

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7741 of 2020

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M/s Shyam Drug Agency Represented by Proprietor Vijay Kumar Pathak (male), aged about 58 years, S/o- Late Nageshwar Pathak, Premises situated at Dhobia Gali, Muzaffarpur, R/o- Kharauna Jayram, P.O. Kharauna Dih.- P.S., Kharauna, District- Muzaffarpur.

... .. Petitioner/s

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, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Das, Advocate
For the Respondent/s : Mr. Manish Dhari Singh, AC to AG

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 25-09-2020

This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of physical functioning of the Court, and in any event within one month thereof. Learned counsel for the respondents states that he has no objection in this regard and the matter be taken up on merits in view of the stated urgency.

2. The present writ petition has been filed for quashing the order dated 03.07.2020 passed by the Assistant Drug Controller, Muzaffarpur, whereby the licence of the petitioner has been cancelled; and to treat the wholesale licence of the petitioner as valid and operative.



3. Learned counsel for the petitioner submits that pursuant to an inspection carried out in his shop premises on 07.03.2020, a show cause notice was issued with respect to irregularity in one drug namely, Supkof 100 ml., the sale invoice whereof could not be produced which amounted to contravention of the Drugs and Cosmetics Act, 1945. The petitioner duly filed his show cause reply on 20.03.2020, *inter alia*, enclosing copies of relevant invoices. Without however considering the show cause reply, the impugned order has been passed cancelling the licence of the petitioner.

4. Learned counsel for the respondents appears and has been heard.

5. Having regard to the nature of the grievance of the petitioner, this Court is of the view that no counter affidavit would be required for disposal of the writ petition. The petitioner claims to have filed his show cause reply enclosing copies of relevant invoices, despite which his licence has been cancelled, leading to complete stoppage of the petitioner's business. Admittedly, there is a statutory remedy by way of appeal, which is available to the petitioner against the impugned order of cancellation, but has not been availed.

6. In the above view of the matter, I am not inclined to enter into the merits of the submissions made on behalf of the petitioner. The writ petition is accordingly disposed of with liberty to the petitioner to prefer a statutory appeal within two weeks from today. In the larger interest of consumers and in the public interest, it is directed that in case the petitioner prefers the statutory appeal within the aforesaid period of two weeks from today, the impugned order dated 03.07.2020 shall remain stayed for the said period of two weeks.

7. The appeal, if filed within the stipulated period,



would be disposed of on its own merits and without being influenced by any of the observations of this Court.

8. It is also made clear that in view of the ongoing Covid-19 pandemic, any correspondence between the parties may be made through e-mail and that the petitioner shall be at liberty to request the concerned authority for hearing through video conference. For this purpose, the petitioner shall furnish his mobile number and e-mail ID to the concerned authority.

9. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	28.09.2020
Transmission Date	-

