

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20505 of 2021

Abha Chaudhary, Proprietor of the Firms Ganpati Drugs, Premise situated at Basant Market, Shekhpur, Zero Mile Road, Muzaffarpur- 842002, W/o Hari Shankar Chaudhary, R/o Mohalla and P.O.- Shekhpur, Gali No.3, Zero Mile Road, Muzaffarpur, P.S.- Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Health Dept, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar.
3. The Principal, Nalanda Medical College, Hospital, Patna.
4. The Superintendent, Nalanda Medical College Hospital, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Rajeshwar Singh, GA-10

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-01-2023

Heard learned counsel for the parties.

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

1. That this is an application for issuance of a writ in the nature of certiorari for quashing the order as contain in letter no. 4218 dated 09.11.2021 issued under signature of the superintendent, Nalanda Medical College and Hospital, Patna, in terms of the order dated 02.11.2021 passed in C.W.J.C. No. 13294 of 2021whereby and whereunder the firm of the petitioner has been



declared as blacklisted for five years and the petitioner further prays for issuance of a writ in the nature of Mandamus for a direction to the respondent authorities to restore the previous status of the firm of the petitioner with all consequential reliefs and/or for issuance of an appropriate order/direction, to which the petitioner may be found legally entitled to in the facts and circumstances of the case as stated hereinabove.

Having heard learned counsel for the parties, we are of the considered view that the impugned order dated 09.11.2021, passed by respondent no.4, namely the Superintendent, Nalanda Medical College and Hospital, Patna, (Annexure-18, page 46) needs to be quashed, for even though the respondents alleged to have issued notice to show cause and the petitioner to have responded thereto, but however, in the absence of any proof thereof and non-reference of such fact in the impugned order and the specific averments made by the petitioner in paragraph no. 28 of the petition to the effect that he was never issued any show cause notice, we quash and set aside the order dated 09.11.2021, passed by respondent no.4, namely the Superintendent, Nalanda Medical College and Hospital, Patna, (Annexure-18, page 46), whereby the petitioner stands blacklisted for a period of five years.

The order blacklisting the petitioner entails civil and penal consequences. Also, there is violation of principles of



natural justice.

As such, the petition is allowed with the following mutually agreeable directions:-

(a) The impugned order dated 09.11.2021, passed by respondent no.4, namely the Superintendent, Nalanda Medical College and Hospital, Patna, (Annexure-18, page 46) stands quashed and set aside;

(b) Petitioner shall make himself available in the office of Respondent No. 4, namely, the Superintendent, Nalanda Medical College and Hospital, Patna on 16th of January, 2023 at 10:30 A.M., when a date shall be fixed enabling the petitioner to present his case;

(c) The petitioner shall fully cooperate in the proceedings;

(d) After affording opportunity of hearing to the petitioner, a fresh order, assigning reasons, shall be passed by the said officer within a period of two weeks thereafter;

(e) The order assigning reasons shall be communicated to the petitioner;

(f) Liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;



(g) 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;

(h) Also, liberty reserved to the petitioner to approach the Court, should the need so arise subsequently on the same and subsequent cause of action.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	04.01.2023
Transmission Date	

