

Muhammad Tufail Hashmi
Chief Executive

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Hashmi Drug Agency

79-A, Sultanabad,
Gulgasht Colony, Multan.
East. 1969



Chairman:
Pakistan Chemist
& Druggist Association
(1998-99, 2002-03)

General Secretary :
Punjab Zonal Body
(1997-2000)

Chairman:
Multan District Branch
(1984-86, 1988-81)

Hon. Secretary:
Multan District Branch
(1977-78) (1980-81)

Member Central Executive:
Committee (Co-Opted)
(1995-97)



Observer Quality Control:
Board Punjab
(2000-05)

Gold Medalist for :
Excellent performance
Central Executive Committee
(1997)

Email: hashmidrugagency@gmail.com
Ref. #
Date : _____

PCDA/PHD/13/
20th April 2013

The Secretary,
Govt. of Punjab
Health Department
Lahore

Dear Sir,

**IMPLEMENTATION OF ORDERS OF THE SUPREME
COURT OF PAKISTAN - DATED 1ST JANUARY 2009**

This Association would like to draw your attention towards orders dated 01.01.2009 issued by the Supreme Court of Pakistan whereby the Secretary Punjab Health Department (PDA) was directed to issue Wholesale Drug Licence in accordance with the said orders (copy enclosed).

We report with great concern that the said orders of the Apex Court were not implemented by the respective authorities of the PHD for around 4 years. We understand that the non-implementation of the said orders could have been due to some misinformation provided to you from inside the department. A majority of the members of this Association were of the unanimous opinion that we should file petition in the Lahore High Court (LHC) for contempt proceedings against the Secretary PHD for non compliance of the orders of the Apex Court. But since we have always respected the Health Department and the Authorities, we refused to accept the unpleasant proposal of our business colleagues. We, therefore, filed a petition with the Chairman Drug Court Multan a primary legal relief forum for us. The said respectable Court heard our view point and issued direction to the EDOs under its jurisdiction to issue licences according to the Apex Court orders dated 01.01.2009.

You are custodian of the Health Department but at the same time we the Chemist and Whole sellers of Drugs, consider you our custodian as well.

You are, therefore requested to kindly issue general orders to all the EDOs of the province to issue Drugs Sales Licence in accordance with the orders of the Apex Court. We also request for an audience with you in the next PQCB meeting to present our view point on the subject.

Yours truly,

Muhammad Tufail Hashmi
Ex-Chairman PCDA

Cc to: The Additional Secretary PHD Lahore.
The Secretary PQCB, PHD Lahore
The Chief Drug Inspector PHD
The Head Office PCDA Karachi.

Enc 5

proceed in accordance with law. Disposed off. File shall be consigned to record room.

Announced.

02/4/2013

4/1

East. 1969



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OCCURENCE OF LEGAL EVENTS

1. Lahore High Court Multan Bench – PLD-415/92

LHC accepted the petition of the Chemist / Dispensers and ordered the PHD to issue them Drugs Sales Licence according to the procedures laid down in the Drug Rules of 1945 & 1958.

2. PHD Appeal in the Division Bench LHC Multan

The PHD filed an appeal in the DB of the LHC Multan but the same we dismissed and the orders of the LHC PLD415/92 were maintained as valid.

3. Orders of the Provincial OMBUDUSMAN – dated 23.02.1994

The PHD failed to implement the orders of the LHC (at No1 above) therefore the under writer (M. Tufail Hashmi) appealed the Provincial Mohtasib for relief. The Provincial Mohtasib ordered the PHD for compliance of the LHC orders. The PHD issued circular No, SO(BC)8/14(90(53) in May 1997 to all the DHO for implementation of the LHC orders at No .1 above.

