

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17455 of 2017

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M/s Om Sai Aushadhalaya Represented By Arvind Kumar Singh, S/o Late Rajendra Singh, Resident of Mohalla- Bodh Vihar Colony Phase-2, Bhagwat Nagar, P.S.- Agamkuan, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
2. The 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/s : Mr. Ram Shankar Das, Adv

For the Respondent/s : Mr. MUJTABAUL HAQUE - GP-12

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-01-2018

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 licence before



the respondent no. 3 but not issuing the new licence.

- (ii) To direct the respondents to issue licences to the needy people/organization, for occupation trade or business by directing the licensing authority empowered to grant licence to the petitioner with all relevant papers and documents in a prescribed form under Drugs and Cosmetics Rule 59(2) following the Central Act and Rules where such power vested to the Central Government to make Rules and such Rules cannot be restricted by the State Government 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 Government cannot deny statutory right of the public conferred on persons or



citizens and such right cannot be taken away by any legislation imposing such restriction. The action under challenge by the State Government which is against Article 19(1) (g) and 21 of the Constitution of India.

- (iv) To grant immediate retail licence 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 steps and deposited the requisite fee, chalan etc., on 20.11.2017 in the Government Treasury for the purpose of issuance of Drug Licence in Form 20 and 21 to run the business.
- (v) For any other relief/reliefs as your Lordships may deem fit and proper in the facts and circumstances of the case.

2. At the very outset, learned counsel for the petitioner submits that it will suffice if the petitioner's representation dated 21.11.2017 (Annexure-8) filed before the State Drug Controller-cum-Chief Licensing Authority, New Secretariat, Bihar, 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, Bihar, Patna. (Respondent No. 2) to consider and dispose of the petitioner’s representation dated 21.11.2017 (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)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2018
Transmission Date	NA

