

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3732 of 2013

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Rabindra Kumar Sahni S/O Mohan Sahni R/O Mohalla- Hospital Road,
P.S.- Laheriasarai, District- Darbhanga

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Drug Inspector-Cum-The Licensing Authority Urban Area,
Darbhanga
3. The State Drug Controller Directorate Health Services, Bihar, Patna
4. The Drug Inspector, Corporation Area-1, Darbhanga

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

5 19-01-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads
as follows:-

*“For direction upon the respondent
authorities, particularly the Drug Inspector
Corporation area-1, Darbhanga (respondent no. 4) to
unseal the medical shop of the petitioner, which he runs
under a valid license granted by a competent licensing
authority and has been sealed by respondent no. 4 in
illegal exercise of power.”*

Learned counsel for the petitioner has submitted that the
action of the Drug Inspector in sealing the shop premise of the
petitioner on 14.09.2012, and keeping the same continued till
date, is wholly unauthorized and in fact is without any sanction
of law. In this regard, he has referred to paragraph no. 6 of the
writ petition, which reads as follows:-

“That it is stated that at the same time the respondent

no. 4 put a seal over the shop premised of the petitioner for which he has got no authority of law.

Mr. D.K Sinha, learned AAG-2 while referring to paragraph no. 9 of the counter affidavit reading as follows:-

“That the averments made in para-6 is not correct and in reply it is submitted that the respondent no. 4 being Drug Inspector of the area is well within his jurisdiction to initiate and take the impugned action as the Drug Inspector Under Section 22b of the Drugs and Cosmetics Act has got ample power to exercise as may be necessary for carrying out the purposes of the chapter of the Drug and Cosmetics Act 1940 and any rules made there under.”

has frankly submitted that there cannot be exercise of such draconian power in the alleged purported exercise under Section-22B of the Drugs and Cosmetics Act. He has also submitted that the Drug Inspector could have definitely make a search and seizure as authorized under the Act but then he could not have sealed the premise.

In that view of the matter, this Court would direct the concerned Drug Inspector to immediately remove the seal over the shop of the petitioner affixed on 14.09.2012, and hand over its vacant possession to the petitioner within a period of 15 days from today.

This Court in fact would not like to add anything more but then it would definitely expect the competent controlling

authority of the Drug Inspector, Mr. Ashok Kumar Dubey, to take appropriate action against him even if, he has retired by initiating a proceeding under Rule-43B of the Bihar Pension Rules for his such misconduct. Such misconduct would definitely be a gross misconduct as he had no authority to seal the shop of the petitioner and keep him dispossessed of the shop for a long period. This Court hopes and believes that such proceeding under Rule-43B of Bihar Pension Rule will also be brought to an end expeditiously.

With the aforementioned observation and direction, this application is disposed of.

Let a copy of this order be given to Mr. D.K. Sinha, learned AAG-2 for its strict compliance.

(Mihir Kumar Jha, J)

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