

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2818 of 2019

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M/S Rajan Medico, Proprietor Rajan Kumar Singh (male) aged about 56 years, S/o Baijnath Singh Premise situated at Mohalla Golghar Chowk, Patna R/o Mohalla Masjid Gali, Golghar, Mohalla Phulwari, P.s.-Kotwali, Distt.-Patna

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary-cum-Appellate Authority, Health Department, New Secretariat, Bailey Road, Patna
2. The State Drug Controller-cum-Chief Licensing Authority New Secretariat, Bihar, Patna
3. The Assistant Drug Controller, Drug Control Administration, Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Ram Shankar Das, Advocate
For the Respondent/s : Mr.Sudama Kumar AC to SC12

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 13-03-2019 This writ application has been preferred for setting aside the order dated 27.12.2018 as contained in Memo No. 885 passed by Assistant Drug Controller-cum-Chief Licensing Authority, Bihar, Patna by which the Drug License of the medical shop of the petitioner has been cancelled.

It is the case of the petitioner that prior to passing of the impugned order the petitioner was not afforded appropriate opportunity of hearing. It is submitted that the shop of the petitioner was inspected on 26.10.2018 and an inspection report had been given to the petitioner on that



very date. The Inspecting Team found that the license of the medicine shop of the petitioner is valid and operative till 31.12.2022, however on finding that the shop in question was not having electric connection, the Inspecting Team took a view against the petitioner. The petitioner had represented before the Inspecting Team that he has a dispute with the house owner and an eviction suit is pending in the court of learned Munsif, 3rd Patna. He also represented that he was not keeping any drug/medicine which is required to be kept in a refrigerator. It is the case of the petitioner that the Assistant Drug Controller issued a show cause notice and gave only seven days time to the petitioner to submit a reply.

A copy of the show cause dated 31.10.2018 has been brought on record as Annexure-2 to the writ application. It is further case of the petitioner that certain records were produced before the Assistant Drug Controller along with reply on behalf of the petitioner but those were not looked into and a cancellation order vide Memo No. 885 dated 27.11.2018 as contained in Annexure-5 has been issued.



Learned counsel for the petitioner submits that he has preferred statutory appeal under Rule 66(2) of the Drugs and Cosmetics Act and the Rules framed thereunder before the Principal Secretary, Department of Health, Government of Bihar which is pending consideration.

A prayer has been made at this stage to direct the Appellate Authority to consider and dispose of the appeal of the petitioner within a reasonable time and in the meantime the petitioner may be allowed to continue to run the medicine shop.

Learned counsel for the State submits that he would be required to seek instruction in the matter in order to file a counter affidavit.

However, in the facts and circumstances of the case wherein it appears to this court that the petitioner is only looking for disposal of his appeal pending before the Principal Secretary, Health Department, which is admittedly pending before him for quite sometime, this court sees no reason to keep the matter pending for a counter affidavit. The Principal Secretary, Department of Health, Government of Bihar is directed to consider and dispose of the appeal of



the petitioner within a period of 60 days from the receipt/production of a copy of this order. Till then, the petitioner may be allowed to run his shop, if it is closed only for the reason that the cancellation order dated 27.12.2018, as contained in Annexure-5, has been passed.

The writ application stands disposed of in terms stated hereinabove.

(Rajeev Ranjan Prasad, J)

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