

F. N.: BMSIC/40025/27-2014/~~2194~~

Date: 05.10.2016

Order

BMSICL vide its order contained in Letter no. BMSIC/40025/27-2014/28 dated 06.04.2015 blacklisted M/s Medipol Pharmaceutical Pvt. Ltd for five years. M/s Medipol Pharmaceutical Pvt. Ltd (Medipol) filed writ petition (CWJC No. 7523 of 2015) in the Hon'ble High Court Patna, for quashing of BMSICL order dated 06.04.2015 vide which the firm was blacklisted. The petitioner submitted that the order dated 06.04.2015 was in violation of fundamental principles of natural justice as the petitioner was not served a copy of the report of the enquiry committee headed by Sri Anand Kishore which was referred to in the BMSICL order dated 06.04.2015.

2. In the above matter, the Hon'ble High Court, Patna vide its order dated 03.12.2015 quashed the BMSICL order dated 06.04.2015. The excerpt of operative part of the order of the High Court is reproduced below:

*“--the impugned order dated 06.04.2015 is quashed with liberty to the respondents to pass orders afresh in accordance with law after supplying a copy of the 2<sup>nd</sup> enquiry report of the committee headed by Sri Anand Kishore and after grant of reasonable opportunity to the petitioner. It is made clear that the writ petition is being disposed of without considering the merits of the matter.”*

3. In compliance of the above order of the Hon'ble High Court, Patna, BMSICL vide it's letter no. 2787 dated 21<sup>st</sup> January 2016, provided copy of the 2<sup>nd</sup> enquiry report of Shri Anand Kishor to the petitioner. Post receipt of the enquiry report, Medipol vide its letter dated 8<sup>th</sup> February 2016 requested for a minimum 2 months time for submission of reply. Subsequently Medipol vide its letter dated 9<sup>th</sup> March 2016 requested for a fresh copy of the report of Shri Anand Kishor along with a typed copy of the same as according to them a no. of pages were not legible. BMSICL vide letter no. BMSIC/40025/27-2014/143 dated 13<sup>th</sup> April 2016 replied to Medipol stating that it was not possible to provide a typed copy of the entire enquiry report and annexures, hence Medipol

was asked to provide the relevant page nos. of the report which were not legible, so that the same can be provided to them.

4. Since Medipol did not revert with any response to the above letter, BMSICL vide its letter no. BMSIC/40025/27-2014/1505 dated 4<sup>th</sup> August 2016, asked Medipol to submit its reply in light of the order of the Hon'ble High Court in CWJC 7253/2015 dated 3<sup>rd</sup> December 2015 within 3 days, as the entire report has been provided to them and also because they chose not to revert to the earlier letter no. 143 dated 13<sup>th</sup> April 2016 of BMSICL. Post receipt of the above letter of BMSICL, Medipol reverted vide mail on 6<sup>th</sup> August 2016, specifying the page numbers of the enquiry report of Sri Anand Kishore & its annexures and further came up with a new demand of the report of the Principal Secretary, Health. Medipol also requested for granting an opportunity of hearing to them.

5. BMSICL vide letter no. BMSIC/40025/27-2014/1580 dated 11<sup>th</sup> August 2016, provided copies of the pages of the report of Sri Anand Kishore as requested by Medipol and further Medipol was again given a last opportunity to submit its reply within 3 days of the letter else it would be understood that the earlier order of BMSICL of blacklisting for 5 years issued vide its letter dated 06.04.2015, is acceptable to the firm.

6. However the above letter no. BMSIC/40025/27-2014/1580 dated 11<sup>th</sup> August 2016 of BMSICL which had been sent to Medipol vide speed post was returned to BMSICL on 16<sup>th</sup> August 2016. Prior to this all letters sent from BMSICL to Medipol were never returned, which indicates that Medipol had purposely not received this letter. When the concerned officer of the firm was telephonically informed about the letter having been returned and also that the same letter has been sent vide e-mail to them, Medipol sent it's reply vide e-mail dated 19<sup>th</sup> August 2016. Subsequently Medipol sent hard copy of their reply dated 17<sup>th</sup> August 2016 which was received at BMSICL on 26<sup>th</sup> August 2016.

7. The main points of contention that Medipol has raised vide its reply dated 19<sup>th</sup> August 2016 and 26<sup>th</sup> August 2016 are as follows:

- i. Medipol stated that BMSICL has worked on a system of pick and choose portions from both the Sri K.K. Singh's report and Sri Anand Kishor's report, and blacklisted the firm.

