

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 20748 of 2026

ICHOR Biologics Private Limited

Vs.

The State of West Bengal & Ors.

Mr. Jaydip Kar, Sr. Adv.

Mr. Suman Kumar Dutt, Sr. Adv.

Mr. Soumya Majumdar, Sr. Adv.

Mr. Paritosh Sinha

Mr. Amitava Mitra

Ms. Sumita Shaw

Mr. Sakabda Roy

Mr. Naman Agarwal

Ms. Shrestha Dutta

Ms. Anusuya Thatoi

....For the petitioner.

Mr. Surajit Nath Mitra, Ld. A.G.

Mr. Billwadal Bhattacharyya, Ld. A.A.G.

Mr. Shivshankar Banerjee

Mr. Srijib Chakraborty

Mr. Aditya Mondal

Mr. Shiv Shankar Banerjee

Mr. Jatinder Singh Dhatt

....For the respondents.

Hearing Concluded On : 21.09.2026

Judgment Delivered On : 30.09.2026

Judgment Uploaded On : 30.09.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition challenging the communication dated 30th July, 2026 wherein and where under the technical bid of the petitioner was rejected. On 19th May, 2026, the respondents have published a Notice Inviting e-Tender for collecting excess/surplus available screened of Fresh Frozen Plasma (FFP) from different BCSU (Blood Component Separation Unit) attached to the State Government Blood Centres across the West Bengal Initially for a period of 1 (one) year and may be extended for a further period of 1 (one) year under same terms & conditions subject to satisfactory performance.
2. The petitioner has participated in the said tender process. On 22nd June, 2026, the Tender Committee opened the bids for technical evaluation in presence of the representative of the petitioner and other bidders. On 1st July, 2026, the tendering authority requested the petitioner to provide attested copy of the license for manufacturing blood products, Income Tax Returns for the year 2024-25 and the PAN of the petitioner. On 3rd July, 2026, the petitioner has submitted the required documents to the tendering authority.

3. On 24th July, 2026, the technical bid of the petitioner was rejected with the remark “Not Qualified Technically”. The petitioner has made representation on 28th July, 2026, to the respondents requesting the respondents the reasons for the technical disqualification and also requested for opportunity of personal hearing before the Technical Bid Evaluation Committee. In spite of several requests made by the petitioner, the respondent authorities have neither informed the petitioner about the reasons for rejection of the technical bid of the petitioner nor any opportunity of hearing was provided to the petitioner, the petitioner has filed the present writ petition.
4. Mr. Jaydip Kar, Learned Senior Advocate, representing the petitioner submits that the license to manufacture and store blood products for sale or distribution was issued to the petitioner by the competent authority on 1st April, 2021 which was valid up to 31st March, 2026. On 10th November, 2025, the petitioner has submitted an application to the Director, Drugs Control Administration for renewal of Manufacturing license of the petitioner under Form-28-E.
5. On 24th April, 2026, the Drugs Control Administration, Government of Telangana, renewed the license of the petitioner with effect from 1st April, 2026 to 31st March, 2031 by issuing License Retention Certificate. On 22nd June, 2026, the Licensing Authority has issued Certificate of renewal of license to Manufacture of Blood Products under FORM26-I. The petitioner has participated in the tender process with the said certificate of renewal issued under Form26-I.

- 6.** The respondent authorities have filed report and in the said report, the reason for disqualification of the petitioner in the technical bid was disclosed. As per report filed by the respondent authorities, the manufacturing license which the petitioner has submitted along with other tender documents, the manufacturing license is not duly endorsed by the Drug Controller General of India (hereinafter referred to as “DCGI”) which is an essential requirement.
- 7.** Mr. Kar submits that as per Rule 122H of the Drugs Rules, 1945, once the original license is renewed either in Form 26-G or in Form 26-I shall be valid for a period of five years on and from the date on which it is granted or renewed unless it is suspended or cancelled. He submits that as on date of opening of technical bid of the petitioner, the petitioner had the valid license but the respondent authorities have disqualified the petitioner in the technical bid only on the ground that the license of the petitioner is not endorsed by the Drug Controller General of India which is not the requirement.
- 8.** Mr. Kar submits that the Licensing Authority by a letter dated 22nd June, 2026, forwarded the approval for the Renewal License in Form 26-I (Form 28-E) in triplicate with endorsement of State Licensing Authority for approval of Central Licensing Approving Authority and requested the Drug Controller General of India to return the same in duplicate after approval for taking necessary action.