4. PHD Appeal CP 377-L/2004 in the Supreme Court of Pakistan

Meanwhile one of our Members Sh Muhammad Akram Shangi applied for issuance of a Wholesale Drugs Licence under the PLD- 415/92 but was refused by the DHO Faisalabad. He filed a petition in the LHC No20813/1999 against the refusal of the DHO. The petition was accepted by the S. Bench LHC. The PHD assailed this petition in the DB of the LHC (ICA No.548/2001). However this ICA of the PHD was dismissed on 16.12.2003 by the leered DB. Therefore the above subject appeal was filed by the PHD. This appeal was also dismissed by a Division Bench of the Supreme Court on 01.01.2009 and maintained the orders passed by the LHC 415/92, LHC WP 20813/99. It is to be noted with great concern that the PHD filed the said appeal (CP.377-L in 2004) against certain orders of the LHC which had ordered for implementation and insertion of the same in the next rules, the PHD did not wait for the decision and launched new Punjab Drugs Rules 2007 thereby not only violating the LHC orders PLD-415/92 but also concealing this fact from the Apex Court. This tent amounts to gross contempt of the Apex Court proceedings (concealment of information during trail proceedings). However, this appeal was also dismissed by the Apex courts.

Observation that all the EDOS of territorial jurisdiction of this Court are directed to proceed in accordance with law. Disposed off. File shall be consigned to record room.

Muhammad Tufail Hashmi Ex-Chairman, P.C.D.A. Petitioner

Versus

The State

STATE REPRESENTED BY

MALIK SAEED AHMAD
PUNWAR, DDPP

**APPLICATION FOR ISSUANCE OF DIRECTION TO THE E.D.Os.
HEALTH, UNDER THE JURISDICTION OF THIS COURT, TO ISSUE
THE LICENCE OF WHOLE SALE ACCORDING TO THE LAW LAID
DOWN IN PLD 1992 LAHORE 415 AND BY THE SUPREME COURT
OF PAKISTAN VIDE ORDER IN C.P.NO.377-L/2004 DATED 01.1.2009.**

Muhammad Tufail Hashmi petitioner seeks issuance of direction to the Licencing Authority to issue the licence to the petitioner under the criteria provided in the Punjab Drug Rules 1945 and thereafter 1958 on the following grounds:-

The writ petition was accepted and the direction was issued to the Licensing Authority to issue the licence to the petitioner according to the criteria laid in Punjab Drug Rules 1945 and 1958, meanwhile the respondent was also directed by the honourable High Court to make such provision in the Punjab Drug Rules 1988.

The orders were challenged by the State through Secretary Health Punjab, Lahore in the Division Bench of honourable Lahore High Court, Lahore in ICA No.548/2001 which was also declined by the honourable Lahore High Court, Lahore and thereafter the order of Division Bench was assailed in the Supreme Court of Pakistan vide C.P No.377-L of 2004 through Secretary Health Punjab, Lahore which was also decided in the year 2009 in favour of the petitioner. Under the submission petitioner has prayed that by accepting the instant petitioner the direction my be passed to the E.D.Os. Health under the jurisdiction of this Court to issue the licence of whole sale according to the law PLD 1992 LHR 415 and C.B. 377-L/2004.

We have heard both the parties.

Perusal of record that application is disposed off with this observation that all the EDOs of territorial jurisdiction of this Court are directed to proceed in accordance with law. Disposed off. File shall be consigned to record room.

Announced.
03.4.2013.

MEMBER-I

CHAIRMAN
DRUG COURT, MULTAN:

MEMBER-II

Certified to be true Copy

Drug Court Multan

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

P.-8.

Present:
Mr. Justice Falak Sher
Mr. Justice Ch. Ijaz Ahmed

C.P.L.A. NO. 377-L OF 2004

Province of Punjab, through Secretary Health,
and others.

Petitioner (s)

(s)

Versus

Sh. Muhammad Akram Shangi,

Respondent (s)

For the petitioner (s)

Mr. Akhtar Ali Qureshi, AAG Punjab.

For the respondent (s)

N.R.

