

**ORDER SHEET**  
**HIGH COURT OF SINDH, KARACHI**

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C.P. No.D-129 of 2020

Date	Order with signature of Judge
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**Present**

**Mr. Justice Muhammad Ali Mazhar.**

**Mr. Justice Arshad Hussain Khan.**

M/s. City Herbal Care Laboratories Pvt. Ltd. ....Petitioner

Versus

Federation of Pakistan & others .....Respondents

**Date of hearing 29.10.2020**

Mr. Abdul Wahab Baloch advocate for the petitioner.

Mr. Hussain Bhora, Assistant Attorney General.

Ayaz Ahmed, Additional Director, H&OTC, DRAP, Islamabad.

Arif Rana, CEO of the petitioner is also present.

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**Muhammad Ali Mazhar, J:** The petitioner has approached to this court for the directions against the respondents to issue form-6 (enlistment certificate) to the petitioner so that they should start their business of manufacturing Herbal Unani Medicine and Consumer Products according to the Dugs Act. The petitioner himself attached a letter dated 26.02.2019 available at page No.27 which shows that Secretary, Enlistment Evaluation Committee, DRAP informed that ECC rejected the application of the petitioner due to non-compliance of area requirement as the manufacturing unit is located at the third floor of the building. In para-3 it s further stated that if petitioner is aggrieved they may prefer an appeal before the Appellate Board as per provisions of sub-rule 15 of Rule 7 of the Alternative Medicine and Health Products

(Enlistment) Rules, 2014. The petitioner has also attached a copy of appeal dated 19.07.2019 available at page No. 29 which was allegedly preferred to the Chairman Appellate Board and in para-8 of the petition it is stated that the petitioner has preferred the appeal on 19.07.2019 to the Chairman of Appellate Board of the respondent No.2.

2. Ayaz Ahmed, Additional Director, H & OTC, DRAP, Islamabad submits that though the petitioner has mentioned that appeal has been preferred but no such appeal has been filed which fact has been confirmed by the petitioner's CEO Arif Rana and he submits that this was mentioned in the petition due to some misunderstanding. The Additional Director, DRAP further pointed out that on 23.09.2019 the petitioner submitted another application for enlistment but the said application was also rejected vide communication dated 13.04.2020 and in para-3 of the said letter, it was again mentioned that the petitioner may prefer an appeal before the Appellate Board. Against both enlistment rejection no appeal has been preferred and now, CEO of the petitioner submits that the appeal has become time barred. The petitioner is also relying on letter dated 08.02.2019 which is a provisional certificate for enlistment as manufacturer (form-6) to show that the provisional enlistment was accorded to the petitioner but on the contrary officer present in court from DRAP submitted that it is an unsigned letter and no such decision was taken to grant any such provisional enlistment. Petitioner's CEO has also shown building plan of City Herbal

Care Laboratory Pvt. Ltd. and pointed out that this was attested by Dr. Ishtiaq Shafiq, Additional Director (H&OTC), DRAP. He further submits that manufacturing unit is located at third floor and the area of laboratory is more than two kanal, however, at second floor some garments factory is located and there is no apprehension of any contamination and other hazard to the public health.

3. Since statutory right of appeal has been provided in the law which has not been availed and some time has also been lapsed. The proper assessment is to be done by the DRAP whether the petitioner is entitled for the enlistment or not, however, the position taken by the petitioner with regard to the area of manufacturing unit and the building which is according to them fully equipped and protected from any contamination, the DRAP has to see this aspect also after proper consideration of the case as well as the inspection of the premises if required. The petitioner may avail right of appeal before the Appellate Board and also file an application for condonation of delay. It is expected that the Appellate Board of DRAP shall consider the grounds of condonation and pass some appropriate order on the main appeal after taking into consideration all relevant factors. If any appeal is filed before the Appellate Board with condonation of delay application, the same shall be decided within thirty (30) days. The petition is disposed of accordingly.

JUDGE

JUDGE