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**(2022) 02 PAT CK 0003**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 13604 Of 2019, 18332 Of 2021

M/S Medicine Palace

APPELLANT

Vs

Union Of India

RESPONDENT

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**Date of Decision :** 01-02-2022

**Acts Referred:**

**Citation :** (2022) 02 PAT CK 0003

**Hon'ble Judges :** Sanjay Karol, CJ;S. Kumar, J

**Bench :** Division Bench

**Advocate :** Ambuj Kumar Chandra, Dr. Juhee Chaudhary, Dr. K N Singh, Kumar Priya Ranjan, Binay Kumar Pandey, Binod Kumar Yadav

**Final Decision :** Disposed Of

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## **Judgement**

1. Heard learned counsel for the parties.
2. Both these petitions are being disposed by a common order.
3. In CWJC No.18332 of 2021 titled as M/s Medicine Palace Vs The Union of India & Ors., petitioner has prayed for the following reliefs:

I. For issuing a writ of an appropriate nature directing the respondents to set aside/quash the E-tender for empanelment of local chemist at AIIMS

Patna for supply of drugs/medicines/CSSD/Lab/Surgical Consumables dated 14.09.2021 (1st & last page of the tender enclosed and marked as

Annexure 1) issued by the Director, AIIMS Patna (hereinafter Respondent No.2)

II. For granting a stay upon the further process in connection with the above-mentioned tender during the pendency of the instant writ application and

also during the pendency of CWJC No.13604/2019 (M/s Medicine Palace v Union of India & others) filed before this Hon'ble Court.

III. For directing the respondents to empanel the petitioner's undertaking

namely M/s Medicine Palace in AIIMS Patna for the procurement of medicinal and surgical items.

IV. For any other relief(s) for which the petitioner is entitled to in accordance to the facts and circumstances of the case.â??

4. In CWJC No.13604 of 2019 titled as M/s Medicine Palace Vs The Union of India & Ors. petitioner has prayed for the following reliefs:

I. For issuing a writ of an appropriate nature directing the respondents to set aside/quash the order dated 20.04.2019 issued by the Director, AIIMS

Patna (hereinafter the Respondent No.2) vide letter no.25/AIIMS/Pat/Dir/2019 whereby and whereunder the licence of the chemist shop of the

petitioner was terminated and he was ordered to shut down the operation of the chemist shop allotted to him in the AIIMS premises and to vacate the same.

II. For granting a stay upon the order dated 20.04.2019 passed by the Director AIIMS (impugned order) during the pendency of the instant writ application.

III. For any other relief(s) for which the petitioner is entitled to in accordance of the case.â??

5. It is noticed that the shop in question was allotted to the petitioner by way of licence in the year 2014. This was for a period of two years. Record

reveals that since third parties were litigating before this Court, petitioner did not hand over the vacant and peaceful possession of the shop to the

respondents. It is not the petitionerâ??s case that the licence stood renewed beyond a period of two years. It is seen that vide order dated 20th April,

2019, petitioner was asked by the respondent to hand over vacant and peaceful possession of the premises within a period of 30 days.

6. Assailing the same, petitioner filed a writ petition being CWJC No.13604 of 2019 titled as M/s Medicine Palace Vs. The Union of India on 4th July,

2019. Only for the reason that the matter could not be listed before any Court, respondents did not take any action for ejecting the petitioner.

However, only in the year 2021, the respondents issued an advertisement dated 14.09.2021, inviting tender for fresh allotment of the shop which action

stands assailed by the petitioner by way of a separate petition being CWJC No. 18332 of 2021 titled as M/s Medicine Palace v. Union of India & Ors.

7. We find that the petitioner has been abusing the process of law and as such

able to retain the possession of the shop in question, beyond the stipulated period of licence. It is also brought to our notice that the petitioner has filed a criminal case in relation to the very same shop. It is also brought to our notice that the shop in question, at this point in time, is closed, inasmuch as the respondents- AIIMS has installed its own lock.

8. After the matter was heard for some time, learned counsel for the petitioner made the following prayers:-

- (a) Petitioner be permitted to remove the goods which are lying inside the shop.
- (b) Petitioner shall withdraw all criminal case(s) instituted against the respondents.
- (c) Petitioner be granted liberty to claim damages with respect to certain articles which were procured by him only on the asking of the respondents.
- (d) Lawful possession of the shop be deemed to be with the respondent-AIIMS.

9. Sri Binay Kumar Pandey, learned counsel appearing for the respondent-AIIMS stated that he has no objection to the disposal of the petitions

accepting the submissions made by the petitioner, to be taken on record.

10. Ordered accordingly.

11. Both the Petitions are disposed of on the following mutually agreeable terms:-

- (a) Petitioner shall forthwith withdraw all criminal case(s) instituted against the respondents, in relation to the shop in question.
- (b) Respondents shall allow the petitioner to remove the articles from the shop. This must be done within next twenty four hours.
- (c) Petitioner shall make himself available in the office of the Director, AIIMS tomorrow, i.e. 02.02.2022, at 10 a.m. for facilitating removal of articles and preparing an inventory. However, if the petitioner fails to do so, it shall be open to the Director, AIIMS to have the lock broken open and remove the goods by getting an inventory prepared, also videograph the entire proceedings. Such articles shall be kept in safe custody to be received by the petitioner.
- (d) Inventory of the articles shall be prepared in the presence of the authorized officer of the AIIMS and the petitioner.
- (e) Respondents shall proceed with the tender now issued and finalize it at the earliest.
- (f) Liberty reserved to the petitioner to institute appropriate proceedings seeking

compensation. As and when such proceedings are instituted, the same shall be adjudicated expeditiously, in accordance with law.

(g) Respondents shall consider waiving of the charges for the unauthorized occupation of the shop from the year 2019 onwards.

12. Petition stands disposed of in the above terms.

13. Interlocutory Application, if any, shall stand disposed of.

14. Dasti.

15. Learned counsel for the parties undertake to communicate this order to their respective parties during the course of the day.