

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25622 of 2019

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M/S Rajesh Medical Hall Proprietor Ramchandra Prasad Bhagat @ Ram Chandra Bhgat, (Male) aged about 47 Years, S/o Late Aanandi Bhagat, R/o Mohalla Mir Tola, Chandni Chowk, ward no. 45, P.S. Sadar Saharsa, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Health Department New Secretariat Patna.
2. The Drug Controller-Cum-Chief Licensing Authority, New Secretariat, Bihar, Patna.
3. The Assistant Drug Controller, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Das, Advocate
For the Respondent/s : Mr. Ajay Behari Sinha, GA 8

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-07-2022

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

“A.i. To quash the order dt. 19/11/2019 as contained in letter no. 330 passed by the Assistant Drug Controller, Drug Control Administration Saharsa by which the Drug Licence of the medicinal Shop of the petitioner has been cancelled again by ignoring the High Court’s order without considering the material available on the record & illegally on Non-est ground & again repeated the same whereby supplement show cause & documents already filed.

ii. To direct the Licensing Authority (A.D.C.) to open the shop forthwith on the ground that again and again repeated the same thing by adding the arbitrary inspection report prepared in the police station behind the back of the petitioner and admittedly no



information given to this effect. So that the action is totally illegal and with ulterior motive added such type of frivolous inspection upon which no signature no knowledge of the petitioner. In that situation after passing the Hon'ble High Court's order started to add the inspection prepared at Police Station without any witness or the representative of the petitioner. The reply of the petitioner has not at all been considered again and repeated same thing which is unjust improper and without jurisdiction. The ADC awarded hares punishment where the issue was minor done in colourable exercise of power in conspiracy connivance with the SDO, Police & not only this seal the premise without the Authority of law.

iii. To restore the retail licence of the petitioner no. 39/87 Form 20 & 40/87 Form 21 which is issued on 17/09/87 to be valid and operative up to 31/12/2022. And further to pay compensation for loss & damage of smooth business where no complain whatsoever from any corner & intentionally hands in expiring the drugs for two years excessive punishment.

B. Any other relief or reliefs as your Lordships may deem fit and proper in the facts and circumstances of the case.”

After the matter was heard for some time, Mr. Ram Shankar Das, learned counsel appearing on behalf of the petitioner, under instructions, states that petitioner may be permitted to prefer an appeal against the impugned order before the Appellate Authority.

Permission granted.

Shri Ajay Behari Sinha, learned G.A.8, states that if such an appeal is preferred assailing the final order which stands



passed during the pendency of the present proceeding, within a period of one week from today, the issue of limitation shall neither be raised nor allowed to come in the way of adjudication of the appeal on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner is permitted to prefer an appeal within a period of one week from today.

(b) In the event of appeal being preferred within a period of one week from today, the issue of limitation shall not come in the way of adjudication of the appeal on merits;

(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 Appellate Authority shall decide the appeal on merits in compliance of the principles of natural justice;

(f) The Appellate Authority shall pass a reasoned and speaking order within a period of two months from the date of filing appeal, copy whereof be supplied to the parties;



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

(h) If necessary, proceedings during the time of current Pandemic [Covid-19] would be conducted through digital mode;

(i) Liberty reserved to the petitioner to challenge the order, if required and desired.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	28.07.2022
Transmission Date	

