

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH
(Judicial Department)

Cr.A.No.20-B/2025.

M/s Neutro Pharma Lahore (Pvt) Ltd.

Versus.

The State through Drug Inspector D.I.Khan and others

JUDGMENT

For appellant: Mr. Inayat Ullah Khan, Advocate
through video link from
Peshawar.

For respondents: Mr. Abdul Waheed Khattak,
Asstt: A.G. for respondent No.1.

Mr. Yasir Rauf Wazir, Advocate
for respondent No.2.

Date of hearing: **24.6.2025.**

 **MUHAMMAD TARIQ AFRIDI, J.-** Through the instant criminal appeal filed under Section 31(7) of the Drugs Act, 1976 ("The Act"), the appellant, M/s Neutro Pharma Lahore (Pvt.) Ltd., has assailed the order dated 12.12.2024, passed by the learned Chairman, Drug Court, Khyber Pakhtunkhwa, Peshawar, Camp at Bannu, whereby in Complaint No.42/DC/DIK, dated 14.06.2022, the accused Saif Ullah Khan, Manager Regulatory Affairs of M/s Neutro Pharma (Pvt.) Ltd. (respondent No.3), was convicted under Section 27(1) of the Act and sentenced to pay a fine of Rs.40,000/- along with

publication charges of Rs.2,000/-, under the import of Section 35 of the said Act.

2. The prosecution case, in brief, is that on 29.05.2010, Mr. Akbar Jan, then Provincial Drug Inspector, D.I. Khan, visited the premises of M/s Chishti Enterprises, D.I. Khan, and collected samples of three products, namely (i) Hipro T Supplement (Batch No.002), (ii) Supplement-M (Batch No.005), and (iii) The Step Point Diet (Batch No.004), on Form-5 for purposes of analysis. The samples were sent to the Provincial Drugs Testing Laboratory (DTL), Peshawar, which declared them as containing allopathic ingredients vide Test Reports No.23011 to 23013/DTL dated 19.07.2010.

3. Upon issuance of a show-cause notice under Section 18(1)(g) of the Drugs Act, the proprietor of M/s Chishti Enterprises submitted an invoice indicating that the subject products had been procured from M/s Neutro Pharma Lahore. A show-cause notice was also issued to the said company, but the reply submitted by it was found unsatisfactory by the Drug Inspector. Consequently, the matter was placed before the Provincial Quality Control Board, Khyber Pakhtunkhwa, under Section 19(6) of the Act. In its meeting held on 09.10.2018, the Board granted

sanction for prosecution of (i) Saif Ullah Khan, Manager Regulatory Affairs of M/s Neutro Pharma (Pvt.) Ltd., Lahore and (ii) Amjad Chishti, proprietor of M/s Chishti Enterprises, D.I. Khan. Accordingly, Complaint No.42, dated 14.06.2022, was filed before the Drug Court under Section 30 of the Act for alleged contraventions of Sections 23(1)(a)(vii) and 23(1)(b) of the Act, punishable under Section 27 thereof.

4. On 12.12.2024, one Izzat Khan, claiming to be the Manager of M/s Neutro Pharma Lahore, appeared before the learned Chairman, Drug Court, and submitted an application stating that accused/respondent No.3 Saif Ullah Khan had abandoned service with the company. He further requested that the case against Saif Ullah Khan and the company be decided on the basis of his own plea of guilty. Acting on this application, the learned Drug Court proceeded to convict and sentence respondent No.3, Saif Ullah Khan, in absentia. The fine and publication fee were subsequently deposited by respondent No.2, Izzat Khan, against official receipt No.3996. The co-accused, Amjad Chishti, was however acquitted under Section 265-D read with Section 265-K Cr.PC.

5. Feeling aggrieved by the conviction of its official and the implications of the impugned order, the appellant M/s Neutro Pharma (Pvt.) Ltd. approached this Court through the instant criminal appeal.

6. We have heard the arguments of the learned counsel for the parties and examined the available record with their able assistance.

7. Before delving into the merits of the case, it is imperative to address the maintainability of the instant appeal. Sub section (7) of Section 31 of the Drugs Act, 1976, provides that a person who has been sentenced by a Drug Court may file an appeal before a Bench of the High Court consisting of not less than two Judges within thirty days of the passing of the judgment. In the present case, the conviction and sentence in Complaint No.42/DC/DIK were passed against Saif Ullah Khan, Manager Regulatory Affairs, in his personal capacity. However, the instant appeal has not been preferred by the said convict, i.e., respondent No.3 Saif Ullah Khan, rather it has been instituted by M/s Neutro Pharma Lahore (Pvt.) Ltd., the private company which was neither convicted in specific terms nor held guilty through a separate order. It is a settled proposition of law that only a

person aggrieved by a conviction or sentence passed by the Drug Court, or a person legally competent to represent him under due authorization, can file an appeal under Section 31 (7) of the Act. In the absence of such authorization, the appellant lacks locus standi. Therefore, the appeal, as filed by *M/s Neutro Pharma Lahore (Pvt.) Ltd.*, against the conviction of its erstwhile employee, Saif Ullah Khan, is not competent in law.

8. Consequently, the appeal filed by *M/s Neutro Pharma Lahore (Pvt.) Ltd.* against the conviction of respondent No.3 is misconceived and incompetent for want of locus standi. The appellant company cannot challenge a conviction passed against an individual in his personal capacity unless duly authorized and empowered to represent him for that specific purpose.

9. In view of the above, the instant appeal is dismissed being incompetent and not maintainable under Section 7 of the Drugs Act, 1976.

Announced.
Dt: 24.6.2025.
Imran/*


JUDGE


JUDGE

SCANNED

28 JUN 2025


Khalid Khan


26/06/2025

(D.B)
Hon'ble Mr. Justice Muhammad Tariq Afridi
Hon'ble Mr. Justice Abdul Fayaz