



RAJASTHAN HIGH COURT  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Civil Writ Petition No. 4432/2025

Jhanwer Medical Agencies, (Through Proprietor Jugal Kishore  
Jhanwer Son Of Shri Poonam Chand Aged About 58 Years) 22,  
First Floor, Amarnath Building, Jalori Bari Jodhpur.

-----Petitioner

Versus

1. The Commissioner, Food Safety And Drug Controller (Drug Wing) Commissionerate, 3Rd Floor Swasthya Bhawan, Tilak Marg C Scheme Jaipur
2. The Appellate Authority And Joint Secretary, Department Of Medical And Health Department Swasthya Bhawan, Tilak Marg, C-Scheme Jaipur
3. The Assistant Drug Controller, District Food Safety And Drug Cotroller-Jodhpur, Swasthya Bhawan, Jhalamand Choraha, Old Pali Road Jodhpur

-----Respondents

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For Petitioner(s) : Mr. C.S. Kotwani  
Mr. Chinmay Shekhar Kotwani  
Mr. Manoj Choudhary

For Respondent(s) : Mr. Narendra Singh Rajpurohit, AAG.

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**HON'BLE MR. JUSTICE KULDEEP MATHUR**

**Order**

**Reportable**

**13/03/2026**

By way of filing the present writ petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

*"It is, therefore, prayed that the second stay petition moved by the petitioner may kindly be allowed and during pendency of the writ petition, impugned orders dated 23.09.2024 (Annexure-9), dated 03.01.2025 (Annexure-10) and notice dated 19.03.2024 (Annexure-2) may kindly be ordered to be stayed till final disposal of the writ petition and it is further prayed that the respondents may kindly be ordered to be directed to permit the humble petitioner firm to restart his business with immediate effect.*

*Any other appropriate interim order or direction, which this Hon'ble Court may deem just and proper in the facts and*



*circumstances of the case, may kindly be also passed in favour of the petitioner."*

2. Briefly stated, the relevant facts of the case are that the petitioner - firm was issued a license under the Drug Control Act to conduct business as a retailer as well as a wholesaler, as per the provisions of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as "the Act of 1940"). It is alleged that the petitioner committed irregularities in maintaining stock and in the supply of drugs under the Rajasthan Government Health Scheme (RGHS), thereby causing fiscal loss to the Government. An FIR No. 265/2023 dated 20.09.2023 was registered against the petitioner at Police Station Basni for offences under Sections 420, 406, 467, 468, 471, 474 and 120B of the Indian Penal Code. During the course of investigation, the police arrested the petitioner and seized stock records, bills, computers, and other relevant materials from the premises of the petitioner's firm. Thereafter, the respondent No.3 — the Drugs Licensing Officer-cum-Assistant Drugs Controller, Jodhpur served the petitioner with a show cause notice dated 19.03.2024 alleging violation of Sections 18(a)(vi) and 18-B of the Act of 1940 and Rules 65(3), 65(4), 65(5), 65(6), and 65(9) of the Drugs and Cosmetics Rules, 1945 (hereinafter referred to as "the Rules of 1945"). By the said notice, the petitioner was directed to submit his explanation within seven days.

3. At the time when the show cause notice dated 19.03.2024 was issued, the petitioner was in judicial custody. Therefore, he requested respondent No.3 to grant him additional time to submit his explanation, as he did not have access to the records and documents necessary for preparing a proper reply. The petitioner





was subsequently enlarged on bail by this Court on 19.03.2024. Thereafter, respondent No.2, vide communication dated 23.04.2024, directed the petitioner to positively submit his explanation to the show cause notice dated 19.03.2024 within a period of seven days. Upon receipt of the said communication, the petitioner submitted a detailed reply to the show cause notice through his advocate on 02.05.2024.

4. Being dissatisfied with the explanation furnished by the petitioner regarding the alleged irregularities, respondent No.3, by order dated 13.06.2024, in exercise of the powers conferred under Rule 66(1) of the Rules of 1945, suspended the license issued to the petitioner for the sale, stocking, exhibition, offering for sale, or distribution of retail drugs (other than those specified in Schedule C, C(1), and X of the Rules of 1945) for a period of sixty days, i.e., from 20.06.2024 to 18.08.2024.

4. Aggrieved by the order dated 13.06.2024 passed by respondent No.3 suspending the license, the petitioner filed Appeal No.27/2024 before the Appellate Authority-cum-Joint Secretary to the Government, Department of Medical Health. The Appellate Authority, after considering the material placed before it, vide order dated 26.07.2024, rejected the appeal filed by the petitioner-firm. However, the period of suspension of the license was modified to operate from 19.08.2024 to 18.09.2024 (both days inclusive).

5. After completion of the suspension period imposed upon the petitioner by the Appellate Authority, respondent No.3, by a detailed order dated 23.09.2024, recorded a finding that the petitioner-firm had violated Sections 18(a)(vi) and 18-B of the Act





and Rules 65(3), 65(4), 65(5), 65(6), and 65(9) of the Rules of 1945. Consequently, in exercise of the powers conferred under Rule 66(1) of the Rules of 1945, the authority cancelled the drug license issued in favour of the petitioner, which was otherwise valid up to 01.05.2027. An appeal No.42/2024 was filed against the order dated 23.09.2025 before the Appellate Authority – cum Joint Secretary to the Government Department of Medical and Health, however, the same came to be rejected by order dated 03.01.2025.