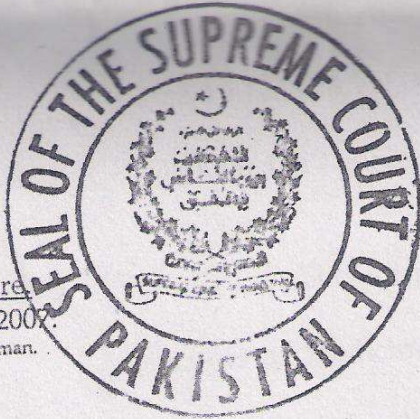
Date of hearing

6.03.2007.

ORDER

Learned A.A.G. with a view to preparing the brief further, requests
for time. Adjourned granting the request

Sd/- Falak Sher, J
Sd/- Ch. Ijaz Ahmed, J



Lahore
6.03.2007
A. Rehman.

CERTIFIED TO BE A TRUE COPY

[Signature]
2007/3/13
Superintendent

Supreme Court of Pakistan.

Date of Presentation 93-2-13/21004/13
No. of Words 9CC
No. of Pages (CP) 5CC
Requisition Fee Rs. 2CC
Copy Fee Rs. ---
Court Fee Stamps: ---
Date of Completion of Copy: 2-3-13
Date of Delivery of Copy: 4-3-13
Compared by: [Signature]
Received by: [Signature]
Total Amount: ---
Balance Amount: ---

Present:
Mr. Justice Mian Hamid Farooq
Mr. Justice Sabihuddin Ahmed

Civil Petition No.377-L of 2004

On appeal from judgment dated 16.12.2003 of
the Lahore High Court, Lahore passed in ICA
No.548 of 2001.

Province of Punjab, through Secretary
Health and others
Versus
Sh. Muhammad Akram Shangi

Petitioners
Respondent

For the Petitioners : Akhtar Ali Qureshi, AAG, Pb.
For the Respondent : N.R.
Date of hearing : 01.01.2009.

ORDER

Mian Hamid Farooq, J.- Province of Punjab, through
Secretary Health and others seek leave to appeal against judgment
dated 16.12.2003, whereby the learned Division Bench of the Lahore
High Court at Lahore dismissed their appeal (ICA No.548 of 2001).

2. The respondent intended to undertake Wholesale
business of Medicines/Drugs and applied to issue licence, which
was declined by the concerned department, vide order dated
29.09.1999, for two reasons; firstly that he is not a Pharmacist and
secondly he being an Income Tax Practitioner is not authorized to be
engaged in any other business. The respondent's constitutional
petition (W.P.No.20813 of 1999) challenging the said letter was
allowed by the learned single Judge of the Lahore High Court, vide
judgment dated 08.06.2001. Petitioners assailed the said judgment
through filing an appeal (ICA No.548 of 2001), which was dismissed

ATTESTED

Superintendent

Supreme Court of Pakistan

by the learned Division Bench of the Lahore High Court at Lahore,
vide impugned judgment dated 16.12.2003, hence the present
petition.

3. We have heard the learned Law Officer and examined
the available record including the impugned judgment. The
department refused to issue asked for licence to the respondent on
two grounds, noted above. Those two grounds have duly been dealt
with and decided against the petitioners by the learned single Judge
and learned Division Bench of the Lahore High Court. It was rightly
held by the learned High Court at two stages that the case of the
respondent is covered by the judgment reported as "Muhammad
Sharif Sheikh v. District Health Officer, Multan and 4 others (PLD 1992
Lahore 415)". The findings of the learned Division Bench are not
only in accordance with the record of the case but also in consonance
with the law on the subject. Learned Law Officer could not point out
any legal infirmity in the judgment sufficient to unsettle it. We are
not persuaded to upset the well-reasoned judgment of the High
Court, which is hereby maintained.

