

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.890 of 2018**

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Ananya Medical Hall, Represented By Rakesh Kumar, S/o-Ramlakhan Singh,  
Resident of Road No.5, Mithila Colony, Phulwari, P.O.-Keshri Nagar, P.S.-  
Patliputra, District-Patna.

.... .... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Health Department,  
Government of Bihar, New Secretariat, Patna.
2. That State Drug Controller-Cum-Chief Licensing Authority, New Secretariat,  
Bihar, Patna
3. The Assistant, Drug Controller, Drug Control Administration, Patna  
(Licensing Authority), NMCH Patna.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Ram Shankar Das, Advocate.

For the Respondents : Mr. Nagendra Kumar, AC to AAG-9

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT**

**Date: 09-03-2018**

The present writ petition has been filed for the following

reliefs –

“i. To quash the letter no. 245 (15) dated 02.03.2017 issued by the Health Department Bihar, Patna whereby and whereunder it has been decided by the Department that no one application for New Drugs License may be obtained and not issuing new licence for sale of Drugs till online arrangement. The petitioner has already applied for the grant of license before the Resp. No. 3 but not issuing the license.

ii. To direct the respondents to issue licence to the needy people/organizations, for occupation trade or business by directing the licensing Authority empowered to grant license to the petitioner with all



relevant papers & documents in a prescribed Form under Drugs and Cosmetics Rule 59(2) following the Central Act & Rules where such power vested to the Central Government to make rules and such rules cannot be restricted by the State Govt. in respect of granting or renewal of licences.

iii. To take appropriate and suitable action forthwith by lifting the ban of issuance of new Drug licence or renewal which is against the fundamental right granted under Article 19 (1) (g) of the Constitution with respect to any provision or to carry on any occupation, trade or business in respect of existing law lifting such restriction in the interest of the public. Whereby the State Govt. can not deny statutory right of the public conferred on persons or citizens and such right can not be taken away by any legislation imposing such restriction. The action under challenge by the State Govt. which is against Article 19 (1) (g)21 of Constitution of India.

iv. To grant immediate retail license to the petitioner to sell retail drugs specified in Schedule-C under the Rule 59(2) of the Drugs and Cosmetics Act, 1945 for which the petitioner took the step and deposited the requisite fee challan etc. on 21.11.2017 in the Govt. treasury for the purpose of issuance of Drug license in Form 20 & 21 to run the medicinal shop smoothly for the interest of the patient.”

2. At the very outset, learned counsel for the petitioner submits that it will suffice if the petitioner’s representation dated 27.11.2017 (Annexure-8) filed before the State Drug Controller-cum- Chief Licensing Authority, New Secretariat, Patna



(Respondent No. 2) is directed to be disposed of, in which event, the present writ petition need not be pressed on merits.

3. Learned counsel for the respondents appears and has been heard.

4. Having regard to the nature of the grievances and the stand of the petitioner, the present writ petition is disposed of with a direction to the State Drug Controller-cum- Chief Licensing Authority, New Secretariat, Patna (Respondent No. 2) to consider and dispose of the petitioner’s representation dated 27.11.2017 (Annexure-8), if the same is pending before him, after grant of opportunity of hearing to the petitioner in accordance with law expeditiously and preferably within a period of eight weeks from the date of receipt/production of a copy of this judgment.

**(Vikash Jain, J)**

Md. Ibrarul/BT

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