

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16135 of 2019

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M/s Rajan Medico Proprietor Ranjan Kumar Singh (Male) aged about 56 Years, Son of Baijnath Singh, Premise situated at Mohalla Golghar Chowk, Patna R/o Mohalla Masjid Gali, Golghar, Mohalla Phulwari, P.S. Kotwali, District- 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. Prem Ranjan Kumar, A.C. to AAG-IX

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 21-10-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 17.07.2019 passed by the appellate authority cum Principal Secretary, Department of Health, Government of Bihar in Appeal Case No. 05 of 2019. By the impugned order (Annexure '12') the appeal preferred by the petitioner for setting aside the order dated 27.12.2018 passed by the Assistant Drug Controller, Patna Municipal Area, Patna Cancelling the licence of the



petitioner under the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the “Act of 1940”) has been dismissed.

It appears from the perusal of the records that earlier the medicine shop of the petitioner was inspected on 26.10.2018. In the said inspection certain non-compliances were found for which the petitioner was show caused. One of the non-compliances reported was that the petitioner was not having a Refrigerator in the medicine shop, the another shortcoming was that there was no electricity in the shop and then it was alleged that he could not produce three invoices out of the ten which were demanded by the inspecting authority.

The petitioner submitted his reply in which he explained that he was not keeping any medicine which require refrigeration and because of the ongoing eviction suit brought by the landlord and because of the withdrawal of the electricity line by the landlord, electricity connection was not available. According to the petitioner he had submitted three invoices which had not been produced at the time of inspection.



It further appears that the supplementary show cause was issued to the petitioner, however, that was not replied because petitioner's niece was admitted in hospital and was getting treatment who ultimately died within two days after service of the supplementary show cause notice. Two weeks after issuance of supplementary show cause the impugned order was passed by the Assistant Drug Controller.

In the aforesaid circumstances the appeal was preferred before the appellate authority and the petitioner raised all such grounds which were available to him explaining as to why the electricity was not there and then the circumstances under which he was unable to submit the reply to the supplementary show cause, but perusal of the appellate order as contained in Annexure '12' shows that the appellate authority has simply taken note of the submissions of the petitioner and proceeded to pass final order in one paragraph giving his conclusion that after hearing all the arguments he did not find any fault with the impugned order.

This court has carefully perused the order passed



by the appellate authority and is in agreement with the submission of learned counsel for the petitioner that the appellate authority has not at all considered the submissions of the petitioner.

Since the appellate authority has not considered the grounds raised by the petitioner, the impugned appellate order being an unreasoned order and suffering from non-consideration of the materials available on the record, this court hereby sets-aside the impugned order passed by the appellate authority as contained in Annexure '12' to the writ application.

The order dated 17.07.2019 passed in Appeal Case No. 05/2019 as communicated by Memo No. 890 dated 24.07.2019 issued under the signature of the State Drug Controller, Bihar is, thus, set-aside.

The matter is remitted to the appellate authority for a fresh consideration of appeal and to pass a reasoned order after hearing all concerned. The appellate authority shall consider each and every grounds raised by the petitioner and the explanations furnished by him and shall pass a reasoned order within a period of three months from the



date of receipt/production of a copy of this order.

This Writ Application stands disposed off
accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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