

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14040 of 2024

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Varun Kumar, Son of Baiju Prasad Gupta, resident of Chowk Saraf, Police Station - Kotwali, District - Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Health and Family Welfare, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Second Appellate Authority, Department of Health and Family Welfare, Government of Bihar, Patna.
3. The State Drug Controller, Directorate of Health Services, Bihar, Patna.
4. The Assistant Drug Controller-cum- Licensing Authority, Drugs Control Administration, Gaya.
5. The Drug Inspector, Drugs Control Administration, Gaya.
6. Maa Kamakhya Agency through its proprietor namely Priyanka Rani, resident of Mohalla A.N. Road Muradpur, Police Station- Kotwali, District- Gaya, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash Kumar, Adv. Mr. Kumar Satyam, Adv. Mr. Ajay Kumar Mehta, Adv.
For the Respondent/s	:	Mr. Advocate General
For the Resp. No. 6		Mr. Sanjay Kumar Verma, Adv. Mr. Abhishek Kumar, Adv. Mr. Ajit Kumar Singh, Adv. Mr. Onkar, Adv.

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

8 16-04-2025 Heard learned counsel for the parties.

2. The present writ petition has been filed for the
following relief(s):-

*“i.. To call for and production of entire records
related to Appeal preferred by the private
respondent and upon production of the same,
issuance of Writ in the nature of Certiorari for
quashing the order as contained in letter*



no.1216 (15) dated 19.12.2022 by which the order of cancellation passed by the Assistant Drug Controller has been rejected and the license issued to the respondent no.5 has been restored.

ii. To issue a Writ in the nature of Certiorari for setting aside the order dated 08.01.2024 passed in second appeal no.9998801020022226029/2A by the Principal Secretary, Department of Health and Family Welfare, Government of Bihar -cum Second Appellate Authority and also quashing of letter no.115 dated 20.02.2024 by which the Assistant Drug Controller declined to entertain the issue raised by the petitioner.

iii. Consequent upon quashing of the above order and letter, the respondents may kindly be directed to examine, verify and decide all the issues raised by both the parties in accordance with law.

iv. During pendency of the writ application, the impugned order passed by the Appellate Authority may kindly be stayed and the license issued to the respondent no.5 may kindly be suspended till the issues are decided by the concerned respondent.

V. For any other relief/reliefs which the Hon'ble Court may grant in general interest that may be deemed appropriate and necessary in this case and further to stay the impugned order of cancellation during pendency of the present writ



application.”

3. The only question before this Court is as to whether the order dated 19.12.2022 impugned in the present writ petition can be sustained as admittedly no notice has been issued to the petitioner before passing of the said order.

4. The brief facts for the purpose of the disposal of the present case are that based on the complaint made by the petitioner, the Assistant Drug Controller has passed the order dated 04.07.2022, cancelling the license issued in favour of the Respondent No. 6 (Annexure P/2). Thereafter the Respondent No. 6 has preferred an appeal before the Additional Chief Secretary, i.e., Respondent No. 2 and the Respondent No. 2 has passed the impugned order without putting the petitioner on notice. Though the petitioner has preferred a second appeal, the same was rejected.

5. Even in the counter affidavit filed by the respondents, it is specifically stated that the Respondent No. 2 after hearing the Respondent No. 6 who was appellant therein and the Assistant Drug Controller, Gaya, (Respondent No. 4) has passed the order. There is no whisper in the counter affidavit as to whether the petitioner was put on notice and given an opportunity of hearing before passing the impugned order. The



initial order of cancellation has been passed on 04.07.2022 (Annexure P/2) admittedly on the complaint of the petitioner, when an appeal is preferred against the same, the least that was expected from the appellate authority was to put the petitioner on notice and give him an opportunity of hearing. Not putting the petitioner on notice is not only violative of the principles of natural justice and equity but against the well settled principles of laws as laid down by the Hon'ble Supreme Court and the High Court in a catena of cases. The rule of *audi alteram partem* obligates the authority to put the petitioner on notice and give him an opportunity of hearing which is missing in this particular case.

6. Having regard to the same, the impugned orders dated 19.12.2022 and 08.01.2024 are both set aside. The matter is remanded back to the Appellate authority for passing order afresh. The Appellate authority is directed to put the petitioner as well as the Respondent No. 6 on notice and give them an opportunity of hearing. The entire exercise shall be concluded positively within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

7. With the above directions, the present writ petition



stands disposed of.

8. Further it is made clear that till such time the final orders are passed by the Respondent No. 2, the business of Respondent No. 6 shall not be disturbed.

(A. Abhishek Reddy , J)

Bhardwaj/-

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