

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Special Appeal Writ No. 571/2024

M/s Jhanwar Medical Agency, 22, First Floor, Amarnath Building,
Jalori Bari, Jodhpur Through Its Prop. And Competent Person
Shri Jugal Kishore Jhanwar Son Of Shri Poonam Chand Jhanwar.

----Appellant

Versus

1. State Of Rajasthan, Through The Addl. Chief Secretary,
Medical Health And Family Welfare Department,
Government Secretariat, Jaipur.
2. Joint Secretary-Cum-Appellate Authority, Medical Health
And Family Welfare Department (Group-2), Government
Secretariat, Jaipur.
3. The Licensing Authority And Assistant Drugs Controller,
Office Of District Food Safety And Drug Control, Swasthya
Bhawan Jhalamand Circle, Old Pali Road, Jodhpur.

----Respondents

For Appellant(s)	:	Mr. Tarun Kumar Mishra (through VC)
For Respondent(s)	:	Mr. Rajendra Prasad, AG & Sr. Adv assisted by Mr. Sheetanshu Sharma & Mr. Anirudh Singh Mr. Rajesh Joshi, Sr. Adv with Mr. Suneil Purohit Mr. Harshit Bhurani Mr. Dilip Singh Udawat Mr. Arun Kumar Mr. NS Rajpurohit, AAG

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJEET PUROHIT
(THROUGH VC)
Order**

11/05/2026

1. Applications (I.A No.1/25 and I.A No.3/25) for impleadment
as party respondent stand already decided.
2. Applications (I.A No.02/2025 and I.A No.04/25) for recalling
of order dated 01.09.2025 moved by the Associations who have
not been impleaded as party. Since the application for
impleadment itself is rejected, the applications for recalling moved
by such applicants also stand rejected.
3. The matter comes up on the issue framed by this Court
regarding the jurisdiction of Bench and the jurisdiction of the

Principal seat. In the case of **Shri Ram Rakh Vyas Vs. Union of India 1977 RLW 65** this Court held as under:

"31. With respect, we are unable to accept the construction placed by the Madhya Pradesh High Court on the words 'arising in the districts of.' The words 'arising in' must, in the context, mean 'pertaining to the districts of' or 'arising from'. Any other meaning given to these words would result in a construction reductio absurdum. If a provision in a remedial statute is reasonably capable of two constructions, that construction should be preferred which furthers the policy of the Act and is more beneficial to those in whose interest the Act may have been passed, and the doubt, if any, should be resolved in their favour.

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33. It is wrong to attribute to the proviso of the Presidential Order a meaning which is not intended. The proviso carves out an exception from the main enacting part. It declares that notwithstanding the establishment of a permanent Bench at Jaipur, the Chief Justice shall have the power to direct that any case or class of cases arising in any of the districts falling within the jurisdiction of the Jaipur Bench, shall be heard at the main seat at Jodhpur. The proviso, therefore, reaffirms the pre-existing power of the Chief Justice for distribution of the business of the High Court under sec. 44(2) of the Rajasthan High Court Ordinance, 1949, which reads:

"44(2) The Chief Justice shall be responsible for the distribution and conduct of the business of the High Court, and shall determine which Judge in each case will sit alone and which Judges of the Court will constitute a Bench."

The Chief Justice is the master of the roster. He has full power, authority and jurisdiction in the matter of allocation of business of the High Court. This is a power which flows not only from the provision contained in sec. 44(2) but inheres in the nature of things. In Niranjana Singh vs. State of Rajasthan (18), the Full Bench has affirmed such powers in the Chief Justice, flowing from Rules 54 of the Rajasthan High Court Rules, 1952.

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35. We must, however, observe that the learned Single Judge was not right in holding that cases 'instituted' at the Jaipur Bench after 31-1-1977 shall be 'heard' only at the Jaipur Bench. This is contrary to the proviso to the Presidential Order. The learned Single Judge appears to have, in reaching that conclusion, followed the decision of their Lordships of the Supreme Court in Nasiruddin

vs. State Transport Appellate Tribunal (19). Their Lordships' decision in Nasiruddin's case, supra is clearly distinguishable. There, their Lordships were concerned with amalgamation of two High Courts. After the amalgamation, the two High Court ceased to exist and became Benches of the newly constituted High Court In those circumstances, their Lordships held that a case 'instituted' at a particular Bench had to be 'heard' at that Bench. Here, there is creation of a permanent Bench by a Presidential Order issued under sec. 51(2). The matter falls to be determined by the terms of the Presidential Order which by the proviso enables the withdrawal of a case or class of cases from the permanent Bench at Jaipur to the main seat at Jodhpur.