- 9.** Mr. Kar submits that Licensing authority defined under Rule 21(b) of the Drugs Rules, 1945 and the said Licensing Authority has granted license to the petitioner which is valid from 1st April, 2026 to 31st March, 2031 but the respondents have not considered the said license of the petitioner and arbitrarily rejected the technical bid of the petitioner.
- 10.** Mr. Kar relied upon Rule 122F of the Drugs Rules, 1945 and submits in 2nd proviso of the said Rule provides that the licensee holding a license in Form 28-C, Form-28-E or Form 28-F as the case may be, for operation of [Blood Centre]/ processing of whole human blood for components/ manufacture of blood products/collection, processing, testing, storage, banking and release of umbilical cord blood stem cells shall apply for grant of license under sub-rule (1) before the expiry of the said license on Form 27-C, Form 27-E or Form 27-F as the case may be, and he shall continue to operate the same till the orders on his application are communicated to him. He submits that the licensing authority has renewed the license of the petitioner with effect from 1st April, 2026 and is valid till 31st March, 2026 but the respondent authorities have rejected the technical bid of the petitioner.
- 11.** Mr. Kar further relied upon Rule 122-I and submits that before renewal of the license of the petitioner, the licensing authority inspected the premises of the petitioner, verified appliances/ equipments, test facilities and professional qualification of the expert

staffs and other technical staffs employed by the petitioner and thereafter renewed the license of the petitioner but the respondent authorities have not relied upon the license issued by the competent authority upon completion of all formalities.

12. Learned Advocate General appearing for the State submits that as per the Eligibility Criteria of the tender notice, any firm/ company should have a valid license for manufacturing plasma derived products. The firm should furnish attested photocopy of License for manufacturing plasma derived products approved by the Licensing Authority. He submits that the petitioner has submitted license issued by the Licensing Authority but is not approved by the Central License Approving Authority. He submits that it is admitted by the petitioner that after renewal of license of the petitioner by the Licensing Authority, the same was forwarded to Drug Controller General, India for approval but till date the Central License Approving Authority has not approved the license of the petitioner.

13. Learned Advocate General submits that the previous license was issued and relied by the petitioner which was issued on 20th May, 2021 and was valid from 1st April, 2021 to 31st March, 2026 in the said license, other than the signature and seal of the Licensing Authority, there is an endorsement by the Central License Approving Authority but in the present tender process, the license which the petitioner has relied upon, there is no endorsement of the Central license Approving Authority.

- 14.** Learned Advocate General submits that the petitioner has submitted certificate issued by the Licensing Authority dated 22nd June, 2026, without any seal and signature of the Central License Approving Authority. The Licensing Authority by a letter dated 22nd June, 2026, forwarded the approval of Renewal License in Form 26-I in triplicate with endorsement of the State Licensing Authority for approval of the Central License Approving Authority with the request to return the same in duplicate after approval for taking necessary action at the end of the Licensing Authority which itself proves that the license which the petitioner has relied upon is not approved by the Central License Approving Authority. He submits that at this stage on the basis of the Renewal License issued by the Licensing Authority without approval of the Central License Approving Authority, the tender is accepted and work order, if any, is issued to the petitioner and if the Central License Approving Authority later not approved the renewed license issued by the Licensing Authority, the tender process initiated by the respondent authorities would become redundant.
- 15.** The issue involved in the present writ petition whether without the approval of the Central License Approving Authority of the license issued by the Licensing Authority, the respondents can accept the said license issued by the Licensing Authority for allowing the petitioner to participate in the financial bid.
- 16.** Clause 4(a) of the eligibility criteria of the tender documents reads as follows:

“4. (a) Any Firm/Company should have a valid license for manufacturing plasma derived products. The firm should furnish attested photocopy of License for manufacturing plasma derived products approved by the Licensing authority.”

- 17.** The petitioner had the License to Manufacture and Store Blood Products for Sale or Distribution issued by the Licensing Authority duly approved by the Central License Approving Authority dated 20th May, 2021 and was valid from 1st April, 2021 to 31st March, 2026. On 10th November, 2025, the petitioner has applied for renewal of the license of the petitioner before the Drugs Control Authority. The Licensing Authority renewed the license of the petitioner under FORM 26-I dated 22nd June, 2026 which is as follows:

“FORM 26-I

(See Rule 122-I)

