

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8855 of 2016

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M/s Shree Umiya Enterprises, 503 Saboo Complex, Exhibition Road, Patna - 800001, through its proprietor Shri Amarnath Pandey son of late Ram Badan Pandey, Vachaspati Nagar, P.O. Mahendru, P.S. Bahadupur, District Patna, Bihar

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary cum Commissioner Department of Health, Bihar, Patna
2. State Drug Controller cum Licensing Authority, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv.

For the Respondent/s : Mr. Nawal Kishore Singh, SC-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-05-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In the nature of order which this Court proposes to pass it would not require awaiting filing of a counter affidavit and considering the nature of dispute raised that the present writ petition is being disposed of at the stage of admission stage itself.

The petitioner is aggrieved by the order dated 05.05.2016 passed by the State Drug Controller-cum-Chief Licensing Authority impugned at Annexure-6 whereby the license granted to the petitioner under the provisions of Drugs and Cosmetics Act, 1940 (hereinafter referred to as 'the Act') read with the provisions of Drug and Cosmetics Rules, 1945 (hereinafter referred to as 'the Rules') bearing

License No. PAT-R-01/2015 in Form-20, the License bearing No. PAT-R-01A/2015 in Form-21 Licence No. PAT-R-1F/2015 in Form 20F has been suspended for a period of one month pending report in respect of certain samples sent for laboratory test.

It is argument of learned counsel appearing for the petitioner that the Chemist shop of the petitioner is located in the basement of the AIIMS and there are emergency drugs stored and thus the suspension order would practically paralyze the functioning of the hospital. He submits that although the irregularity pointed out basically revolves upon maintenance of registers and the storage of medicines and thus a suspension order for such default is excessive. Learned counsel has also invited the attention of this Court to a number of orders passed by the coordinate Bench and while accepting that a forum of appeal is provided under Rule 66(2) of 'the Rules' he submits that the petitioner in the extraordinary circumstances and in larger public interest as well as for the benefit of the patients admitted to the hospital, would pray for interim relief pending disposal of appeal so to be filed by the petitioner within two weeks from today.

Counsel for the State while objecting to the prayer made in the backdrop of the alternative remedy has questioned the conduct on non adherence to the statutory obligations and the prescribed procedures.

Having heard learned counsel for the parties and considering

that there is a statutory remedy available to the petitioner under Rule 66(2) of ‘the Rules’, to question the order of suspension, this Court for the present would not express any opinion on the merits of the dispute save and except that the petitioner should exhaust the alternative remedy of appeal so available to him under Rule 66(2) of ‘the Rules’. This Court however in the larger interest of the patients admitted to the hospital is persuaded to accept the prayer for interim relief as advanced by learned counsel and thus while directing the petitioner to exhaust the remedy of appeal available to him and which should be filed within two weeks from today, it is directed that until disposal of the appeal by the State Government, there shall be an ad interim stay of the order dated 5.5.2016 passed by the State Drug Controller-cum-Chief Licensing Authority, Bihar, Patna impugned at Annexure-6.

It goes without saying that if the appeal is not filed within two weeks from today as directed by this court then the interim order passed herein shall stand recalled.

The writ petition is allowed subject to stipulations above.

Bibhash/-

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Uploading Date	23-05-2016
Transmission Date	

(Jyoti Saran, J)