

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9192 of 2021

M/s Om Laboratories a proprietorship concern having its registered office at RJ Nagar, G.B. Road, Danapur, District- Patna Pin-801503 through its proprietor Ramautar Sharma, Male, aged about 59 years, Son of Late Murari Lal Sharma, Resident of Flat No. 801, Abhishek Plaza, Exhibition Road, P.s.- Gandhi Maidan, District- Patna-800001

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Health and Family Welfare, Government of India, New Delhi
2. The Drugs Controller General of India Ministry of Health and Family Welfare, Government of India, New Delhi
3. The State of Bihar through Principal Secretary, Health Department, Government of Bihar, Patna
4. The Deputy Commissioner, Registration Excise and Prohibition Department, Government of Bihar, Patna
5. The State Drug Controller cum Cheif Licensing Authority, Health Department, Government of Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Satyabir Bharti, Advocate

Ms. Prachi Pallavi, Advocate

For the Respondent/s : Mr.Anjani Kumar (AAG 4)

Mr. Dr. K.N. Singh, ASG

Mr. Anshuman Singh, Sr. CGC

Mr. Uma Shankar Verma, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon’ble the Chief Justice/Hon’ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

3 21-08-2021

Petitioner has prayed for the following relief(s):

“(i) To hold and declare Rule 106-B of the Drugs and Cosmetics Rules, 1945, as ultra vires the Constitution of India since it imposes unreasonable and arbitrary restriction on the freedom of trade and commerce by the petitioner and is thus violative of Article 19(1)(g) of the Constitution of India;

ii) To direct the respondents not to implement Rule 106-B of the Drugs and Cosmetics Rules, 1945, since the said rule has not been laid before the Parliament in compliance of Section 38 of the Drugs and Cosmetics Act, 1940 and, hence, is not in effect. As on date, the Rule 106-B is dormant, implementation of the same is impermissible.

(iii) To pass such other writ(s), order(s), direction(s) as your Lordships may deem fit and proper in the facts and circumstances of the case.”

In view of the order dated 10th of November, 2017, passed by the Hon’ble Apex Court in Transfer Petition (Civil Nos. 1777-1789 of 2017, titled as Union of India & Ors. Vs. M/S. Adven Biotech Pvt. Ltd. & Ors., learned counsel for the petitioner seeks permission to withdraw the petition, reserving liberty to file an independent petition before Hon’ble Supreme Court or seek impleadment in the petitions already pending for adjudication.

Prayer allowed.

The petition is dismissed as withdrawn.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS/-

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