6. Learned counsel for the petitioner submitted that the drastic step of cancelling the license issued to the petitioner has been taken in an illegal and arbitrary manner without observing the principles of natural justice. It was contended that before cancelling the drug license issued in favour of the petitioner, respondent No.3 did not provide the petitioner with any opportunity of hearing or of proving his innocence.

7. Learned counsel further submitted that Rule 66(1) of the Rules of 1945 contemplates both suspension and cancellation of a drug license as forms of penalty. While it is true that prior to suspending the petitioner's license, respondent No.3 had issued a show cause notice dated 19.03.2024 and had considered the explanation furnished by the petitioner before passing the suspension order dated 13.06.2024, if the respondent intended to cancel the license which was valid up to 01.05.2027 a fresh show cause notice ought to have been issued clearly indicating the grounds on which cancellation was proposed.

8. It was argued that the object of suspending a license is entirely different from that of cancelling it. Suspension has only a





temporary effect, whereas cancellation results in permanent deprivation of the license, thereby causing serious civil consequences and potentially affecting the petitioner's right to livelihood.

9. According to learned counsel for the petitioner, since no fresh show cause notice was issued after the suspension order dated 13.06.2024, the petitioner-firm was under a bona fide belief that the penalty for the alleged contravention of the provisions of the Act and the Rules had already been imposed. Consequently, the petitioner did not pursue the matter further with respondent No.3.

10. Without entering into the merits of the case, it was contended that the order dated 23.09.2024 cancelling the license constitutes a penalty that could not have been imposed without issuing a show cause notice specifically indicating the grounds on which cancellation was proposed.

11. In support of his arguments, learned counsel relied upon the following judgments:

- ***UMC Technologies Private Limited v. Food Corporation of India, (2021) 2 SCC 551.***
- ***Mangilal v. District Excise Officer, Ajmer, AIR 1971 Raj 46.***
- ***Collector of Customs, Calcutta v. East India Company Ltd., AIR 1963 SC 1124.***

12. On these grounds, learned counsel prayed that this Court may quash and set aside the order dated 23.09.2024 (Annexure-9) passed by respondent No.3 cancelling the license of the petitioner-firm.

13. *Per contra*, learned AAG appearing on behalf of the respondents submitted that the impugned order dated 23.09.2024 cancelling the license issued to the petitioner-firm has been



passed strictly in accordance with Rule 66(1) of the Rules of 1945. It was contended that the petitioner had admittedly been served with a show cause notice before the suspension of the license. The suspension order was passed after considering the explanation submitted by the petitioner regarding the alleged violations of the Act of 1940 and the Rules of 1945.

14. It was further argued that the suspension order was passed to facilitate inquiry into the proposed cancellation of the petitioner's license, and therefore no fresh show cause notice was required. According to the learned AAG, Rule 66(1) of the Rules of 1945 does not contemplate the issuance of separate show cause notices for suspension and cancellation.

15. Drawing the Court's attention to the impugned order dated 23.09.2024, the learned AAG submitted that before cancelling the petitioner's license, respondent No.3 duly considered the reply submitted by the petitioner to the show cause notice. Thereafter, the relevant records were examined in detail and, upon forming a definite opinion that the petitioner had violated the provisions of the Act and the Rules, a decision to cancel the license was taken.

16. It was also submitted that the petitioner is facing criminal trial, and having been found guilty by the respondent department of committing irregularities in the sale of drugs and in maintaining stock records under the RGHS Scheme by allegedly generating false and fabricated bills, the petitioner is not entitled to any discretionary relief from this Court.

17. Learned AAG placed reliance upon the judgment in:



• M/s Santokba – The Pharmacy – OPD v. License Authority & Assistant Drug Controller, Rajasthan High Court, Jaipur Bench, S.B. Civil Writ Petition No.20317/2018, decided on 27.11.2018.

18. Heard learned counsel for the parties.

19. Rule 66(1) of the Rules 1945 is reproduced below for ready reference:

**"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 therefor, 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 license 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 license or the provisions of the Act or the Rules thereunder were observed."*

**[Emphasis supplied]**

20. Having heard learned counsel for the parties and upon perusing Rule 66(1) of the Rules of 1945, this Court finds that the said provision confers upon the Licensing Authority the power either to cancel a license issued under the relevant Drug laws or to suspend it, after giving the licensee an opportunity to show cause. In other words, the power to cancel or suspend a license may be exercised by the competent authority as a measure of penalty. The term "suspension", by its very nature, is temporary, as the license issued to a drug dealer revives upon completion of





the suspension period. In contrast, the term "cancellation" completely extinguishes the right of a drug dealer to carry on trade in accordance with the Drug laws, thereby permanently depriving the licensee of such right. Consequently, cancellation of a license carries far more serious civil consequences and directly affects the right of the licensee to carry on business.

