

Doctors May Dispense to Own Patients, but Drug Sales Need a Licence: FCC

The FCC held that the Pharmacy Act exception for doctors dispensing to their own patients does not waive drug-sale licensing. It restored show-cause proceedings without deciding whether the doctors had sold drugs.

Government of KP v Dr Muhammad Rizwan Rajpoot | FCC | 23 September 2026

By Shahbaz Shah, Advocate High Court | Published 3 October 2026

The ruling in simple terms

A registered doctor can dispense medicine to their own patients without being treated as unlawfully practising pharmacy. That exception in section 31(4)(a) of the Pharmacy Act, 1967 does not give the doctor a general right to run an unlicensed medical store or sell drugs commercially. The Federal Constitutional Court held that drug sales remain subject to the Drugs Act, 1976 and the applicable licensing rules.

The Court also held that the doctors' writ petition was premature. They had received show-cause notices after an inspection, but had not presented their explanation to the statutory authorities. The Court set aside the Peshawar High Court judgment that had stopped the proceedings. It did not decide whether these doctors actually sold drugs or committed any offence.

How the dispute arose

Drug inspectors inspected clinical establishments in Khyber Pakhtunkhwa on 21 January 2020. The doctors maintained dispensaries or medical stores on the premises and were alleged to be stocking and selling medicines without drug-sale licences. Inspectors took drugs into custody through Form-6 and issued show-cause notices.

The doctors challenged that action before the Peshawar High Court, D.I. Khan Bench. In June 2023 the High Court allowed their writ petition. The Khyber Pakhtunkhwa government challenged that decision. The case, originally filed before the Supreme Court, came before the Federal Constitutional Court following the Twenty-Seventh Constitutional Amendment.

The FCC had to address three matters: the inspector's power to act, the scope of the doctors' exemption under the Pharmacy Act, and whether a High Court should decide the factual dispute before the show-cause process concluded.

Dispensing to patients and selling drugs are different activities

Section 31(4)(a) of the Pharmacy Act removes a restriction on a registered medical practitioner who dispenses medicine to their own patients or serves their own prescriptions. The FCC said this exception relates to the prohibition against practising pharmacy without registration. It is not an exemption from every other law regulating the sale of medicines.

Section 23(1)(c) of the Drugs Act separately requires a licence for selling drugs. The Court read the two Acts together: a doctor may lawfully dispense to their patients within the Pharmacy Act exception, while an establishment operating in substance as a drug-sale outlet must comply with the Drugs Act and provincial rules. Medical registration alone does not satisfy a separate licensing or qualified-supervision requirement for a pharmacy or medical store under the amended Khyber

Pakhtunkhwa Drugs Rules, 1982.

This is a distinction about the actual activity, not the label on the premises. Whether a clinic merely dispensed medicines to its own patients or also sold drugs as a commercial outlet requires evidence about prescriptions, stock, invoices, recipients, sales records and payment. The FCC left those facts for the competent authorities to determine.

Was the Drug Inspector allowed to inspect and seize stock?

The FCC referred to sections 17 to 19 of the Drugs Act. Section 18 empowers an inspector acting within the prescribed jurisdiction to inspect premises where drugs are sold or stocked, take samples, search where the statutory conditions are met, and seize material relevant to a possible contravention. Section 19 regulates the procedure, including the statutory mechanism following an inspector's report. Form-6 records the seizure.

Some powers under section 18 require specific authorization. The Court did not declare that every inspection is valid regardless of appointment, territory or authorization. It found no established case before the High Court that this inspector lacked the necessary authority.

Why the writ petition was premature

The show-cause notices gave the doctors an opportunity to explain their conduct before any final adverse determination. Instead, they went directly to the High Court. The FCC held that Article 199 jurisdiction should not ordinarily interrupt a statutory process at that point, especially where disputed facts require investigation by specialized authorities.

An early writ may still be justified by a clear and exceptional defect, such as a notice issued by an authority that plainly has no jurisdiction or an incurable violation apparent on the record. No such defect was established here. Article 18's freedom of profession also did not remove lawful licensing requirements for drug sales.

The FCC carefully clarified the statutory route. Section 11 of the Drugs Act concerns the Provincial Quality Control Board's role in the specialized process; it is not itself a conventional appeal against a show-cause notice. The objection to the doctors' writ was prematurity and bypass of the available statutory fact-finding process, not failure to file a supposed section 11 appeal.

What happens next?

The FCC converted the government's petition into an appeal, accepted it and set aside the Peshawar High Court judgment. The show-cause proceedings may continue under the Drugs Act, Pharmacy Act and Khyber Pakhtunkhwa Drugs Rules.

The doctors may answer the notices with prescriptions, invoices, stock registers and other evidence showing that they only dispensed to their own patients. The authorities must decide the facts independently and according to law. The FCC expressly made no finding of culpability.

The practical rule is precise: professional registration permits medical practice and the limited dispensing exception, but does not automatically license retail drug sales. Whether a particular clinic crossed that line must be proved in the statutory proceedings.

Source: Government of Khyber Pakhtunkhwa through Secretary Health Department and others v Dr Muhammad Rizwan Rajpoot and others, C.P.L.A. No. 538-P of 2023, Federal Constitutional Court judgment dated 23 September 2026, approved for reporting.