

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11146 of 2024**

M/s Vijay Pharma represented by Proprietor Chandan Kumar Poddar, aged about 28 years, Male, S/o Late Vijay Poddar, Premise situated at Subash Palli, P.S. Kishanganj, Dist. Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
2. The State Drug Controller-cum-Chief Licensing Authority, New Secretariat, Bihar, Patna.
3. The Secretary, Health Department, Government of Bihar, Patna.
4. The Assistant Drug Controller, Drug Control Administration, Kishanganj.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. N. K. Agrawal, Senior Advocate with  
Ms. Diksha Kumari, Advocate.

For the Respondent/s : Mr. S. K. Mandal, SC-3 with  
Ms. Neelam Kumari, AC to SC-3.

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

2      29-01-2025                      Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

*“(i) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing and setting aside the order contained in Memo No. 535 dated 19.08.2023 passed by the Assistant Drug Controller, Kishanganj by which the Drug License of the petitioner being License No. BR-KIS-153688 & BR-KIS 153689 & Godow license (i) BR-KIS 166838 (ii) BR-KIS 166839 (iii) BR-KIS*



*166836 and BR-KIS 166837 has been cancelled on the grounds which are bad in eye of law.*

*(ii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the Appellate order dated 24.05.2024 contained in Memo No. 392 (15) Patna dated 05.06.2024 passed in Appeal No. 03/2024 passed by the Secretary, Health Department-cum-Appellate authority by which he was please to dismissed the Statutory appeal without considering the points raised on behalf of the petitioner.*

*(iii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus commanding the respondents to restore the Drug License of the petitioner.”*

3. Learned counsel appearing on behalf of the petitioner has stated that the licensing authority has issued a show cause notice to the petitioner to which the petitioner could not give a suitable reply due to the illness of his mother and thereafter, the authority has passed the impugned order of cancellation of his licence. Though the petitioner has preferred an appeal before the appellate authority giving the reasons for not filing the explanation to the show cause issued by the licensing authority, however, the appellate authority has not considered the same in proper perspective and dismissed the



appeal. Learned counsel has stated that the petitioner has a good chance of succeeding and his licence been restored if an opportunity of filing explanation is given. Learned counsel has therefore prayed this court to set aside the appellate order as well as the order of cancellation passed by the licensing authority and grant him an opportunity of filing his explanation to the show cause notice dated 19.08.2023 and thereafter, the authority may be directed to pass a necessary orders strictly in accordance with law.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that though the petitioner has been issued show cause notice, he has not bothered to file any explanation to the show cause notice. With a view to provide the petitioner ample opportunity, the authority has issued a second show cause notice but the petitioner has failed to file his explanation, Therefore, the authority left with no other option had to pass the order of cancellation. The appellate authority duly taking into consideration the latches on the part of the petitioner has dismissed the appeal. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.



5. Admittedly as seen from the record, the petitioner was issued show cause notice by the licensing authority before the order of cancellation was passed. The petitioner has taken specific stand that he could not file his explanation, due to the illness of his mother who was seriously ill and needed psychiatric evaluation after the death of his father. The above stated averments has not been denied by the authorities in their counter affidavit and the counter affidavit is silent with regard to the above.

6. Having regard to the above mentioned facts and circumstances, this court is of the opinion that the ends of justice would be served if the impugned order dated 19.08.2023 passed by the licencing authority as well as the order dated 24.05.2024 passed by the appellate authority are both set aside and the matter is remanded back to the licensing authority for passing orders afresh after giving sufficient opportunity to the petitioner to file his explanation to the show cause notice dated 19.08.2023 issued to the petitioner. Accordingly both the orders dated 19.08.2023 and 24.05.2024 are set aside. The petitioner shall file his explanation to the show cause notice within a period of four weeks from today. On receipt of the same, the authority shall consider the same and pass necessary orders



strictly in accordance with law. Needless to observe that the petitioner shall be given an opportunity of hearing before any orders are passed. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.

7. With the above directions, the present Writ Petition stands disposed of.

**(A. Abhishek Reddy, J)**

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