

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5618 of 2020

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M/s SCI India Ltd. Through its Director Namely Shiv Kumar Kishorepuria, aged about 66 years, (Male), Son of Late Sagarmal Kishorepuria, Resident of Jiwansagar Towers, 3rd Floor, D.N. Singh Road, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Additional Chief Secretary Cum Principal Secretary Prohibition, Excise and Registration Department, Vikash Bhawan, New Secretariat, Patna.
3. The Principal Secretary Department of Health, Government of Bihar, Patna.
4. The State Drug Controller Cum Chief Licensing Authority Directorate of Health Services, 4th Floor, Vikash Bhawan, New Secretariat, Patna.
5. The Drug Inspector District- Banka.
6. The Excise Superintendent District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 27-04-2020

It is in the aftermath of the outbreak of COVID-19 pandemic, 21 days' nationwide lockdown has been declared, in the midst of which filing of the present application under Article 226 of the Constitution of India, has been accepted by this Court through *e-mail* under the orders of Hon'ble the Chief Justice and it has been posted before me for hearing through video conference. Several defects have been pointed out by the Stamp Reporter, most of which relate to non-compliance of the filing procedure laid down under the Patna High Court Rules. It has been undertaken on



behalf of the petitioner that such defects shall be removed once normalcy is restored.

The petitioner is seeking following reliefs:-

“i) For direction to respondent authorities to issue license in prescribed form-25 for production of alcohol based Hand Sanitizer, which is essential to combat the highly contagious Covid-19 Virus particularly when similarly situated M/s Globus Spirits Limited Company (Distillery Company) has been given license for manufacture of Hand Sanitizer and denial of license to the petitioner is putting the life of citizen of Bihar at stake and also infringing the valuable rights of petitioner company.

ii) For direction to respondent authorities to allot Ethanol/ENA to the petitioner for manufacturing of Hand Sanitizer to fulfill the public demand as well as government requirements in tackling COVID-19 pandemic.”

I have heard Mr. P.K. Sahi, learned Senior Counsel for the petitioner and Mr. Vikash Kumar for the State of Bihar.

It can be easily noticed from what has been averred in the writ application that the petitioner claims to be a Company having infrastructure, fully equipped to manufacture alcohol based Hand Sanitizer and has made an application to the Drug Controller, State of Bihar to issue licence for manufacture of alcohol based hand sanitizer in the last week of March 2020. Subsequent to submission of his application, physical verification of the manufacturing unit is said to have been conducted by the



Drug Inspector, Banka who, it is stated has made recommendation on 09.04.2020 for issuance of requisite licence. The said recommendation has been sent to the State Drug Controller cum Chief Licensing Authority but till date no decision has been taken in this regard.

Mr. Shahi, learned Senior Counsel submits that an exhaustive representation has been made before the Principal Secretary, Department of Health, Government of Bihar on 11.04.2020 in this regard but nothing tangible has been done so far. He argues that the Company manufactures raw material i.e. ENA, which is an essential ingredient for manufacturing alcohol based hand sanitizer. He has submitted that in similar circumstances, one M/s Globus Spirits Limited Company has been given such privilege, denying similar treatment to the petitioner in violation of Article 14 of the Constitution of India. He has further submitted that seeking similar relief, a writ application giving rise to CWJC No. 5608 of 2020 (M/s Fantasy Drugs Private Limited vs. The State of Bihar and others) was filed before this Court, which has been disposed of by an order of this Court dated 18.04.2020 asking the respondents to dispose of the representation within stipulated time.



Mr. Vikash Kumar, learned counsel appearing on behalf of the State of Bihar, on the other hand, has submitted that all cases of similar nature shall be considered on 29.04.2020 by a Committee whereafter a final decision shall be taken. He also submits that the petitioner's case shall also be considered on 29.04.2020.

Considering the facts and circumstances as noted above and the submissions made on behalf of the parties, this application is disposed of with a direction that let a decision be taken on the petitioner's application and his subsequent representation as noted above, in the light of the aforementioned stand taken on behalf of the State of Bihar.

Since there is a lockdown, the Court has considered it appropriate to adopt following procedure for communication of the present order: -

(i) The order, which has been dictated during the course of the proceedings of virtual Court, shall be communicated to me on my *e-mail* I.D. by the Secretary.

(ii) The corrected copy of the order shall be transmitted by me from my *e-mail* I.D. to the Secretary, which shall be treated to be the authentic copy of the order passed by this Court today in the present proceeding.



(iii) Hard copy of the order, duly signed by me, shall be preserved in my residential-office for documentation and future use, if any.

(iv) The said order shall be communicated to the Court below for the needful by the Secretary through e-mail.

(v) Let a copy of the order be sent to Mr. Vikas Kumar, learned counsel for the petitioner also on his e-mail address.

(vi) Let steps be taken by the Registry for uploading of the present order without compromising with the norms of social-distancing.

Let all the defects pointed out by the Stamp Reporter be removed within two months from today failing which the Court shall be constrained to pass appropriate order against the petitioner.

(Chakradhari Sharan Singh, J)

Rajesh/-