4. In view of the above, the present petition, being
meritless, stands dismissed and leave to appeal is refused.

Sd/- Man Hamid Faruqi, J
Sd/- Balishuddin Ahmed, J



CERTIFIED TO BE A TRUE COPY

02/3/13
Supreme Court of Pakistan

Mr. Muhammad Tufail Hashmi, Member:
Central Executive Committee, Pakistan
Chemists and Druggists Association,

COMPLAINANT.

Mr. Moazzam Ali Khan, Under Secretary,
(Drug Control), Health Department,
Government of the Punjab Lahore -----

RESPONDENT.

The complainant on behalf of the Pakistan Chemists and Druggists Association has vehemently contended that the provision of rule 20(2) of the Punjab Drug Rules 1988, contemplating issuance of Licence for sale of Drugs to only persons who are holders of Pharmacy diploma have been declared ultravires of article 18 of the Constitution by the Lahore High Court in its decision *Mohammad Sharif Sheikh Versus District Health Officer* (PLD 1992 Lahore 415) with the result that previous criteria in grant and issuance of Licences for sale of drugs revived. Despite the aforesaid decision of the Lahore High Court the Health authorities are creating difficulties in grant or renewal of Licences to the Chemists and Druggists.

Mr. Moazzam Ali Khan, on other hand submitted that the Government of the Punjab in Health department has no objection whatsoever in the grant/renewal of Licences for sale of drugs to Chemists/Druggists in accordance with the Judgment of the Lahore High Court. He pointed

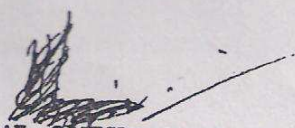
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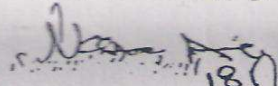
Superintendent
Provincial Ombudsman (Mohtasib)
PUNJAB, LAHORE.

District Health Officers for complying with
Judgement of the High Court.

In these circumstances, I am satisfied
that the Chemists & Druggists will not encounter
any difficulty in grant/renewal of Licences to
them for sale of drugs.

Resultantly this complaint has born
fruit and is disposed of accordingly.


PROVINCIAL OMBUDSMAN, PUNJAB


18/9/2009
18/9/2009

All District Health Officer's
in the Punjab.

Subject:- IMPLEMENTATION OF ORDERS DATED 17.3.1992 PASSED
BY HON. JUSTICE MURRAY A. SHELTON, JUDGE, LAHORE HIGH
COURT (MULTAN BENCH), MULTAN IN A WRIT PETITION
NO. 1485/1990.

In continuation of this office circular letter of
even number, dated 17.7.1996, on the subject cited above.

2. You were directed to implement the order of the
honourable Lahore High Court, Multan Bench, dated 17.3.1992 in
letter & spirit and to send the compliance report within the
stipulated period.

3. It has not been explained by Pakistan Chemist
& Druggists Association, that the licences issued in
Multan Bench before the implementation of Punjab Drug
Laws, 1973 are not being renewed by the Licensing Authorities.

4. You are once again directed to implement the
aforesaid order of the honourable court in letter & spirit
and send a list of the licences which have been received in
the compliance of the orders of the Court/Instruction issued
by the department in this regard within 15 days after the
receipt of this letter positively.

UNDEAN SIKH (BY) (DC)

No. R. 1111/96

A copy is forwarded for information etc:-

1. The Director General Health Services, Punjab, Dhre
2. All Director Health Services in Punjab.
3. All Divisional Drug Inspectors in Punjab.
4. All District Drug Inspectors in Punjab.
5. The Private Secretary to Secretary Health, P.B. Dhre
6. The P.A. to Additional Secretary (Tech), Health Deptt.
7. Mr. Muhammad Tufail Ansari of Hatched Drug Agency,
Abdali Road, Multan/Member Central Executive
Committee, Pakistan Chemist & Druggists Association
with reference to his letter, dated 13.2.1997.

Abdullah
UNDEAN SIKH (BY) (DC) 23/2