

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ jurisdiction Case No. 13446 of 2019

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M/s Homeo Research Lab having its factory situated at Rasalpura, Police Station Doriganj, District-Saran, through its proprietor Dr. Raghubansh Singh, S/o late Gorakh Nath Singh, Aged about Yrs., Gender-Male, Resident of House No.31M, Mohalla Salempur, P.S. Chapra Town, District Saran.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The Commissioner, Excise Department, Government of Bihar, Patna.
4. Deputy Commissioner, Excise, Government of Bihar, Patna.
5. The State Drug Controller-cum-Licensing Authority, Bihar, Patna.
6. The Collector, Saran at Chapra, Bihar.
7. The Superintendent of Excise, Saran at Chapra.

... .. Respondents

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Appearance:-

For the Petitioner/s : Ms. Prakritita Sharma, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
And
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date: 06-05-2020

Heard learned counsel for the petitioner and learned counsel for the State.

This writ petition has been filed for giving a direction to the Commissioner, Excise, Government of Bihar, Patna, respondent no.3, to issue necessary order/ allotment in favour of the petitioner to procure rectified spirit



as would be required for making the Form L-1 license effective and also consequential direction to the Superintendent, Excise, Saran, respondent no.7, to make it effective.

The petitioner is a proprietary firm running its business in the name and style of M/s Homeo Research Lab and Dr. Raghubansh Singh being the sole proprietor of the said firm. The petitioner was granted license to manufacture for sale or for distribution of Homeopathic medicines by the State Drugs Controller-cum-Chief Licensing Authority, Bihar, Patna, vide License No. BR/35(N) Hom/12 dated 03.05.2012 in Form 25-C under the Drugs and Cosmetics Rules, 1945 which was valid for the period of five years i.e. from 8.5.2012 to 7.5.2017 and, thus, it was going to be expired on 07.05.2017. In order to continue the manufacturing unit functional, the petitioner-company filed an application for renewal of licence on 04.05.2017 with the requisite fee by way of challan dated 03.05.2017. But, the same was neither responded and nor communication was made to the petitioner with respect to renewal of license which compelled the petitioner to approach this Court in C.W.J.C. No. 10011 of 2018 which was disposed of on 5.7.2018. This Court passed the order in terms of the order passed in the case of Dr. Md. Anwar in C.W.J.C. No. 8705 of 2017 (Dr. Md. Anwar vs. The State of Bihar and Ors.) whereby directed to grant benefit and permission as are admissible and permissible under law shall be granted to the petitioner within a period of 60 days from the date of receipt/production of a copy of the order. In



pursuance of the direction of this Court, the Government renewed the licence of the petitioner-company. Before the expiry of the period of license, a fresh application for renewal of license was filed by the petitioner-company in the month of March, 2019 but, as per paragraph no.13 of the writ petition, till date the same has not been renewed but, from the pleadings of paragraph no.20 of the counter affidavit, it appears that the said license of the petitioner-Company was renewed on 21.08.2019 for the year 2019-20. In such view of the matter, this court has to construe what relief would be given in the present writ petition filed by the petitioner company.

It also appears from paragraph no.14 of the writ petition that one M/s. Raj Homeopathic Laboratory moved before this Court in C.W.J.C. No.9625 of 2019 and the Division Bench of this Court vide judgment and order dated 17.05.2019 allowed the said writ petition and directed the respondents to issue necessary order/allotment in favour of the petitioner as would be required for making the licence effective and to enable the petitioner to procure rectified spirit with the consequential direction to the Superintendent, Excise, Hajipur, for making issues thereof, which exercise must be completed within a fortnight of filing of application in this regard by the petitioner consequent upon the renewal of his license. The petitioner-company has also attached the order of the State Government contained in memo no.1934 dated 28.05.2019, which reflects that the Government has granted allotment of Extra Neutral Alcohol (in short "E.N.A.") to different



manufacturing units namely, M/s. Similiya Research Laboratory and M/s. Mahesh Homeopathic Laboratory. Further, in paragraph no.16 of the counter affidavit, the State itself has taken a stand that they have issued E.N.A. to M/s. Borick Research Laboratories, Hajipur (Vaishali), M/s Similia Research Laboratories, Arah, Bhojpur and Ms. Raj Homeopathic Laboratory, Vaishali, vide different orders, which are annexed as Annexure-R/3 (series) to the counter affidavit. It has also been averred in paragraph no.17 of the counter affidavit that if the petitioner-company ask for the allotment of ENA, which is a better option, shall be allowed to lift ENA from the distilleries to manufacture the Homeopathic Medicine. In paragraph no.19, it has been stated that since the rectified spirit is not being produced in the State thus, it is not available, ENA which is a better option for the manufacture of the medicine, shall also be made available for the petitioner-company. As the license of the petitioner says that he shall manufacture medicines from spirit and thus spirit in the name of ENA is being made available to the petitioner-company.

Learned counsel for the petitioner-company submits that petitioner would be satisfied if the State made allotment of ENA proportionate to the requirement.

In view of the statement made in the writ petition as well as the in the counter affidavit, we direct the petitioner-company to file a proper application either physically or through on-line before the competent



authority of the State. If such an application is filed by the petitioner-company in a proper format, the same should be entertained and disposed of by the competent authority within a period of two weeks from the date of filing of the application and we also direct that the ENA will be allotted and will also pass necessary order to supply the same to the petitioner-company proportionate to the requirement and the entire exercise must be completed by the competent authority within a period of six weeks from the date of filing of application by the petitioner-company.

With the aforesaid observations and directions, this writ petition stands disposed of.

(Shivaji Pandey, J)

(Partha Sarthy, J.)

Rishi/Pawan

