

(2010) 06 BOM CK 0106
In the Bombay High Court
Case No : Writ Petition No. 3256 of 2007

Shri Bharat Kandhari

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-06-2010

Acts Referred:

Citation : (2010) 06 BOM CK 0106

Hon'ble Judges : S.A. Bobde, J;A.B. Chaudhari, J

Bench : Division Bench

Advocate : A.A. Naik, Amicus Curiae, for the Appellant; Tajvar Khan, for Respondent Nos. 1 and 2 and P.D. Kothari, A.G.P. for Respondent No. 3 and 4, for the Respondent

Judgement

S.A. Bobde, J.—Rule. Rule returnable forthwith. Heard finally by consent of the parties.

2. This petition involves question of regulation of prices of certain drugs and medicines manufactured in India with a view that such drugs are made available to the consumers at the lowest possible price.

3. Mr. Naik, the learned Amicus Curiae, pointed out from AnnexureA to the petition, a list of drugs, which clearly shows a wide disparity in the prices of drugs merely because they are manufactured by different companies. The said list is reproduced below:

DRUG NAME

COMPANY NAME

QUANTITY

CURRENT PRICE

Cetirizine 10 mg (Anti Allergic Tablet)

Alzine

(Core)

10?s

7.80

Hicet

(Micronova)

10?s

14.80

Cettrizet

(Sun)

10?s

34.00

Ciprofloxacin 500 mg (Antibiotic Tablets)

Zoxan

(FDC)

10?s

44.75

Biocip

(Biochem)

10?s

49.95

Clfran

(Ranbaxy)

10?s

89.60

Flunarizine 10 mg (Migraine)

Migon

(Le Sante)

10?s

19.90

Migraid

(Cipla)

10?s

20.25

Siblum

(Johnson & Johnson)

10?s

52.00

Gabapentin 300 mg (Anticonvulsant)

Gabapin

(Instas)

10?s

98.00

Neurontin

(Pfizer)

10?s

312.87

Gliclazide 80 mg (Anti Diabetic)

Glycor

(USV)

10?s

23.65

Lycazid

(Jagsonpal)

10?s

31.00

Diamicron

(Serdia)

10"s

63.00

Reflunomide 10 mg (Used in Rhumatoid Arthritis)

Rumalef

(ZydusCadila)

10"s

80

Arava

(Aventis)

10"s

440.00

Levocetirizine 5 mg (Antiallergic)

1-AL

(FDC)

10"s

9.50

Airitis

(NPIL)

10"s

35.65

Vozet

(GSK)

10"s

46.00

Ofloxacin 200 mg (Antibiotic)

ZO

FDC

10"s

29.00

Zocin

Winsame

10"s

39.00
Z-Flox
ZotaPharma
10"s
54.90
Varflox
Zota HC
10"s
60.00
Tarivid
Aventis
10"s
310.64
Pioglitazone 15 mg (Antidiabetic)
K-Pio
Blue Cross
10"s
9.00
Diaglit
Biochem
10"s
18.00
Bioglita
Biochem
10"s
19.98
Pepar
Glenmark
10"s
22.70

Oglo

Panacea

10"s

37.00

Ploz

USV

10"s

50.00

Plozone

NIPL

10"s

60.00

Ramipril 5 mg (Anti hypertensive)

Odipril

(Blue Cross)

10"s

23.00

Ziram

(FDC)

10"s

34.00

Hopecard

(Aristo)

10"s

49.20

Topril

(Torrent)

10"s

70.16

Ramey

(ZydusCadila)

10"s

82.50

Cardace

(SanofiAvantis)

10"s

97.03

Risperidone 2 mg (Antipsychotic)

Risdone

(Intas)

10"s

10.40

Rapidon

(RKG Pharma)

10"s

13.00

Risnia

(Cipla-Protec)

10"s

15.50

Riosperdal

(Ethnor)

10"s

270.00

Tyroxine 100 mcg (Thyroid Patients)

Roxin

(ZydusCadila)

10"s

18.00

Eltroxin

10"s
74.00
Vasartan 80 mg Mg (Anti Hypertensive)
Valzaar
(Torrent)
10"s
59.20
Starval
(Ranbaxy)
10"s
69.00
Diovan
(Novartis)
10"s
410.00
Zoledronic Acid 4 mg (Tumour treatment)
Zolaria
(Cipla)
lvial
2800.00
Blazetere
(Dr. Reddy)
1 vial
3299.00
Zometa
(Vonartis)
1 vial
12,500.00

4. From the above list, it is clear that there is wide disparity between the prices of the same medicines because they are manufactured and marketed by different

companies. For instance, 1 vial of Zolria manufactured by Cipla is Rs. 2800 and 1 vial of Zometa manufactured by Vonartis is Rs. 12,500/, which is having Zoledronic Acid 4 mg, a drug for tumour treatment. Mr. Naik, the learned Amicus Curiae, pointed out that it is the experience of patients that when they go to the counter to buy a particular medicine/drug, they are often told that the brand, which is relatively inexpensive and affordable, is not available and only the expensive brand is available. This, obviously, adds to the burden to the poor man, who is already suffering from some ailment. It is seen from the above that there is huge price variation between two brands of the same drug. Such practice is a matter of public concern and certainly a matter of public interest within the meaning of Rule 10 (b) of the Drugs (Prices Control) Order, 1995, which reads as follows:

10. Power to revise price of bulk drugs and formulations. Notwithstanding anything contained in this Order,

(a) ...

(b) the Government may, if it considers necessary so to do in public interest, after calling for such information by order fix or revise the retail price of any formulation including a nonscheduled formulation;

Clause (b) referred to above specifically empowers the Government to revise the retail price of any formulation including a non scheduled formulation. It is common ground that the formulations referred to above are non scheduled formulation.

5. Ms Tajvar Khan, learned Counsel for respondent Nos. 1 and 2, submits that the petitioner has not brought these discrepancies to the notice of the Authorities and, therefore, there has been no occasion to exercise the power conferred by Rule 10 of the Drugs (Prices Control) Order, 1995. The learned Counsel for the respondent Nos. 1 and 2 does not dispute the fact that these drugs are covered by Rule 10 (b) and the Government has power to revise the retail price.

6. In the circumstances, we consider it appropriate to direct the respondents to consider the discrepancy in prices of the drugs as set out hereinabove and pass a reasoned order, after hearing the petitioner and the manufacturers, in accordance with law, and communicate the said order to the concerned.

The respondents are directed to submit a compliance report to this Court after the aforesaid exercise is completed, within a period of six months from today.

Rule made absolute in the above terms. No order as to costs.

Steno copy of this order be given to the learned Counsel for the parties to act upon.