

(2020) 05 PAT CK 0064

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5681 Of 2020

M/s Satyam Enterprises

APPELLANT

Vs

State Of Bihar And Others

RESPONDENT

Date of Decision : 29-05-2020

Acts Referred:

Drugs And Cosmetics Rules, 1945 — Rule 66(1), 66(2)

Citation : (2020) 05 PAT CK 0064

Hon'ble Judges : Vikash Jain, J

Bench : Single Bench

Advocate : Ram Shankar Das

Final Decision : Disposed Of

Judgement

Vikash Jain, J

1. This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects shall be removed without delay immediately after the lockdown ends, and in any event within one month thereof. I.A. No. 1 of 2020 This interlocutory application has been filed for correction of the prayer portion of the main writ petition wherein the impugned order has inadvertently been mentioned as contained in memo no. 1123 dated 21.08.2019 passed by the Assistant Drug Controller, Patna, instead of the correct memo no. 422 dated 27.04.2020 passed by the Assistant Drug Controller, Darbhanga.

2. Having regard to the nature of prayer, the interlocutory application is allowed and the petitioner is permitted to make necessary correction in the prayer portion of the main writ petition immediately after the lockdown ends, and in any event within one month thereof.

The following reliefs as formulated by the petitioner have been claimed in the writ petition -

"i) To quash the order dated 27.04.2020 vide Memo No. 422 passed by the Assistant Drug Controller, Darbhanga, whereby the licence of the petitioner has been cancelled on non-est ground and without application of mind and without considering the reply of show cause. So that the impugned order is wholly without jurisdiction not sustainable in the eye of law.

ii) To treat the wholesale Licence No. D-140 & D-140A (Form 20B, 21B) issued on 11.09.2002 is valid and operative.

iii) Any other relief/reliefs as your Lordships may deem fit and proper in the facts and circumstances of the case. Learned counsel for the petitioner submits that pursuant to inspection of the shop premises of the petitioner on 07.04.2020, certain irregularities are said to have been found. A show cause notice dated 09.04.2020 was issued, to which a reply was filed on 16.04.2020, producing the requisite purchase invoices and submitting inter alia that there was no irregularity in contravention of the licence. It is submitted that the petitioner's licence has been cancelled by a non-speaking order without specifically assigning reasons for not accepting the show cause reply. In any event, learned counsel for the petitioner fairly concedes that an appeal against the impugned order is available under Rule 66(1) and 66(2) proviso of the Drugs and Cosmetics Rules, 1945.

3. By order dated 28.05.2020, a day's time had been granted as prayed by learned Standing Counsel-11 to provide the email address on which the petitioner may file his appeal electronically. Such email ID has not been provided so far nor the State is represented today when the matter is called.

4. Having regard to the submission of the petitioner, the writ petition is disposed of with liberty to the petitioner to prefer an appeal against the impugned order electronically within four weeks from the date the relevant email address is supplied to him by learned Standing Counsel 11.

5. The impugned order dated 27.04.2020 contained in memo no. 422 shall remain stayed till the end of the period of four weeks as aforesaid.