

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.349 of 2019

In

Civil Writ Jurisdiction Case No.1399 of 2019

Vinod Tiwary Son of Late Ram Kripal Tiwary Resident of Mohalla-Basistha Vihar Colony, Near Harnichak, Post Office-Anisabad, Police Station-Phulwari Sarif, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
2. The Appellate Authority-cum-Principal Secretary, New Secretariat, Baily Road, Patna.
3. The State Drug Controller-cum-Chief Licensing Authotrity, New Secretariat, Patna, Bihar.
4. The Assistant Drug Controller, Drug Control Administration, Patna, 4th Floor, N.M.C.H. Campus, Kankarbagh, Patna.
5. M/S Saurav Medical Hall, Proprietor Surendra Kumar Pandey, Age about 54 years old Male, Son of Late Ram Ayodhya Pandey, premise situated at Mitra Mandal Colony, Saket Vihar, Anisabad, Resident of Mohalla-Mitra Mandal Colony, Saket Vihar, Anisabad, Post Office-Anisabad, Police Station-Phulwari Sarif, District-Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shyama Kant Singh

For the Respondent/s : Mr.S.D. Yadav (Aag9)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

3 13-03-2023

Re: Interlocutory Application No. 1 of 2019.

This Interlocutory Application has been filed for
condoning the delay in preferring the present memo of
appeal.

For the reasons stated in the Interlocutory



petition, the prayer for condoning the delay in preferring this memo of appeal, is allowed .

The Interlocutory Application No. 1 of 2019 stands allowed.

The appellant, who is said to be the complainant and on whose complaint, a proceeding was initiated against the writ petitioner, a Chemist Shop, has challenged the order dated 28.01.2019 passed by a learned Single Judge of this Court in C.W.J.C. No. 1399 of 2019, whereby the orders passed by the Assistant Drug Controller, Patna and the appellate order affirming the same, have been set aside for being in breach of violation of principles of natural justice and the orders having been passed behind the back of writ petitioner.

We do not find any folly in the order so passed by the learned Single Judge.

That apart, a person on whose complaint, an action is initiated does not get a right to appeal against such order in favour of the writ petitioner.

Had the order required any interference, we might have entertained the present appeal.



On perusal of the order impugned, we find that for the reason of the writ petitioner not having been noticed before an order of cancellation of his license to run his business was passed, such order and the appellate order affirming such cancellation was set aside; but a direction was given to the Assistant Drug Controller to issue fresh show-cause notice to writ petitioner, giving him adequate opportunity to submit his reply and thereafter pass a reasoned order in accordance with law.

The learned Single Judge also fixed a time period within which the exercise had to be completed.

We find no reason to interfere with the order passed by the learned Single Judge.

This appeal is totally misconceived and hence the same is dismissed.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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