

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.582 of 2017

In

Civil Writ Jurisdiction Case No.13497 of 2016

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1. The State Of Bihar, through the Chief Secretary, Govt. of Bihar, old Secretariat, Patna 8000015.
 2. The Principal Secretary, Department, of Registration, Excise and Prohibition, Government of Bihar, Patna.
 3. The Commissioner, Department of Excise & Prohibition Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
 4. The Collector, Vaishali Hazipur.
 5. The Superintendent of Excise Vaishali Hazipur.

... .. Appellant/s

Versus

Dr. Arvind Kumar Son of Madan Lal Proprietor M/S Boericke Research Laboratory, Resident of Bagmali, East of Sita Chowk, Hazipur, P.O. & P.S. Hazipur, District Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Lalit Kishore, Advocate General

For the Respondent/s : Mr. Tej Bahadur Singh, Sr. Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-09-2017

This is an appeal filed by the State Government under Clause 10 of the Letters Patent challenging the order passed by the writ court on 21.11.2016 in CWJC No. 9029 of 2016.

During the course of hearing of this appeal, learned counsel for the respondent made a fair statement that he would not be pressing for renewal of licence of the establishment but would be



satisfied if the medicines already prepared and available in the Unit is released to him.

Mr. Lalit Kishore learned Advocate General submits that if the medicines are to be released the applicant-respondent herein should make an application and on consideration of the same a decision would be taken.

Having heard learned counsel for the parties and on going through the records, we find that the unit was having licence upto 31.3.2016, thereafter it was closed and seeking renewal of licence the writ application was filed and the writ application was allowed and licence was directed to be renewed.

However neither the unit was made functional nor any manufacturing process commenced or continued after 31.3.2016. Therefore, the presumption can be drawn that all manufacturing process which was going on prior to 31.3.2016 would have resulted in preparation of some finished product, i.e. Homeopathic Medicine prepared by the respondent in the unit in question when the licence to run the unit was in existence prior to 31.3.2016 and if permission is granted only to remove the finished goods i.e. the manufactured medicines product (Homeopathic Medicine), there would be no irregularity or illegality in the matter and the same would not violate the provisions of law.



Accordingly, we direct that on the respondent's filing an application along with a copy of this order before the Commissioner, Department of Excise and Prohibition, Government of Bihar, the Commissioner shall authorise a team of Officers to open the premises of the establishment in question and permit the respondent only to remove the already manufactured Homeopathic medicines available in the premises after preparing an inventory of the same and in accordance with law.

It is made clear that except for the prepared Homeopathic medicines available in the premises, no raw material or other material shall be permitted to be removed in pursuance to this order.

With the aforesaid modification in the order under challenge, the appeal stands disposed of.

(Rajendra Menon, CJ)

spandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
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