

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16175 of 2022

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Vikram Kumar Gupta S/o Brajkishor Sah R/o- Ward No.- 15, Near Mali Tola,
P.O.- Jamalpur, P.S.- Gogri, District- Khagaria ... Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Health Department, Government of Bihar, Patna.
3. The Joint Secretary, Health Department, Government of Bihar, Patna.
4. The District Magistrate, Khagaria.
5. The State Drugs Controller, Bihar.
6. The Assistant Drugs Controller, Khagaria.
7. The Drugs Inspector, Khagaria. ... Respondents

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Appearance :

For the Petitioner : Mr.Rajeev Kumar Singh, Adv.
For the Respondents : Mr.Ramadhar Singh (Gp26)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

13 16-05-2024 Heard the learned counsel for the parties.

2. The Registry is directed to make the necessary changes in the amendment prayer pursuant to the orders passed by this Court on 29.08.2023 whereby I.A. No. 1 of 2023 was ordered.

3. The brief facts for the purpose of disposing the present Writ Petition, is that the petitioner was issued a license in the year 2018 for selling drugs. On 24.07.2018 a raid was conducted in the shop of the petitioner and in the said raid it was found that the petitioner was selling some banned drugs. Thereafter an FIR was registered against the petitioner on



25.07.2018 and the petitioner was taken into custody on 26.07.2018. The petitioner was issued a show cause notice on 23.08.2018 asking for his explanation as to why the license granted in his favour should not be cancelled. As the petitioner was in custody he could not reply to the same and, thereafter, a second show cause notice was given on 10.10.2018 and the last date for submission of the explanation to the said show cause notice was given as 31.10.2018. The petitioner was granted bail on 01.11.2018 vide Cr. Misc. No. 64058 of 2018. The licensing authority vide order, dated 31.10.2018 has cancelled the license of the petitioner on two grounds (1) that the petitioner has failed to submit his explanation and (2) that an FIR has been lodged against the petitioner.

4. Though the petitioner aggrieved by the order of cancellation, dated 31.10.2018, has preferred an appeal, the Appellate Authority without considering the grounds raised by the petitioner has rejected the appeal vide order, dated 29.04.2019. Learned counsel for the petitioner has assailed the order of cancellation and stated that the petitioner could not file his explanation as he was in custody and the bail was granted only on 01.11.2018. Further the counsel has stated that mere lodging of an FIR against the petitioner could not be a ground



for cancelling the license of the petitioner. Further, it is stated that in the final report filed by the police on 27.01.2018 the petitioner was exonerated. That after the petitioner has been exonerated the petitioner has sought to apply for a new drug license, but, the same has been rejected vide order, dated 21.07.2022. Therefore, learned counsel for the petitioner seeks a direction from this Court to set aside the impugned order passed by Appellate Authority as well as the order of cancellation of license and direct the respondents to grant necessary login ID and password for applying for fresh license.

5. Per contra the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petition and has stated that the petitioner was found selling banned drugs, i.e., Codein cough syrup of approximately 100 bottles without having any valid license. That the same was being supplied to a person who does not have license to deal with the same. Further learned counsel has stated that the above said drug is being used only for the purpose of intoxication and not for any medical use. Further it is stated by the counsel for the respondents that exoneration of the petitioner is only on technical ground and not on the merits of the case. Learned counsel has stated that in



case the petitioner is given any fresh license he will indulge in malpractice of selling banned drugs which will affect the public health at large, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

6. A perusal of the impugned order passed by the the licensing authorities shows that the license of the petitioner was cancelled on the ground that the petitioner did not submit his explanation to the show cause notice issued to the petitioner and that an FIR was lodged against the petitioner. Though the petitioner has filed an appeal, the same was disposed of on 29.04.2019 confirming the order of cancellation. It is pertinent to note that the petitioner was in custody till 01.11.2018, when he was granted bail, therefore, the question of him filing an explanation to the show cause notice by 31.08.2018 does not arise. More over, the subsequent events which have taken place, i.e., the petitioner has been exonerated in the final report filed by the police (Annexure 3) vide order, dated 27.01.2022, negates the ground on which the cancellation of the petitioner's license has been done, i.e., lodging of the FIR.

7. Having regard to the above facts and circumstances the order of the Appellate Authority, dated 29.04.2019, is set aside and the matter is remanded back to the authority



concerned for passing orders afresh duly taking into account that the final report filed by the police, dated 27.01.2022, and also the observation of this Court in the present CWJC. It is needless to mention that before passing any orders, the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. In case the Appellate Authority sets aside the order of cancellation, dated 31.10.2018, then, the petitioner shall be given the opportunity for applying for a fresh license. Any order passed shall be communicated to the parties.

8. With the above directions, the Writ Petition stands **disposed of.**

(A. Abhishek Reddy , J)

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