**Petition for a writ of mandamus, directions and appropriate orders Art. 226 of the Constitution of India**

In the High Court of Judicature at …………………

*In re* Art. 226 of the Constitution of India

Company Name & Address:…………… Petitioner

………………………………………….

*versus*

(1) State of ……………..

(2) Commissioner of Excise (Address) Respondents.

(3) ……… Sub-Inspector of Excise (Address)

*Petition for a writ of* mandamus, *directions and appropriate orders*

The petitioner above named states as under :

1. That the petitioner holds a licence in Form 25 under the Drugs and Cosmetics Act, 1940, to manufacture all drugs other than those specified in Schedules C & C (i) of the Drugs and Cosmetics Rules, 1945.

2. That the petitioner is carrying on the business of manufacture and sale of …………….. [Name of product] and other medicinal and toliet preparations which require the use of rectified spirit as one of the ingredients thereof.

3. That for the purpose of the manufature of such preparations the petitioner obtained on …….. a special permit in Form……. under the…….. Rules, 20…… enabling him to purchase and import rectified spirit at a concessional rate of Rs………. per proof gallon up to maximum of ………………. gallons in the calendar year.

4. That on………. the petitioner had……. bulk gallons of rectified spirit in stock.

5. That on that day the third respondent visited the petitioners works and setting apart …… gallons of spirit sealed the remaining………. drugs containing…….. gallons of spirit.

6. That the petitioner thereof received three consignments in ………. day of …….. 20….. (total quantity…….. gallons).

7. That the third respondent again seized and sealed the contents of the said three consignments on………

8. That a note of the abovementioned seizure and sealing thereof was made in the inspection book and the sealed drums were kept in the petitioner's custody.

9. That the petitioner protested against such seizure and sealing of the rectified spirit in possession of the petitioner on the ground that it was illegal but the respondents did not release the said stock.

10. That later on the petitioner applied for a permit to import………. gallons of rectified spirit in the year ……. but only a permit for……… gallons was granted to the petitioner. The said permits, however, imposed the following three further conditions :

(i) ……………

(ii) ……………

(iii) ……………

11. That it appears that respondent No. 1 at the instance of respondent No. 2 issued a notification, dated…………. under ……….. Act of ……….. restricting the import and keeping in stock of more than…….. gallons.

12. That the petitioner protested against the action taken against the petitioner under the said notification.

13. The petitioner has all along enformed to the standards laid down in the Drugs and Cosmetics Act and the Drugs and Cosmetics Rules and there is no violation of the term of the licence.

14. That the conditions imposed in the notification mentioned in para 11 above are illegal and a negation of Rule…….. of………. Act……….

15. That the petitioner was allowed to manufacture ….……………. [Name of Product] only specified in the letter No………… dated ….………. a true copy whereof is filed with the petition.

16. That this restriction imposed on the manufacture of preparation other than the specified '……………………… [Name of Product]' allowed to the petitioner was not warranted under any provision of law.

17. That being aggrieved by the order of seizure of the stock of rectified spirit and the order imposing restriction on the manufacture of medicinal preparations other than those allowed, the petitioner approaches this Hon'ble Court for the issue of a writ of *mandamus*  and such other direction or order that the Court may think proper on the following, among other

*Grounds*

(i) That the said seizure of stock of petitioner was a flagrant invasion of private property, wholly unjustified either in law or in fact.

(ii) That the permits issued to the petitioner prior to the said seizure did not contain the new conditions or restrictions mentioned above.

(iii) That there having been no breach of statuory privisions of law or rules framed therunder, the seizure was bad in Law and illegal.

(iv) That the rules framed in this behalf did authorize issue of any notification prohibiting manufacturing of medicinal or other genuine preparation was contradistinguished from the sale or consumption thereof.

(v) That the said notifications prohibiting the manufacture of tinctures other than few specified ones amount to an interference, without the authority of law, with the rights of pharmaceutical works to manufacture standard grdus under the licence.

(vi) Ther has been no delegation to the executie by the Legislature to impose the kind of restriction as prescribed in the case. If the right of the petitioner to carry on the business of manufacturing standard and genuine medicines is not taken away, that business cannot be stopped or, in other words, destroyed by the indirect method of limiting unduly the supply of the main ingredient.

(i) ………………

(ii) ……………..

18. That there is no other speedy, adequate and efficiacious remedy available to the petitioner.

19. That the demand made by the petitioner to release the seized stock and to permit the requisite import of rectified spirit for the year ….……. was refused.

20. That it is inconsonance with justice that the relief prayed for in this case be give to the petitioner.

a. It is prayed that a writ or writs of *mandamus* be issued to the effect that -

i. the stock of spirit seized be released,

ii. the ban on manufacture of medicinal and standard tinctures be declared to be without sanction of law,

iii. the fixation of …….. gallons as the total supply of rectified spirit be held to be unreasonable and arbitrary and based on unwarranted assumption that only……. (specified) tinctures can be manufactured. The petitioner be held to be entitled to a reasonable supply of rectified spirit based upon its *bona fide* needs for the manufacture of genuine medicines,

iv. costs of the petition be awarded.

Dated ………………..

(Sd.)

Petitioner.

(Sd.)

Advocate, for the Petitioner.