Certificate of renewal of license to manufacturing of Blood Products

1. *Certified that License no. 02/RR/AP/2013/BP/CC on dated 01/04/2021 in Form28-E to M/s Ichor Biologics Pvt. Ltd., situated at Survey No. 222P, Turkapally (V), Shameerpet (M), Medchal Malkajgiri District, Telengana-500078, India is hereby renewed with License No. 02/RR/AP/2013/BP/R with effective from 01/04/2026 TO 31/03/2031.*
2. *Name (s) of the items : Products List Enclosed with the License.*
3. *Name / (s) of competent Technical Staff*

(a) Responsible for Manufacturing

1. *Mr. Manish Aditya. G.B. Pharmacy as manufacturing Chemist*

(b) Responsible for Testing

2. *Mrs. B. Ramya Sri, M.Sc. Biochemistry as Analytical Chemist*

Dated : 22.06.2026

SIGNATURE

NAME AND DESIGNATION

LICENSING AUTHORITY.

CENTRAL LICENSE APPROVING AUTHORITY//.”

18. Admittedly, the renewed license relied by the petitioner under FORM 26-I is issued by the Licensing authority is not approved by the Central License Approving Authority and is pending before the Approving Authority. While providing the renewed License under FORM 26-I to the petitioner, the Licensing Authority has forwarded the same to the Drugs Controller General (I) for approval of the Renewal License in FORM 26-I.

19. Rule 68 of the Drugs Rules, 1945, provides for Grant of License by the Central License Approving Authority which reads as follows:

“68-A. Grant or Renewal of Licences by the Central Licence Approving Authority.— (1) *Notwithstanding anything contained in this Part, on and from the commencement of the Drugs and Cosmetics (9th Amendment) Rules, 1992, a licence for the manufacture for sale or distribution of drugs as specified from time to time by the Central Government by notification in the Official Gazette, for the purpose of this rule, shall be granted [***], by the Central Licence Approving Authority (appointed by the Central Government);]*

*PROVIDED that the application for the grant [***] of such licence shall be made to the Licensing Authority.*

*(2) On receipt of the application for grant [***] of a licence, the licensing authority shall,-*

(i) *verify the statement made in the application form;*

(ii) *cause the manufacturing and testing establishment to be inspected in accordance with the provisions of rule 79; and*

*[***]*

*(3) If the licensing authority is satisfied that the applicant is in a position to fulfil the requirements laid down as in these Rules, he shall prepare a report to that effect and forward it along with the application [and the licence (in triplicate) to be granted [***], duly completed] to the Central Licence Approving Authority:*

*PROVIDED that if the licensing authority is of the opinion that the applicant is not in a position to fulfil the requirements laid down in these Rules, he may, by order, for reasons to be recorded in writing, refuse to grant [***] the licence, as the case may be.*

(4) If on receipt of the application and the report of the licensing authority referred to in sub-rule (3) or after taking such measures including inspection of the premises by the Inspector, appointed by the Central Government under section 21 of the Act, with or without an expert in the concerned field if deemed necessary, the Central Licence Approving Authority, is satisfied that the applicant is in a position to fulfil the requirements laid down in these Rules, he may grant or renew the licence, as the case may be:

*PROVIDED that if the Central Licence Approving Authority is of the opinion that the application is not in a position to fulfil the requirements laid down in these rules, he may, notwithstanding the report to the licensing authority, by order, for reasons to be recorded in writing, reject the application for grant [***] of licence, as the case may be.]”*

As per the Rule 68A, the Central Licence Approving Authority is the decision taking authority for grant or rejects the application for grant of licence.

- 20.** Rule 81 provides for Procedure of Licensing Authority. As per the said provision also if the Licensing Authority or Central Licence Approving Authority after receipt of report of Inspector, they may cause further enquiry, if any, and is satisfied that the requirements of the Rule is complied with and the condition of the licence and the rules will be observed, he shall issue licence. If the Licensing Authority or Central Licence Approving Authority is not satisfied he shall reject the application and shall inform the applicant of the reasons for such rejection.

