

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3073 of 2020

Md. Ibrar Ahmad Son of Md. Tufail Ahmad Resident of Islamia Colony
Chacknoor Road, Ward No.02, Dharampur, P.S.- Samastipur, District-
Samastipur, proprietor M/S. Ideal Drugs Centre Mulchand Lane, Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Appellate Authority cum Principal Secretary Department of Health,
Government of Bihar, Patna.
3. The Directorate Drugs Control Administration, Health Department,
Government of Bihar, Patna.
4. The Director Drugs Control Administration, Health Department,
Government of Bihar, Patna.
5. The Assistant Drugs Controller District- Samastipur.
6. The Drug Inspector Samastipur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Zeyaul Hoda, Advocate
For the Respondent/s : Mr. Pankaj Kumar, SC-12

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-09-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- (i) For issuance of a writ in the nature of certiorari
for quashing of the order dated 08.11.2019
passed by Court of Appellate Authority cum
Principal Secretary, Health Department passed



in Appeal Case No. 28/2019 whereby and whereunder appeal preferred by the petitioner has been dismissed in most arbitrary manner. Authority, Drug Controller Administration, Samastipur whereby and whereunder the license no. S-8/2003 and S-8A/2003 Prapatra 20B, 21B issued in favour of the petitioner in the name of M/s. Ideal Drugs Centre, Moolchand Lane, Samastipur has been cancelled in a most arbitrary manner.

- (iii) Prayer is also to stay the appellate order dated 08.11.2019 and Memo No. 566 dated 12.09.2019 passed by the respondents.
- (iv) For any other relief/reliefs as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.

We are of the considered view that the order dated 08.11.2019, passed by the Appellate Authority i.e. Respondent no.2, namely the Appellate Authority cum Principal Secretary, Department of Health, Government of Bihar, Patna in Appeal Case No. 28/2019 (Annexure-1, page 15) is not only cryptic; unreasoned; but also does not deal with any one of the contentions raised by the petitioner/appellant in the appeal. Which of the drugs found from the premises was banned and



which of the drug was necessarily required to be kept in the refrigerator cannot be inferred.

Passing of the order entails civil consequences, inasmuch as, the petitioner's shop stands sealed and he is out of business since 20th of August, 2019.

We also notice that the order passed by the original authority can be faulted on the very same ground we have referred to while dealing with the order by the appellate authority. In fact, the said order is more cryptic than the order passed by the Appellate Authority.

As such, even though the order dated 08.11.2019 has been passed by the Appellate Authority, i.e. Respondent no.2, namely the Appellate Authority cum Principal Secretary, Department of Health, Government of Bihar, Patna (Annexure-1, page 15), matter is remanded to the original authority for consideration of the matter afresh.

The present petition stands disposed of in the following terms:-

(a). We quash and set aside the order dated order dated 08.11.2019, passed by respondent no.2, namely the Appellate Authority cum Principal Secretary, Department of Health, Government of Bihar, Patna in Appeal Case No.



28/2019 (Annexure-1, page 15) as also the Memo No. 566 dated 12.09.2019 issued under the signature of Assistant Drug Controller cum Licensing Authority, Drug Controller Administration, Samastipur (Annexure-1/1 page 17) and remand the matter back to the original authority to consider the matter afresh by passing a reasoned order;

(b). Petitioner shall make himself available in the office of the original authority i.e. Assistant Drug Controller cum Licensing Authority, Drug Controller Administration, Samastipur on 17th of October, 2022 at 10:30 A.M.;

(c) Opportunity shall be granted to the parties to place on record all essential documents and materials, if so required and desired;

(d) Petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;

(e) The original authority shall decide the matter on merits, in compliance of the principles of natural justice;

(f) The original authority shall pass a reasoned and speaking order, within a period of four weeks from the date of appearance of the petitioner before him along with a copy of this order;

(g) Copy of the reasoned and speaking order passed



by the original authority shall be supplied to the parties;

(h) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(i) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(j) We have not expressed any opinion on merits and all issues are left open;

(k) Liberty reserved to the petitioner to challenge the order, before the appropriate forum, if required and desired.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/Anjani

AFR/NAFR	
CAV DATE	
Uploading Date	28.09.2022
Transmission Date	

