

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5746 of 2015

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1. Ashok Kumar Tiwary S/o Late Kailash Tiwary R/o - Baba Ultra Sound,
Gaushala Road, Rajeev Nagar, District- Siwan. Petitioner/s

Versus

1. The State of Bihar through the D.M. Siwan.
2. The Civil Surgeon cum Chief Medical Officer, Siwan. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Verma

For the Respondent/s : Mr. J.S. BARNWAL- GA5

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 08-04-2016

Heard the Counsel for the petitioner and the State.

The petitioner was issued licence to run Ultrasound Centre under Section 19(1) of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994). The validity thereof expired on 21.7.2014. It is stated that an inspection was made of the Centre of the petitioner by the Civil Surgeon-cum-Chief Medical Officer on 2.3.2012 whereafter an order dated 5.3.2013 (Annexure-2) was passed cancelling the licence of the petitioner. Referring to the provisions of Section 20 of the Act, it is stated that no opportunity of hearing was afforded to him before outrightly cancelling the licence of the Ultrasound Centre. The order merits to be set aside.

Counsel for the State has, however, opposed the writ petition contending that as on today, no licence exists in favour of the petitioner since the licence issued in favour of the petitioner lost its

validity on 21.7.2014. There is inordinate delay in approaching the Court. Impugned action was taken in March, 2013 whereas the writ petition is filed in April, 2015. He has also drawn attention of the Court to Section 20(3) of the Act where in appropriate case, the respondent can suspend the licence without granting any opportunity of hearing.

The Court, on consideration of the case of the parties, was inclined to treat the order dated 5.3.2013 (Annexure-2) as an order of suspension providing an opportunity to the petitioner to file appeal thereagainst in terms of Section 21 of the Act. However, it is found that the licence itself has lost its validity. Nothing has been shown to this Court that in case a licence earlier granted has been cancelled/suspended, no fresh application for grant of licence can be issued.

Considering the above, the writ application stands disposed of with an observation that in case the petitioner applies afresh for grant of licence to run Ultrasound Centre under the Act, the same shall be considered in accordance with law by the respondent unprejudiced by the order dated 5.3.2013 (Annexure-2) which has been impugned in the present writ petition.

(Kishore Kumar Mandal, J)

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