- 21.** Rule 122F of the Drugs Rules, 1945 reads as follows:

“122F. *Form of application for licence for operation of [Blood Centre]/ processing of whole human blood for components/manufacture of blood products for sale or distribution [collection, processing, testing, storage, banking and release of umbilical cord blood stem cells.]*

(1) Application for the grant and/or renewal of licence for the operation of a [Blood Centre]/ processing of Human Blood for components/manufacture of Blood Products [collection, processing, testing, storage, banking and release of umbilical cord blood stem cells] shall be made to the Licensing Authority appointed under Part VII in [Form 27-C [Form 27-E or Form 27-F], as the case may be], and shall be accompanied by [licence fee of rupees six thousand and an inspection fee of rupees one thousand and five hundred for every inspection thereof or for the purpose of renewal of licence];

PROVIDED that if the applicant applies for renewal of licence after its expiry but within six months of such expiry the fee payable for the renewal of the licence [shall be rupees six thousand and inspection fee of rupees one thousand and five hundred plus an additional fee at the rate of rupees one thousand per month or a part thereof in addition to the inspection fee:]

[PROVIDED FURTHER that a licensee holding a license in Form 28-C, Form 28-E or Form 28- F as the case may be, for operation of [Blood Centre/ processing of whole human blood for components / manufacture of blood products/ collection, processing testing storage, banking and release of umbilical cord blood stem cells shall apply for grant of license under sub Rule (1) before the expiry of the said license in Form 27-C, Form 27-E or Form 27-F as the case may be and he shall continue to operate the same till the orders on his application are communicated to him.]

[***]

(2) A fee of [rupees one thousand] shall be paid for a duplicate copy of a licence issued under this rule, if the original is defaced, damaged or lost.

(3) Application by a licensee to manufacture additional drugs listed in the application shall be accompanied by a fee of [rupees three hundred] for each drug listed in the application.

(4) On receipt of the application for the grant or renewal of such licence, the Licensing Authority shall,—

(i) verify the statements made in the application form;

(ii) cause the manufacturing and testing establishment to be inspected in accordance with the provision of rule 122-I; and

(iii) in case the application is for renewal of licence, call for information of past performance of the licensee.

(5) If the Licensing Authority is satisfied that the applicant is in a position to fulfil the

requirements laid down in the rules, he shall prepare a report to that effect and forward it [along with the application and the licence (in triplicate) to be granted or renewed, duly completed] to the Central Licence Approving Authority:

PROVIDED that if the Licensing Authority is of the opinion that the applicant is not in a position to fulfil the requirements laid down in these rules, he may, by order, for reasons to be recorded in writing, refuse to grant or renew the licence, as the case may be.

(6) If, on receipt of the application and report of the Licensing Authority referred to in sub-rule [(5)] and after taking such measures including inspection of the premises by the Inspector, appointed by the Central Government under section 21 of the Act, and/or along with the expert in the field concerned if deemed necessary, the Central Licence Approving Authority is satisfied that the applicant is in a position to fulfil the requirements laid down in these rules, he may grant or renew the license as the case may be:

PROVIDED that if the Central Licence Approving Authority is of the opinion that the applicant is not in a position to fulfil the requirements laid down in these rules he may, notwithstanding the report of the Licensing Authority, by order for reasons to be recorded in writing reject the application for grant or renewal of the licence, as the case may be and shall supply the applicant with a copy of the inspection report.”

In this Rule also if the Licensing Authority is satisfied that the applicant is in a position to fulfil the requirements laid down in the Rules, he will prepare report and forwarded the application and the licence to be granted or renewed to the Central Licence Approving Authority. The Central Licence Approving Authority is satisfied that the applicant is in a position to fulfill the requirements laid down in the rules, he may grant or renew the licence. As per proviso, if Central

Licence Approving Authority is of the opinion that the applicant is not in a position to fulfil the requirements laid down in rules he may, notwithstanding the report of the Licensing Authority reject the application for grant or renewal of licence as the case may be.

- 22.** In the present case, the licence issued to the petitioner to manufacture and store blood products for sale or distribution dated 20th May, 2021 was effective from 1st April, 2021 to 31st March, 2026. On 10th November, 2025, the petitioner has applied before the Drugs Control Authority for renewal of licence. The Licensing Authority by a letter dated 22nd June, 2026, forwarded the Renewal Licence in Form 26-I (Form 28-E) in triplicate with endorsement of the State Licensing Authority for the approval of the Central Licence Approving Authority. The copy of Renewal Licence in Form 26-I was also provided to the petitioner. Till date, the Central Licence Approving Authority has not taken any decision whether the Renewal Licence forwarded by the State Licensing Authority in Form 26-I is approved by the Central Licence Approving Authority or not.
- 23.** The petitioner has participated in the tender process by disclosing the Renewal Licence issued by the State Licensing Authority under Form 26-I but the Central Licence Approving Authority has not approved the same and thus, this Court did not find any illegality in rejecting the technical bid of the petitioner as the Renewal Licence relied by the petitioner is not approved by the Central Licence Approving Authority.

24. In view of the above, **WPA No. 20748 of 2026** is thus **dismissed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)