



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

122

CWP-10932-2026

Date of Decision: 10.04.2026

SANDEEP SINGH MALIK

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Pradeep Duhan, Advocate and
Mr. Anurag Mor, Advocate for petitioner

Mr. Deepak Vashisht, DAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of memo dated 04.11.2025 (Annexure P-4) whereby his shop was sealed under Section 22(2) of Drugs and Cosmetic Act, 1940.

2. As per petition, the petitioner is a qualified pharmacist holding valid retail Sale Drug License issued on 14.08.2025. FIR No.308 dated 28.09.2025 under Sections 18A & 18(C) of Drugs and Cosmetic Act, 1940 (for short "1940 Act"), Sections 3, 4 & 5 of Medical Termination of Pregnancy Act, 1971 (for short "MTP Act"), Section 34 of National Medical Commission Act, 2019 and Sections 3(5), 318(3) & 88 of Bharatiya Nyaya Sanhita, 2023 (for short "BNS") was registered against Suresh Kumar. On



the basis of statement of Suresh Kumar, the petitioner was arrested, however, no recovery was effected either from him or his shop. He was released on regular bail on 17.10.2025. The respondent No.4 searched his shop on 04.11.2025 and vide spot memo dated 04.11.2025 sealed his shop though no MTP kit was recovered from his shop. Allegation against the petitioner is that he along with Suresh Kumar was involved in illegal sale and supply of MTP kits. Act of petitioner amounts to violation of provisions of Sections 3, 4 & 5 of MTP Act. The respondent has issued him show cause notice dated 17.12.2025 proposing suspension/cancellation of his license. He has filed reply to aforesaid show cause notice.

3. Learned counsel for the petitioner submits that Section 22 of 1940 Act permits search of premises and seizure of records or documents, however, there is no power to seal the premises. The respondent acting beyond its jurisdiction has sealed petitioner's shop. Act of respondent even otherwise amounts to violation of fundamental right of business and trade guaranteed by Article 19(1)(g) of the Constitution of India as well as right of property conferred by Article 300-A of the Constitution of India.

4. Learned State counsel could not point out any part of Section 22 of 1940 Act which empowers authorities to seal the premises though he pointed out Section 22(1)(cc) which empowers authorities to seize any material which may be used as evidence.

5. Heard the arguments and perused the record.

6. From the perusal of record, it is evident that Police arrested petitioner alleging violation of MTP Act. He was released on bail. The Licensing Authority-respondent has initiated proceeding against him. The



respondent searched his shop. Nothing was recovered from his shop still shop was sealed. He has been served show cause notice calling upon to show as to why his licence should not be suspended/cancelled. He has already filed reply to said notice. His shop has been sealed under Section 22 of 1940 Act which reads as:-

“22. Powers of Inspectors.—(1) Subject to the provisions of section 23 and of any rules made by the Central Government in this behalf, an Inspector may, within the local limits of the area for which he is appointed,—

(a) inspect,—

(i) any premises wherein any drug or cosmetic is being manufactured and the means employed for standardising and testing the drug or cosmetic;

(ii) any premises wherein any drug or cosmetic is being sold, or stocked or exhibited or offered for sale, or distributed;

(b) take samples of any drug or cosmetic,—

(i) which is being manufactured or being sold or is stocked or exhibited or offered for sale, or is being distributed;

(ii) from any person who is in the course of conveying, delivering or preparing to deliver such drug or cosmetic to a purchaser or a consignee;

(c) at all reasonable times, with such assistance, if any, as he considers necessary,—

(i) search any person, who, he has reason to believe, has secreted about his person, any drug or cosmetic in respect of which an offence under this Chapter has been, or is being, committed; or

(ii) enter and search any place in which he has reason to believe that an offence under this Chapter has been, or is being, committed; or

(iii) stop and search any vehicle, vessel or other conveyance which, he has reason to believe, is being



used for carrying any drug or cosmetic in respect of which an offence under this Chapter has been, or is being, committed,

and order in writing the person in possession of the drug or cosmetic in respect of which the offence has been, or is being, committed, not to dispose of any stock of such drug or cosmetic for a specified period not exceeding twenty days, or, unless the alleged offence is such that the defect may be removed by the possessor of the drug or cosmetic, seize the stock of such drug or cosmetic and any substance or article by means of which the offence has been, or is being, committed or which may be employed for the commission of such offence;

(cc) examine any record, register, document or any other material object found with any person, or in any place, vehicle, vessel or other conveyance referred to in clause (c), and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder;

(cca) require any person to produce any record, register, or other document relating to the manufacture for sale or for distribution, stocking, exhibition for sale, offer for sale or distribution of any drug or cosmetic in respect of which he has reason to believe that an offence under this Chapter has been, or is being, committed;

(d) exercise such other powers as may be necessary for carrying out the purposes of this Chapter or any rules made thereunder.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to any search or seizure under this Chapter as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

(2A) Every record, register or other document seized under clause (cc) or produced under clause (cca) shall be returned



to the person, from whom they were seized or who produce the same, within a period of twenty days of the date of such seizure or production, as the case may be, after copies thereof or extracts therefrom certified by that person, in such manner as may be prescribed, have been taken.

(3) If any person wilfully obstructs an Inspector in the exercise of the powers conferred upon him by or under this Chapter, or refuses to produce any record, register or other document when so required under clause (cca) of sub-section (1), he shall be punishable with imprisonment which may extend to three years, or with fine, or with both.”

7. Cancellation/suspension of licence is one aspect. Power of search and seizure is another aspect. Power to inspect or search the premises does not include power to seal the premises. As per Section 22, the authorities have power to seize documents/material which may be used as evidence. The respondent has no right to seal petitioner’s shop. The impugned Panchnama dated 04.11.2025 is liable to be set aside to the extent of sealing shop and accordingly set aside.

7. Allowed.

8. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

10.04.2026
SDK

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No