

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7585 of 2019**

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M/S Rajesh Medical Hall, Proprietor Ramchandra Prasad Bhagat (Male) aged about 47 Years, S/o Late Aanandi Bhagat, R/o Mohalla Mir Tola, Chandni Chowk, ward no.45 P.S-Sadar Saharsa, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Health Department New Secretariat Patna.
2. The Drug Controller-Cum-Chief Licensing Authority, New Secretariat, Bihar, Patna.
3. The Assistant Drug Controller Saharsa.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Ram Shankar Das, Adv.     |
| For the Respondent/s | : | Mr.Ajay Behari Sinha, (GA-8) |
|                      |   | Mr. Neeraj Raj, AC to GA-8   |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

3      23-09-2019                      Heard learned counsel for the petitioner and learned counsel representing the State.

The impugned order as contained in Annexure-5 passed by the Assistant Drug Controller, Saharasa and the order of the appellate authority as contained in Annexure-9 to the writ application are liable to be quashed and cancelled on the solitary ground of there being no consideration of reply submitted on behalf of the petitioner as contained in Annexure-4 to the writ application.

Learned counsel for the petitioner has submitted that the shop of the petitioner was sealed as back as on 06.01.2018.



All of a sudden the Assistant Drug Controller decided to open the seal and conduct an inspection of the shop on 19.01.2018, thereafter a show cause notice dated 28.01.2018 was issued which was replied by the petitioner on 05.02.2018, but while passing the impugned order on 19.02.2018 the same has not been taken into consideration and it has been observed that the show cause submitted by the petitioner is not satisfactory. Save and except this observation, there is no more to demonstrate that the Assistant Drug Controller has applied his judicious mind to the show cause of the petitioner. Similarly, the appellate authority has rejected the appeal in one paragraph without appreciating that the Assistant Drug Controller who is the original authority had not at all considered the show cause of the petitioner and in case he was not satisfied with the show cause then in the given facts and circumstances whether the cancellation of the licence was the only option left for the licensing authority.

The impugned orders as contained in Annexure-5 and 9 are thus set aside. The Assistant Drug Controller, Saharasa is directed to consider the show cause of the petitioner and pass an appropriate order thereon considering all aspects of the matter. The petitioner, if so advised, may supplement his show cause by



filing any additional show cause or document in support thereof within a period of fifteen days from today. Setting aside of the impugned orders at this stage shall however not confer any entitlement upon the petitioner to seek opening of the shop until final decision is taken.

This writ application stands disposed off accordingly.

**(Rajeev Ranjan Prasad, J)**

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