

Dimond Drugs vs the Drug Controller

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Court : Kerala

Decided On : Apr-09-2021

Judge : Honourable Smt. Justice P.V.Asha

Appeal No. : WP(C)/5621/2021

Appellant : Dimond Drugs

Respondent : The Drug Controller

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE SMT. JUSTICE P.V.ASHA FRIDAY,
THE 09TH DAY OF APRIL 2021 / 19TH CHAITHRA, 1943
PETITIONER/S: DIMOND DRUGS PHARMACEUTICAL
DISTRIBUTORS, 19/24C, REGENCY TOWER, VATAKARA,
KOZHIKODE DISTRICT - 673101, REPRESENTED BY ITS MANAGING
PARTNER MR. JAIFER RT. BY ADVS. SRI.SHYAM PADMAN
SMT.BOBY M.SEKHAR SRI.HARISH ABRAHAM KUM.LAYA MARY
JOSEPH RESPONDENT/S: 1 THE DRUG CONTROLLER OFFICE OF
THE DRUG CONTROLLER, RED CROSS ROAD, VANCHIYOOR P.O,
THIRUVANANTHAPURAM - 695035. 2 L532 LUPIN LIMITED,
TRICHUR, 9/520, NH BYPASS JUNCTION, KUTTANELLO P.O,

THRISSUR, TRICHUR, KERALA - 680014, REPRESENTED BY ITS DEPOT MANAGER. 3 ERIS LIFESCIENCES, HOSPITAL, NAIKKANAL, THRISSUR, KERALA - 680001, REPRESENTED BY ITS DEPOT MANAGER. 4 THE ASSISTANT DRUG CONTROLLER DRUG CONTROL DEPARTMENT, KOZHIKODE CIRCLE, CIVIL STATION, MALAPPARAMBA, KOZHIKODE - 670020. 5 THE MANAGER LUPIN LIMITED, B/4 LAXMI TOWERS, BANDRA KURLA COMPLEX, BANDRA (E), MUMBAI - 400051. 6 THE MANAGER COMMERCE HOUSE, NEAR SHELL PETROL PUMP, 10, 100 FEET ROAD, SATELLITE, PRAHLAD NAGAR, AHAMEDABAD, GUJARAT - 380015. OTHER PRESENT: SMT.PRINCY XAVIER, GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-03-2021, THE COURT ON 09-04-2021 DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 9th day of April 2021 The Writ Petition is filed seeking the following reliefs:

a. To issue a writ , order or direction in the nature of mandamus or any other appropriate writ or order directing the 1st respondent to take up and pass appropriate orders in Ext.P4 representation in a time bound fashion. b. To issue a writ, order or direction in the nature of mandamus or any other appropriate writ or order directing the 1st respondent to take necessary steps to allow the petitioner to take possession of essential medicines as per Exts.P2 and P3 purchase orders with immediate effect.

2. When the matter came up for consideration the learned

Government Pleader was directed to get instructions as to why the 1st respondent was insisting on the agreements or dealership of the petitioner with the manufactures and not taking any action on the complaint of the petitioner as it was pointed out that the manufacturer or distributorship shall not withhold sale of drugs to a dealer without any good or sufficient reason as

provided under clause 28 of the drugs (Prices Control) Order

2013.

3. The learned Government Pleader on instructions submitted

that a show cause notice was issued to respondents 2 and 3 on 24.01.2021 and they have submitted their explanation, according to which the respondents did not have any objection in supplying the medicine provided there is a proper invoice. The learned Government Pleader submits that petitioner has to sort out the

issues between the party respondents. Therefore it is upto the

petitioner to raise the requisite invoice and get the supply of medicine. The Writ Petition is disposed of accordingly. Sd/- P.V.ASHA rkc JUDGE APPENDIX RESPONDENT'S/S EXHIBITS: EXHIBIT R1 TRUE COPY OF LICENSE RETENTION LETTER DATED 06.09.2018 ISSUED BY THE ASSISTANT DRUG CONTROLLER, KOZHIKODE. EXHIBIT R2 TRUE COPY OF THE PURCHASE ORDERS ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT, DATED 08.01.2021. EXHIBIT R3 TRUE COPY OF THE PURCHASE ORDERS ISSUED BY THE PETITIONER TO 3RD RESPONDENT, DATED 08.01.2021. EXHIBIT R4 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 08.02.2021 TO THE DRUG CONTROLLER.

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