21. In the present case, it is not in dispute that the petitioner-firm was served with a show cause notice dated 19.03.2024 by respondent No.3 in exercise of the powers conferred under Rule 66(1) of the Rules of 1945. Upon receiving the explanation/reply submitted by the petitioner in response to the said notice, respondent No.3, by a detailed and reasoned order dated 13.06.2024, suspended the license of the petitioner-firm for a specified period.

22. In other words, despite possessing the power to cancel the license, respondent No.3, after considering the explanation submitted by the petitioner, chose only to suspend the license. This indicates that at that stage the authority had not formed an opinion to cancel or terminate the petitioner's drug license.

23. In the opinion of this Court, although Rule 66(1) of the Rules of 1945 provides for both suspension and cancellation upon issuance of a show cause notice to a drug licensee, the Licensing Authority in fact exercises two distinct powers having different consequences, even though they appear together in a single provision. The exercise of such powers under Rule 66(1) necessarily depends upon the gravity of the violation of the provisions of the Act and the Rules.





24. This Court in **Mangilal v. District Excise Officer, Ajmer**, reported in **AIR 1971 Raj 46**, while considering an analogous provision under the Rajasthan Excise Act, observed that the suspension of a licensee stands on a different footing than that from the suspension of a government servant. In the case of a government servant, if he is ultimately found innocent after inquiry, he may be compensated for the loss suffered during the period of suspension. However, a licensee engaged in a particular trade cannot ordinarily be compensated for the loss suffered due to suspension of his license.

25. It is also pertinent to note that the order of suspension dated 13.06.2024 issued against the petitioner by respondent No.3 clearly indicates that a detailed inquiry for cancellation of the license was contemplated. The relevant portion of the suspension order dated 13.06.2024 reads as under:

"अतः मैं मनीश गुप्ता, अनुज्ञापन प्राधिकारी एवं सहायक औषधि नियंत्रक, जोधपुर, औषधि एवं प्रसाधन सामग्री नियम 1945 के के नियम 66 (1) के तहत प्रदत्त भाक्तियों का प्रयोग करते हुए उक्त फर्म मैसर्स झंवर मेडिकल एजेन्सी, 22. प्रथम तल, अमरनाथ बिल्डिंग, जालौरी बारी, जोधपुर को जारी थोक औषधि अनुज्ञापन संख्य DRUG/2022-23/76118 to 76123 प्रपत्र 20, 21, 20 बी, 21 बी, 20 एफ, 20 जी जारी दिनांक 02.05.2022 को एतद द्वारा 60 दिवस के लिए दिनांक 20.06.2024 से 18.08.2024 तक के लिए निलम्बित करता हूँ साथ ही लाईसेंसी को निर्दिष्ट किया जाता है कि वह इस अवधि में नियमानुसार निरीक्षण एवं उस पर जारी कारण बताओ नोटिस का जवाब व उससे सम्बन्धित रिकार्ड जहां भी उपलब्ध हो विधिक प्रक्रियानुसार प्राप्त कर इस कार्यालय में प्रस्तुत कर रिकार्ड का सत्यापन मय स्वः प्रमाणित प्रतिलिपियों के प्रस्तुत करते हुए करवायेंगे तथा उक्त समयावधि में जवाब प्रस्तुत नहीं करने व रिकार्ड का सत्यापन नहीं कराने की द॥ मे उक्तांकित औषधि अनुज्ञापन पत्रों को निरस्त करने की कार्यवाही अमल में लाई जावेगी। - यह आदे। लाईसेंसी के विरुद्ध भविष्य में की जा सकने वाली किसी भी न्यायिक / विभागीय कार्यवाही पर कोई विपरीत प्रभाव डाले बिना जारी की गई है।"





26. In view of the above, this Court has no hesitation in concluding that if, after conducting a detailed investigation or inquiry in the matter, the Licensing Authority, i.e., respondent No.3, formed the opinion that the facts of the case warranted cancellation of the petitioner-firm's license, it ought to have issued a fresh show cause notice indicating the reasons for forming such an opinion and seeking the petitioner's explanation as to why the extreme penalty of cancellation should not be imposed. The requirement of issuance of show cause notice before imposing penalty is not an empty formality but a substantive safeguard intended to ensure fairness in administrative action.

27. The non-issuance of a fresh show cause notice and the consequent denial of an opportunity of hearing to the petitioner-firm which is mandatory under Rule 66(1) of the Rules of 1945 before taking such drastic action has resulted in manifest injustice. Accordingly, the order dated 23.09.2024 cancelling the license stands vitiated for non-compliance with the principles of natural justice.

28. For the reasons stated above, the order dated 23.09.2024 (Annex-9) passed by respondent No.3 cancelling the license of the petitioner-firm, as well as the order dated 03.01.2025 (Annex-10) passed by the Appellate Authority, are hereby quashed and set aside.

29. However, it is made clear that this order shall not preclude respondent No.3 from initiating fresh proceedings against the petitioner-firm in accordance with law, by issuing a fresh show cause notice and by following the principles of natural justice as mandated under Rule 66(1) of the Rules of 1945.





30. Consequently, the present civil writ petition is allowed.

**(KULDEEP MATHUR),J**

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