rules of 1945, the same could have been taken first for suspension and some time period may have been given to the petitioner for satisfying the Licensing Authority on the basis of record and there could not have been any cancellation for indefinite period. This argument raised by the learned counsel for the petitioner also deserves to be rejected in view of the fact that Rule 66 of the Rules of 1945 deals with both cancellation and suspension of licence. A notice was issued to the petitioner and therefore, the principles of natural justice have been duly complied with. Considering the seriousness of the allegations against the petitioner, the Licensing Authority in its wisdom thought it fit to cancel the licence because it would have affected the lives of people as un-accounted tablets containing the salt of Pregabalin were found from the premises of the petitioner repeatedly which affects the lives of people because it is known to be a habit-forming drug.

13. A perusal of the impugned order (Annexure P-3) would further show that it is not a single instance which has happened but twice inspections were conducted at different points of time and the medicines



containing the salt of Pregabalin were found regarding which the petitioner has not been able to furnish any record from where did he purchase the same or any register of the same or receipt or voucher relating to the same. Had there been any record with the petitioner, he may have attached the same at least along with the present writ petition. The present writ petition would show that no such record has even been attached by the petitioner with the present writ petition also and therefore, now the petitioner cannot be permitted to take up a plea that adequate opportunity was not given to him to furnish the record. The petitioner lacks *bona fide* in this regard.

14. In view of the aforesaid facts and circumstances, the present writ petition is devoid of any merit and the same is hereby dismissed.

10.12.2025

(JASGURPREET SINGH PURI)

rakesh

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No