

High Court of Sikkim

Record of proceedings

WP(C) No.14 of 2020

Moon Drops Enterprises

Petitioner

VERSUS

State of Sikkim and Others

Respondents

Date : 04-07-2020

CORAM : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Petitioner

Mr. J. B. Pradhan, Senior Advocate.
Mr. Leada T. Bhutia, Advocate.
Ms. Sabina Chettri, Advocate.
Ms. Saroja Chettri, Advocate.

For Respondents

Mr. Santosh Kr. Chettri, Government Advocate.
Mr. Yadev Sharma, Government Advocate.

ORDER

Heard Learned Senior Counsel for the Petitioner.

Issue Notice to the Respondents.

Learned Government Advocate is present for the State-Respondents No.1, 2 and 3 on advance Notice and waives formal Notice.

Heard on I.A. No.01 of 2020, which is an application seeking urgent hearing of the matter. As the matter is taken up today, I.A. No.01 of 2020 stands disposed of accordingly.

The Petitioner herein is in the business of supplying manpower in terms of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (hereinafter, Migrant Act) and supplies workmen in the establishment of M/s. Intas Pharmaceuticals, Baghey Khola, East Sikkim, vide licence issued in 2009 and in M/s. Unichem Laboratories at Baghey Khola, East Sikkim, vide licence issued in 2010. On its purchase by M/s. Torrent Pharmaceuticals Ltd., Plant III at Baghey Khola, East Sikkim, the Licence was issued to him in the year 2018. The licences were

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renewed up to 31-03-2020. Vide two applications in Form IX, both dated 05-03-2020, he sought for renewal of his licences, in terms of Rule 14(b) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Rules, 1983, as amended till 2005 (hereinafter, Migrant Rules). The applications were declined sans reasons. On 19-03-2020, he dispatched Form IX by registered post AD duly received by the Respondent No.3 on 24-03-2020.

By a Circular issued on 08-05-2020 by the Respondent No.2, the validity of all licences issued under the Migrant Act was extended till 30-06-2020. However, his applications submitted under Form IX are still pending consideration before the Respondent No.3.

Learned Senior Counsel for the Petitioner submits that Rule 14(b) of the Migrant Rules *inter alia* provides that once the application under Form IX is submitted then the licence shall be deemed to have been renewed until such date when the renewed licence is issued. However, the Respondent No.3 has failed to carry out his duties as mandated by law. That, although provision for Appeal exists in Section 11 of the Migrant Act, the provision pertains to grievances by Orders made under Sections 4, 5, 8 or 10 of the Migrant Act whereas the Petitioner is before the Licensing Authority under Rule 14 of the Migrant Rules, seeking renewal of licences. That, the fundamental rights of the Petitioner guaranteed under Articles 14, 19(1)(g) and 21 of the Constitution of India have been violated, hence, an *ad interim* order may be issued permitting the Petitioner to continue with the licence till the disposal of the Writ Petition. Further, orders be also issued to the Respondent No.3 to act in accordance with the law as stated in the Act and Rules *supra*.

Per contra, Learned Government Advocate contended that the State Government has issued Circular bearing No.762/DL, dated 30-06-2020, whereby the last date for issuance of fresh or renewal of existing licence under the Migrant Act is extended till 31-07-2020. That, this Circular has been issued in continuation of the Circular

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dated 08-05-2020, hence the spirit of the Circular of 30-06-2020 is that the validity of the licences of all concerned under the Migrant Act has infact been extended till 31-07-2020.

That, nevertheless, in view of the provisions of the statute relied on by Learned Senior Counsel for the Petitioner, Learned Government Advocate undertakes to ensure that necessary steps are taken by the Respondent No.3 within the ambit and parameters carved out by the relevant Act and Rules, on due consideration of the applications of the Petitioner filed under Form IX.

In the light of the submissions of Learned Government Advocate and consideration thereof the State-Respondents shall file its report of steps taken before the next date fixed.

List on 20-07-2020.

Judge
04-07-2020

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