

(2008) 11 MAD CK 0241

Madras High Court

Case No: Writ Petition No. 18777 of 1999

R. Jayasankar

APPELLANT

Vs

The Assistant Commissioner,
Food and Drugs Administration
and Government of Pondicherry
its Secretary, Home Ministry, The
Secretariat

RESPONDENT

Date of Decision: Nov. 27, 2008

Acts Referred:

- Drugs and Cosmetics Rules, 1945 - Rule 65A, 66(2)

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: R. Sunilkumar, for the Appellant; Mala, Government Advocate, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K. Chandru, J.

The petitioner challenges the refusal for renewal of licence under the Drugs and Cosmetics Act, 1940 and the Drugs and Cosmetics Rules, 1945.

2. The petitioner was running a pharmaceutical shop by name M/s. Honesty Medicals at No. 84, Lal Bahadur Sastri Street, Pondicherry. When the petitioner's licence in Form No. 20 and Form No. 21 expired on 31.12.1996, he sought for renewal in Form 19. After perusal of the petitioner's request for renewal, the respondents sought for two documents viz., current lease deed between the petitioner and the landlord and also the registration certificate of the qualifying persons for running the shop.

3. While the petitioner produced the registration certificate of the qualified person, with reference to the lease deed, he was dragging his feet. Because the landlord of the said premises has already initiated eviction proceedings under the Pondicherry Building and Lease Control Act against the petitioner being HRCOP.37/97. The petitioner took several opportunities to produce the lease deed but he could not do so. Thereafter, the respondents themselves sought for information from the landlord, who in turn informed that a HRCOP was filed against the petitioner and eviction has been ordered.

4. Even though the petitioner claimed to have filed appeal against the eviction order and interim stay has been obtained, on the date of the impugned order, the respondents not satisfied with the petitioner having any valid right over the premises, refused to renew the licence by the impugned order.

5. The writ petition was admitted on 01.12.1999, but however the petitioner's request for interim relief was refused by this Court.

6. On notice from this Court, the respondents have filed counter affidavit dated 27.01.2000. In the counter affidavit a reference is made in paragraph 5 that the petitioner has filed appeal under Rule 66(2) being Appeal No. 5/99. At the relevant point of time the Appellate Authority was Lt. Governor of Pondicherry. It is not clear whether the appeal has been disposed of or not.

7. Even today Mr. R. Sunilkumar, learned Counsel appearing for the petitioner is unable to confirm whether the appeal has been disposed of and whether the RCA allegedly filed by him has ended in his favour or not. In the absence of the details the Court will have to go by the statutory rules under which renewal was refused under Rule 65-A of the Drugs and Cosmetics Rules, 1945 which reads as follows:

65-A. Additional information to be furnished by an applicant for licence or a licensee to the licensing authority:- The applicant for the grant of a licence or any person granted a licence under this Part shall, on demand, furnish to the licensing authority, before the grant of the licence or during the period the licence is in force, as the case may be, documentary evidence in respect of the ownership or occupation on rental or other basis of the premises, specified in the application for licence or in the licence granted, constitution of firm, or any other relevant matter which may be required for the purpose of verifying the correctness of the statements made by the applicant or the licensee while applying for or after obtaining the licence, as the case may be.

Therefore, a reading of the above Rule clearly shows that the petitioner will have to produce documentary evidence in respect of ownership or occupation on rental or other basis of the premises specified by the applicant in his application for licence. In the present case, the petitioner was not able to prove that he had filed documentary evidence of his occupation. The so called lease deed referred to by him was a 11 months" rental agreement for occupying the premises.

8. The petitioner's contention that by virtue of the Building and Lease Control Act, he has become a statutory tenant i.e. a tenant holding over. Such an argument may be a ground for resisting any eviction or ejection but that cannot be a ground to satisfy the statutory rules framed under the Act of Parliament. When the rules specify requirement of documentary evidence, it only mean that there must be document between the landlord and the occupier with reference to the legal occupation of the premises.

9. Since the renewal of licence was refused on the ground based upon the Rules, the writ petition cannot be entertained. Accordingly, the writ petition stands dismissed. No costs.