

**High Court of Punjab and Haryana
Bench: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Date of Decision: 30.10.2023

CWP-20578-2023 (O&M)

Janta Welfare Society Charitable Trust Petitioners

Vs

State of Haryana and others Respondents

Sections, Acts, Rules, and Articles:

Rule 6(3)(xiii), 7 of the Haryana De-addiction Centres Rules, 2010

Rule 6(3)(xiii) of Haryana De-addiction (Amendment) Rules, 2018

Subject: Cancellation of license for a Drug De-Addiction-cum Rehabilitation Centre under the Haryana De-addiction Centres Rules, with a focus on the ambiguity in the rules regarding the constitution of the licensing authority/appellate authority.

Headnotes:

Administrative Law - Cancellation of license for a Drug De-Addiction-cum Rehabilitation Centre under the Haryana De-addiction Centres Rules - Petitioner seeks a writ of certiorari to set aside the impugned order dated 10.8.2023 (Annexure P-4) canceling the license - Ambiguity in rules regarding the constitution of the licensing authority/appellate authority discussed - Notice issued for clarification on this aspect - Respondent acknowledges notice and agrees to clarify the ambiguity - Petition disposed with a direction to the respondents to consider and dispose of the appeal filed by the petitioner expeditiously, preferably within 2 weeks from today. [Para 1-7]

Referred Cases: None.

Representing Advocates:

Mr. Amit Khatkar, Advocate, for the petitioner.

Mr. Samarth Sagar, Addl. AG, Haryana, for the respondents.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks issuance of a writ in the nature of certiorari for setting aside the impugned order dated 10.8.2023 (Annexure P-4) vide which the licence issued to the petitioner under the Haryana De-addiction Centres Rules has been cancelled.
2. At the time of issuance of notice of motion, the following order was passed:

“Learned counsel for the petitioners submits that the petitioner had been issued a licence to run Drug De-Addiction-cum Rehabilitation Centre Centre, and that the same has been cancelled vide order dated 10.8.2023 (Annexure P-4). It has been submitted that although the petitioner preferred an appeal against the aforesaid order of cancellation on 23.8.2023, but till date no decision has been taken thereupon.

Learned counsel further submits that as a matter of fact there is some confusion in the rules inasmuch as the Licensing issuing authority as well as the appellate authority has been mentioned to be the same. Learned counsel in this regard has drawn the attention of this Court to Rule 6(3)(xiii) of Haryana De-addiction Centres Rules, 2010, wherein the licencing authority has been described as under:-

“6(1) There shall be a State Level Licensing Authority consisting of the following members: namely:(i) Director General Health Services, Haryana;
(ii) Director, Social Justice & Empowerment Department, Haryana.”

Learned counsel has next drawn the attention of this Court to the amendments carried out vide notification dated 16.1.2018 (part of Annexure P-1) wherein the newly inserted sub-clause (xiii) to Rule 6(3) of Haryana De-addiction (Amendment) Rules, 2018 reads as under:-

“Rule 6(3) The licensing authority shall follow the following procedure namely:

(xiii) hear an appeal of an aggrieved person preferred against the cancellation of license within a period of thirty days from the date of intimation of such cancellation alongwith fee of three hundred rupees by way of demand draft payable in favour of Director General Health Services, Haryana.”

The aforesaid scheme of Rules, as pointed out by the learned counsel for the petitioner does show that there is some kind of confusion/ambiguity as regards the constitution of the licensing authority/appellate authority.

Notice of motion for 20.10.2023.

At this stage, Mr. Samarth Sagar, Addl. AG, Haryana, who is present in the Court accepts notice.

State to furnish a short affidavit in the first instance as regards clarification on the aforesaid aspect. To be shown in urgent list.”

3. Learned State counsel has submitted that there is some kind of ambiguity in the English translation of rules particularly in Rule 6(3)(xiii) which reads as under:

“**hear** on appeal of an aggrieved person preferred against the cancellation of licence within a period of thirty days from the date of intimation of such cancellation alongwith fee of three hundred rupees by way of demand draft payable in favour of Director General Health Services, Haryana.”

4. Learned State counsel has contended that word ‘hear’ ought to have been “prefer” i.e. giving a right to the affected person to file an appeal.
5. It has further been submitted that the Appellate Authority in respect of an order of cancellation of licence is defined in Rule 7, which is as under:

“(7) Appeal.- An applicant may prefer appeal before the Appellate Authority against the order of the Licensing authority in case Grant of licence is denied to him in Form III. There shall be Appellate Authority comprising of the following members; namely:-

- (i) Administrative Secretary, Social Justice and Empowerment Department Member
- (ii) Administrative Secretary, Health Department Member
- (iii) Director, Social Justice and Empowerment Department Member Secretary”

6. It has further been submitted that the respondents have received the appeal filed by the petitioner and that the said appeal shall be sent to the Appellate Authority concerned under Rule 7 of Haryana De-addiction Centres Rules within this week itself and that endeavour shall be made to dispose of the same expeditiously, preferably within 2 weeks from today.
7. In view of the aforesaid position, the instant petition is disposed of with a direction to the respondents to consider and dispose of the appeal filed by the petitioner expeditiously preferably within 2 weeks from today.

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