HC-KAR

NC: 2026:KHC:59453
WP No. 31895 of 2026

CNR: KAHC010697762026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 31895 OF 2026 (GM-RES)

BETWEEN:

M/S. KOSIK PHARMA AND
SURGICAL DISTRIBUTORS
REGISTERED UNDER THE DRUGS
AND COSMETICS ACT, 1940 AND
THE RULES MADE THEREUNDER REGISTERED
SHOP AT CTS NO.4305, SHOP NO.2,
GR FL, VIBHAV APARTMENT,
NEAR OLD INCOME TAX OFFICE,
VIDYANAGAR, HUBLI - 580 021.
REPRESENTED BY ITS PROPRIETOR
MRS.PARVATHI MOUNESH PATIL @ MALLAVVA
W/O. MR.MOUNESH PATIL,
AGED ABOUT 27 YEARS.

...PETITIONER

(BY SRI. ABHISHEK H, ADVOCATE FOR
SRI. PRASANNA KUMAR B.T, ADVOCATE)

AND:

1. THE ASSISTANT DRUGS CONTROLLER 2
AND LICENSING AUTHORITY,
DEPARTMENT OF FOOD SAFETY AND DRUGS
ADMINISTRATION OFFICE AT SR NO.25A,
PLAT NO.392B, OPP. FIRE STATION RESIDENTIAL
APARTMENTS, TAJANAGARA MAIN ROAD,

EKATHANAGARA UNAKAL POST,
HUBBALLI - 580 031.

2. THE COMMISSIONER,
DEPARTMENT OF FOOD SAFETY
AND DRUGS ADMINISTRATION,
GOVERNMENT OF KARNATAKA,
BENGALURU - 560 001.

3. THE PRINCIPAL SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU - 560 001.

…RESPONDENTS

(BY SRI. SHIVAREDDY, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TQUASHING THE IMPUGNED ORDER DATED 30.09.2026 BEARING REF. NO. 2026-27/930, PASSED BY RESPONDENT NO.1, PRODUCED AT ANNEXURE-D, WHEREBY THE DRUG LICENCES BEARING NOS. KA/HB2/20B/222721 AND KA/HB2/218-222722 OF THE PETITIONER HAVE BEEN CANCELLED WITH IMMEDIATE EFFECT AND UNTIL FURTHER ORDERS, AS BEING ARBITRARY, ILLEGAL, CONTRARY TO THE PRINCIPLES OF NATURAL JUSTICE AND VIOLATIVE OF ARTICLES 14 AND 19(1)(G) OF THE CONSTITUTION OF INDIA AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

ORAL ORDER

The present writ petition is filed seeking the following reliefs:

> *"a) Issue a writ of Certiorari or any other appropriate writ, order or direction, quashing the impugned order dated 30.09.2026 bearing Ref. No.ಆಸುಔಆ/ಪ್ರಾಉಔನಿ ಹು/ಸ.ಔ.ನಿಧಾ-2/ಲೈವಿ/2026-27, passed by Respondent No.1, produced at ANNEXURE-D, whereby the Drug Licences bearing Nos. KA/HB2/20B/222721 and KA/HB2/21B-222722 of the Petitioner have been cancelled with immediate effect and until further orders, as being arbitrary, illegal, contrary to the principles of natural justice and volatile of Articles 14 and 19(1)(g) of the Constitution of India;*
>
> *b) consequently, issue a writ of Mandamus or any other appropriate writ, order or direction, directing the Respondents to restore/revive the Drug Licences of the Petitioner covered under ANNEXURE-A and permit the Petitioner to carry on its lawful business of purchase, stocking and distribution of pharmaceutical products, in accordance with law;*
>
> *c) direct Respondent No.3 to consider and dispose of the Appeal dated 05.10.2026, produced at ANNEXURE-E, preferred by the Petitioner against the impugned order dated 30.09.2026, in accordance with law and after affording the Petitioner a reasonable opportunity of personal hearing;*
>
> *d) Grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice and equity."*

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MONNAPPA POONACHA

2. The Registry has raised an objection that the petitioner carries out business at Hubballi and hence, the writ petition is to be presented before the Dharwad Bench of this Court.

3. It is the contention of the learned counsel for the petitioner that being aggrieved by the impugned cancellation Order dated 30.09.2026 (Annexure-D to the writ petition), an appeal was preferred under sub-Rule (2) of Rule 66 of the Drugs and Cosmetic Rules, 1945[1] before the third respondent - Appellate Authority, which is situated at Bengaluru. The same not having been entertained, the petitioner is before this Court.

4. The petitioner is the distributor of pharmaceutical products. The petitioner has been issued with a Show Cause notice dated 04.09.2026 (Annexure - B to the writ petition), which is issued under Rule 66(1) of the Rules. The allegation against the petitioner is that it dealt with "Zavicefta injection" - Batch No.23K03976, which is stated to be spurious. The petitioner has filed reply to the said notice on 10.09.2026

[1] Hereinafter referred to as 'Rules'

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(Annexure-C to the writ petition). The first respondent vide the impugned order dated 30.09.2026 (Annexure - D to the writ petition) has cancelled the license granted in favour of the petitioner. Being aggrieved, the petitioner has preferred an appeal under sub-Rule (2) of Rule 66 of the Rules before the Principal Secretary to Government, Health and Family Welfare Department - Appellate Authority. In the said appeal, the petitioner has sought for an interim prayer. The same has not been favourably considered, the present writ petition is filed. At this juncture it is relevant to notice Rules 66 of the rules which reads as under:

> *"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 there under:*
>
> *Provided that, where such failure or contravention is the consequence of an act or omission on the part of an agent or employee, the license shall not be canceled 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*

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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 license or the provisions of the Act or the rules thereunder were observed.

(2) A licensee whose license has been suspended or canceled may, within three months of the date of order under sub-rule (1), prefer an appeal against that order to the State Government, which shall decide the same."

5. The factual matrix in terms of the allegation against the petitioner is not required to be gone into in the present petition, inasmuch as vide the impugned notice cum order, the licence of the petitioner has also been suspended.

6. A plain reading of sub-Rule (1) of Rule 66 of the Rules clearly indicates that the petitioner is entitled to be given a show cause notice before an order of either suspension or cancellation is passed.

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7. It is further pertinent to note that Rule 66 of the Rules enables the authority to either suspend or cancel the license, wholly or part. The aspect of the matter also requires to be considered in the appeal filed by the petitioner.

8. Having regard to the fact that the appeal of the petitioner is pending before the appellate authority, it is expedient that the impugned cancellation order dated 30.09.2026 (Annexure-D to the writ petition) be stayed until consideration of the appeal of the petitioner. However, it is further expedient to direct that the petitioner not be permitted to carry out business with respect to the product, which is alleged to be spurious. Accordingly, until consideration of the appeal of the petitioner before the appellate authority, impugned cancellation order dated 30.09.2026 shall remain stayed.

9. During pendency of the appeal, the petitioner shall be permitted to carry on business in terms of the license granted in his favour. However, the petitioner shall not be permitted to carry on business in "Zavicefta injection".

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10. The contentions of the parties and the merits of the matter are kept open to be decided in the appeal filed by the petitioner.

11. This order shall not preclude the concerned authorities from taking further steps/measures in accordance with law.

12. The petition is ***disposed of*** in the aforementioned terms.

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(C.M. POONACHA)
JUDGE

JY
List No.: 1 Sl No.: 39