36. With respect to the other orders, issued by the Hon'ble the Acting Chief Justice, their validity is beyond question. No doubt, the Presidential Order comes into force on 31-1-1977 as provided for by sub-clause (2) of clause (1). Clause(2) provides that there shall be established a permanent Bench of the Rajasthan High Court at Jaipur and such Judges of the Rajasthan High Court, being not less than five in number, as the Chief Justice of the High Court may nominate, shall sit at Jaipur. The permanent Bench at Jaipur is to be inaugurated on 31-1-1977. The formation of a permanent Bench at Jaipur consisting of five Judges within a period of one month was a formidable task. The Chief Justice, therefore, in the undoubted exercise of his powers of allocation of business under sec. 44(2) of the Rajasthan High Court Ordinance, 1949 could pass the various orders in question. It goes without saying that if the permanent Bench at Jaipur had to function from 31-1-1977, the cases pertaining to the districts falling within its jurisdiction could not be possibly listed after 3-1-1977. These cases after all had to be separated for being transferred to the Jaipur Bench. He was also right in directing that these cases shall be transferred to the Jaipur Bench after the date of its establishment. We, therefore, find no force in the argument that the Acting Chief Justice could not have taken these steps."

4. In subsequent judgment passed by the Apex Court in **Rajasthan High Court Advocates Association Vs. Union of India reported in 2001 2 SCC 294**, the Apex Court after considering the notification, has held as under:

17. The expression "cause of action" has acquired a judicially-settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in "cause of action". It has to be left to be determined in each individual case as to where the cause of action arises. The Chief Justice of the High Court has not been conferred with the legislative competence to define cause of action or to declare where it would be deemed to have arisen so as to lay down artificial or deeming test for determining territorial jurisdiction over an individual case or class of cases. The permanent Bench at Jaipur has been established by the Presidential Order issued under sub-section (2) of Section 51 of the Act. The territorial jurisdiction of the permanent Bench at Jaipur is to be exercised in respect of the cases arising in the specified districts. Whether the case arises from one of the specified districts or not so as to determine the jurisdictional competence to hear by reference to territory bifurcated between the principal seat and the Bench seat, shall be an issue to be decided in an individual case by the Judge or Judges hearing the matter if a question may arise in that regard. The impugned explanation appended to the order of the Chief Justice dated 23-12-1976 runs counter to the Presidential Order and in a sense it is an inroad into the jurisdiction of the Judges hearing a particular case or cases, pre-empting a decision to be given in the facts of individual case whether it can be said to have arisen in the territory of a particular district. The High Court is right in taking the view which it has done.

18. It was submitted at the end by the learned counsel for the appellant that the Division Bench of the High Court in its impugned order has observed that the permanent Bench at Jaipur shall have "exclusive jurisdiction" to hear the cases arising out of the 11 specified districts and the High Court at Jodhpur shall not have jurisdiction to hear those cases which fall within the territorial jurisdiction of Jaipur Bench. He submitted that the use of word "exclusive"

prefixed to "jurisdiction" is uncalled for. We find no substance in this contention as well. The purpose of the Presidential Order is to carve out and define territorial jurisdiction between the principal seat at Jodhpur and the permanent Bench seat at Jaipur. The cases are to be heard accordingly, unless the Chief Justice may exercise in his discretion the power vested in him by the proviso to para 2 of the Presidential Order. Clauses (1) and (2) of Article 226 of the Constitution provide how territorial jurisdiction shall be exercised by any High Court. Although the said clauses do not deal with principal seat or permanent Bench of any High Court but in our opinion, there is no reason why the principle underlying thereunder cannot be applied to the functioning of the bifurcated territorial jurisdiction between the principal seat and permanent Bench seat of any High Court. In case of a dispute arising whether an individual case or cases should be filed and heard at Jodhpur or Jaipur, the same has to be found out by applying the test — from which district the case arises, that is, in which district the cause of action can be said to have arisen and then exercising the jurisdiction under Article 226 of the Constitution.

5. Also in the case of **Virendra Dangi Vs. Union of India** **1992 SCC OnLine Raj 115** this Court at Jaipur Bench held as under:

10. Coming to Sections 54 and 57 of the Act, Section 54 deals with practice and procedure and under it subject to the provisions of part V, the law in force immediately before the appointed day with respect to practice and procedure in the High Court for the corresponding State shall with necessary modification apply in relation to the High Court for a new State and accordingly, the High Court for the New State shall have all such powers to make and orders with respect to practice and procedure as are immediately before the appointed day, exercisable by the High Court for the corresponding State Section 57 of the Act deals with the powers of Judges. We fail to understand as to how Section 54 and 57 of the Act can confer any administrative powers, much less legislative powers, on the Hon'ble Chief Justice to provide as to when a writ case shall be deemed to arise. It will depend on the facts of each case as to where a writ case arises and it will be for

the Judge to decide whether the writ case arises within the jurisdiction of the permanent Bench at Jaipur or not. Thus, we are of the opinion that the Explanation which was inserted in the aforesaid Notification dated December 23, 1976 by the Hon'ble Chief Justice, is beyond the power of Hon'ble Chief Justice to say as to when a writ case shall be deemed to arise. So far as Presidential Order is concerned, it only provides that the Judges nominated by the Chief Justice sitting at Jaipur shall exercise their jurisdiction in respect of cases arising in the eleven districts mentioned therein and as to whether any case arises in any of the eleven districts mentioned therein, or not, it is not for the Hon'ble Acting Chief Justice to say and it would have been for the court to say when the occasion would have so arisen. In the case of Ram Rakh Vyas (supra) it appears that though the validity of the Notification dated December 23, 1976 of Hon'ble Acting Chief Justice was examined, but it does not appear that there was any specific challenge to the Explanation or to the powers of Hon'ble Acting Chief Justice to provide any Explanation as to when a writ case shall be deemed to arise. A look at the Explanation will show that it provides that a writ case shall be deemed to arise in the district where the cause of action for issuing the first order pertaining to that case passed by a Court, tribunal or authority has arisen. In the case of Ram Rakh Vyas (supra) in para 31, the learned Judges said that the words 'arising in' must in the context mean 'pertaining to the districts or' or 'arising from'. Any other meaning given to these words would result in a construction *reductio ab-surdum*. It will appear from a perusal of para 2 of the Presidential Order that the expression used therein is "in respect of cases arising in the districts of". Almost similar expression in respect of cases arising in such areas came up for consideration before the Apex Court in the case of Nasiruddin v. State Transport Appellate Tribunal⁵. The Apex Court was considering para 14 of the United Provinces High Courts (Amalgamation) Order, 1948. The said para 14 of that Order is as under— "The new High Court, and the Judges and division courts thereof, shall sit at Allahabad or at such other places in the United Provinces as the Chief Justice may, with the approval of the Governor of the United Provinces appoint:

Provided that unless the Governor of the United Provinces with concurrence of the Chief Justice, otherwise directs, such judges of the new High Court, not less than two in number,

as the Chief Justice, may from time to time nominate, shall sit at Lucknow in order to exercise in respect of cases arising in such areas in Oudh, as the Chief Justice may direct, the jurisdiction and power for the time being vested in the new High Court:

Provided further that the. Chief Justice may in his discretion order that any case or class of cases arising in the said areas shall be heard at Allahabad."

6. However, in order to end this controversy, on the administrative side, a decision has been taken by this Court to have a Uniform Coding System for registration of cases, writ petitions, appeals, miscellaneous petitions etc both at principal seat as well as at Bench at Jaipur. With the advancement of technology and the adeptness of the lawyers and judges to the video conferencing system of hearing cases, now we feel that there would be no controversy left to be adjudicated in relation to the question which we had framed earlier and we expect that after the uniform coding system having been applied, if any case relates to a particular district having a cause of action, the lawyers may file cases at the principal seat or at Jaipur Bench however, the case shall be heard by the Court which has the jurisdiction of that district where the cause of action has arisen. Resultantly, the lawyers from the principal seat may argue a case which falls within the jurisdiction at Jaipur Bench by arguing the case before the concerned judge having Roster at Jaipur Bench through VC and vice-versa. We hope this will not only be helpful in reducing the confusion in minds of people and also reduce any such forum shopping which any unscrupulous litigant may attempt to make by filing one petition at the principal seat and another petition at the

Bench at Jaipur for the same cause of action or by creating new cause of action, like the one in the present case.

7. In the present case, the learned Single Judge has held as under-

5. *Having heard learned counsel for the petitioner and from perusal of record, this Court finds that the involvement of petitioner-firm in criminal case arising out of FIR No.265/2023 registered at Police Station Basni, Jodhpur City (West) on 26.09.2023 is an undisputed fact.*

6. *It is further undisputed that prior to issuance of the impugned order dated 13.06.2024 (Ann.2) by the Licensing Authority and Assistant Drug Controller, Jodhpur, petitioner firm was served with show cause notice dated 19.03.2024, then on 26.03.2024 and lastly on 20.05.2024.*

7. *It is further undisputed that the show cause notice dated 20.05.2024 was replied by and on behalf of petitioner firm as well. The first show cause notice was also replied by the counsel of petitioner firm on his instructions.*

8. *Merely because the petitioner firm did not submit the documents for one or other reason, it may not be said that the order of suspension of drug license of petitioner firm was passed by the respondent No.3, without providing opportunity of hearing or in breach of the principles of natural justice.*

