
(2020) 02 PAT CK 0051

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 24503 Of 2019

M/S Amar Enterprises

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 13-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0051

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Sarvdeo Singh, Ashok Kumar, Birju Prasad

Final Decision : Allowed

Judgement

Counter affidavit has been filed during the course of argument.

Let it be taken on record.

Heard Mr. Sarvdeo Singh for the petitioner and Mr. Birju Prasad for the State.

The petitioner has challenged the order dated 11.02.2019 passed by the Assistant Drug Controller, Patna whereby the license of the petitioner to run

his medical shop has been cancelled.

It appears from the records that the petitioner is the proprietor of M/s. Amar Enterprises, who has a valid license under the Drugs and Cosmetics Act,

1945 to run the medical shop which had been running since the year 2000. The shop of the petitioner was raided on 10.02.2018 and without there

being any irregularity or illegality, the petitioner was issued a show cause notice to explain certain purchases made by the Janta Medical Hall from the

shop of the petitioner. The notice, it has been urged was served upon the petitioner after four months of the inspection of the shop.

The notice was duly answered by bringing on record the memos and the bills of purchase and the sale but the Assistant Drug Controller (respondent

no. 3) vide his order dated 26.09.2018 cancelled the drug license of the petitioner.

The petitioner challenged the aforesaid order before the appellate authority viz. the Principal Secretary, Health Department, Government of Bihar vide

Appeal No. 21/2018. The appellate authority vide order dated 24.01.2019 set aside the order passed by the Assistant Drug Controller cancelling the

license of the petitioner and directed him to pass a fresh order within a fortnight after examining the entire records and after considering the reply

furnished by the petitioner. Again the impugned order has been passed by the Assistant Drug Controller on 11.02.2019 holding that no reply was filed

by the petitioner even though this was the specific ground taken in appeal that the reply was preferred by the petitioner along with all the necessary

documents in support of the contention raised which was also received in the office of the Assistant Drug Controller. It was only for this reason that

the earlier order passed by the Assistant Drug Controller was set aside and a fresh order was directed to be passed. This time also, a mechanical

order has been passed, reiterating that there is no reply on behalf of the petitioner.

The order impugned therefore is absolutely untenable and is, therefore, set aside.

The Assistant Drug Controller, Drug Control Administration, Patna is directed to pass a fresh order after taking into account the reply preferred by the

petitioner by a reasoned order within a period of fifteen days from the date of production/receipt of a copy of this order.

The Principal Secretary, Health is further directed to enquire into the matter as to why the Assistant Drug Controller has shown such intransigence in

complying with the orders of the appellate authority. If the Assistant Drug Controller has deliberately done this, the responsibility must be fixed and an

appropriate proceeding be initiated against him after noticing him.

The Principal Secretary shall be under an obligation to forward a copy of the enquiry made by him in that regard and if any action is taken on finding

that such a step was taken by the Assistant Drug Controller deliberately, then the report of the action taken against him, to this Court through the

registry latest by 27th of March, 2020.

With the aforesaid direction/observation, the writ petition stands allowed and disposed of.