

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

2026:PHHC:001312



(206)

CWP-24615-2025(O&M)

Date of Decision: 09.01.2026

Rajnish

--Petitioner

Versus

State of Punjab & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI.

Present:- Mr. Keshav Pratap Singh, Advocate for petitioner.

Mr. Raghav Goel, AAG, Punjab.

JASGURPREET SINGH PURI.J (Oral)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India seeking quashing of impugned order dated 08.07.2025 (Annexure P-10) passed by the learned Commissioner, Food and Drugs Administration, Punjab and order dated 21.04.2025 (Annexure P-6) passed by learned Zonal Licensing Authority Gurdaspur Zone, whereby the drug licenses nos. PB-GS-136820 & PB-GS-136821 have been cancelled.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner was holding a valid retail drug licence under the Drugs and Cosmetics Rules, 1945 and was issued a show cause notice by the respondent-department to which he replied and thereafter an order dated 21.04.2025 (Annexure P-6) was passed against the petitioner on the basis of various allegations and his licence was cancelled. He submitted that thereafter petitioner filed a statutory appeal before Appellate Authority i.e. Commissioner, Food and Drugs Administration, Punjab by specifically taking up a plea that in view of Rule 66 (1)(b) of the Drugs and Cosmetics Rules, 1945 that in case the licensee or his agent or employee had not been

held guilty of similar act or omission within 12 months before the date on which any act or omission 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, then, his license cannot be cancelled. He submits that with regard to the aforesaid learned Appellate Authority has also noted down the contention and passed the order while dismissing the appeal but with regard to whether the learned Licensing Authority was satisfied with regard to the aforesaid position, no observation had been made and therefore the aforesaid order passed by the learned Licensing Authority as well as the learned Appellate Authority is in contravention of Rule 66(1)(b) of the Drugs and Cosmetics Rules, 1945 and is liable to be set aside.

3. On the other hand, learned State counsel has submitted that the licence of the petitioner has been cancelled on various grounds for violation of the terms and conditions of the contract which is apparent from the order vide which the licence has been cancelled and the order passed by the learned Appellate Authority.

4. I have heard learned counsel for the parties and have gone through the records carefully.

5. It was the argument of learned counsel for the petitioner that the learned Licensing Authority or the learned Appellate Authority had although mentioned the provisions of Rule 66(1)(b) of the Drugs and Cosmetics Rules, 1945 but have interpreted the same in an erroneous manner. Rule 66(1)(b) of the Drugs and Cosmetics Rules, 1945, is reproduced as under:-

“66.(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 licence 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 licence 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”

6. A perusal of the order passed by the learned Appellate Authority would show that although the grounds taken by the petitioner with regard to the applicability of the aforesaid rule were referred to but the learned Appellate Authority has not recorded any observation with regard to any satisfaction pertaining to applicability or non-applicability of the aforesaid provision. It is true that there were various allegations against the petitioner and the same have also been mentioned in the impugned orders. However, it is equally important that when there is a specific provision under the rules in the form of a proviso, as has been reproduced above, then the effect of the proviso was required to be considered in accordance with law by the learned Licensing Authority as well as by the learned Appellate Authority.

7. This Court is of the considered view that the effect of the aforesaid proviso has not been properly considered by the learned Appellate Authority.

8. In view of the aforesaid facts and circumstances, the present petition is partly allowed. The order dated 08.07.2025 (Annexure P-10), passed by the learned Appellate Authority is hereby set aside and the case is remanded back to the learned Appellate Authority, who shall now pass a fresh order after due application of mind by considering the effect of the aforesaid Rule Rule 66(1)(b) of the Drugs and Cosmetics Rules, 1945 in accordance with law and being uninfluenced by its earlier order dated 08.07.2025 (Annexure P-10). While passing the fresh order the learned Appellate Authority shall also remain uninfluenced by the present order passed by this Court as this Court has not made any observation on the merits of the case and it is only because of the deficiency in considering the effect of Rule 66(1)(b) of the Drugs and Cosmetics Rules, 1945 that the aforesaid order has been set aside It is further directed that before passing the fresh order after due application of mind, the learned Appellate Authority shall also grant adequate opportunity of hearing to the petitioner or his counsel. The necessary orders be passed within a period of three months from today.

9. The petition is partly allowed in the aforesaid terms.

10. All the pending misc. application(s) also stand disposed of.

(JASGURPREET SINGH PURI)
JUDGE

09.01.2026

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No