9. *It further appears from the impugned orders that the drugstore of petitioner firm was inspected on 27.09.2023, in presence of proprietor and competent person of petitioner firm and forged bills, raising government funds on the basis of false entries of supply of drugs under the scheme of RGHS were recovered from the store of petitioner firm in his presence.*

10. *Both the authorities, Licensing Authority and the Appellate Authority have recorded a fact finding against the petitioner firm for committing irregularities/ illegalities in preparing forged medical bills and committing breach of the relevant provisions of the Drugs and Cosmetics Act and Rules. Such fact findings are based on the documents recovered at the spot during inspection of drug store in presence of the competent person and proprietor of the petitioner firm.*

11. *In addition to above, the impugned orders are only in respect of suspending the drug license of petitioner firm and the appellate Authority has reduced the period of suspension only for a period of 30 days commencing from*

19.08.2024 to 18.09.2024. No final order in respect of cancellation of drug license of petitioner firm has been passed by the authorities.

12. Having considered the reasons assigned by the Licensing Authority to suspend the drug license of petitioner firm and the reasons assigned by the appellate authority to affirm the suspension order as also considering the nature of impugned orders to the effect of suspension of drug license only, this Court is not inclined to exercise its writ jurisdiction under Article 226 of (6 of 7) the Constitution of India. The impugned orders may not be termed as violative to Article 14, 21 of the Constitution of India. The impugned orders have been passed, after providing due opportunity of hearing to the petitioner firm and after due application of mind by the concerned authorities which do not warrant any interference by the High Court in writ jurisdiction.

13. Before parting with, this Court takes a serious note against the petitioner firm that admittedly the petitioner firm is running a drug store at Jodhpur. The drug license was issued to petitioner firm by the Licensing Authority & Assistant Drugs Controller, Jodhpur (respondent No.3 herein). FIR No.265/2023, wherein the petitioner firm was one of the accused, was also registered at Police Station Basni, Jodhpur City (West) and bail application under Section 439 Cr.P.C. of the proprietor petitioner firm was granted by the High Court of Judicature for Rajasthan at Jodhpur vide order dated 15.04.2024. The first impugned order dated 13.06.2024 (Ann.2) has also been passed by the Authority, respondent No.3 whose office is situated at Jodhpur. However, the petitioner firm has preferred the present writ petition before the High Court of Judicature for Rajasthan at Jaipur Bench, Jaipur, merely taking benefit of the order dated 26.07.2027 passed by the Appellate Authority, which is only one appellate authority in State of Rajasthan. Petitioner firm who indisputably is carrying on business and running his drug store at Jodhpur and its drug license was issued by the Assistant Drugs Controller, Jodhpur, which has been suspended by the respondent No.3-Licensing Authority, whose office is situated at Jodhpur, could have filed this writ petition before the High Court of Judicature for Rajasthan at Jodhpur. The criminal proceedings against the petitioner firm were undeniably initiated and are continuing at Jodhpur, yet the petitioner firm for the reasons best known to him, has chosen the forum of High Court at Jaipur Bench to file present writ petition. This Court does not want to enter into

area that the act of petitioner-firm forum shopping is by its own decision or under some illegal advice but this practice can not be countenanced. This Court, in peculiar facts and circumstances of present case, deprecates such practice of petitioner firm and in order to deter such practice in future, deem it just and proper to saddle the petitioner firm with exemplary cost of Rs.10,000/- while dismissing its writ petition for the reasons discussed and referred in the forgoing paragraphs.

14. As a final result, the instant writ petition is dismissed with exemplary cost of Rs.10,000/-. The cost is to be deposited by the petitioner firm with the Litigants Welfare Fund through Cheque/DD in the name of Registrar General LWFA, Rajasthan High Court within a period of Sixty days.15.Stay application and pending application, if any, stand disposed of.16.Registry is directed to send a copy of this order to the respondent No.3 by registered post forthwith.

8. We are clear in our mind that there has been an attempt to forum shopping. Merely because the appellate authorities sit at Jaipur, the petition could not have been filed at Jaipur. More so, as in all the cases relating to the seat of Government being at Jaipur all orders would obviously be passed finally at Jaipur alone but that does not in any manner reduce the jurisdiction of this Court at the principal seat. The very purpose of formation of the High Court principal seat at Jodhpur would be frustrated if we allow such attempt by unscrupulous litigants.

9. We dismiss this special appeal with a cost of Rs. 1,00,000/- to be imposed on the appellant to be recovered and deposited in the Rajasthan State Legal Services Authority.

(SANJEET PUROHIT),J

(SANJEEV PRAKASH SHARMA),ACJ