

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7125 of 2016

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Mohan Kumar Poddar Son of Sri Jay Prakash Poddar, Proprietor of M/s
Bhagwati Drugs, Thana Road, P.S. Dalsinghsarai, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Government of Bihar, New Secretariat, Patna
2. The State Drug Controller-cum-Chief Licensing Authority, New
Secretariat, Bihar, Patna
3. The Licensing Authority, Drug Control Administration, Samastipur
4. The Drug Inspector, Drug Control Administration, Samastipur

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Rakesh Kumar Sharma, Advocate
For the Respondent/s : Mr. Yogendra Pd. Sinha, AAG-15

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 17-05-2016

Heard learned counsel for the parties.

The petitioner is a licensee under the Drugs and Cosmetics Act, 1940 (hereinafter referred to as 'the Act') and the Drugs and Cosmetic Rules, 1945 (hereinafter referred to as 'the Rules') bearing License No. 20B-SMT38/2008 in Form-20B and the License bearing No. 21B-SMT38A/2008 in Form- 21B issued on 20.03.2008. The petitioner is aggrieved by the order of cancellation passed by the Licensing Authority, Drug Control Administration, Samastipur bearing letter no. 29 dated 01.2.2016 as contained in Annexure-5 whereby and whereunder, on alleged default committed by the petitioner, the license have been

cancelled.

Learned counsel for the petitioner while questioning the jurisdiction of the Licensing Authority, Drug Control Administration, Samastipur to pass the order of cancellation and also while assailing the order on merits has fairly submitted that the petitioner has taken recourse to the appellate remedy so provided under Rule 66(2) of 'the Rules' but which is pending disposal before the State Government. According to learned counsel for the petitioner, the order of cancellation is neither sustainable on jurisdiction nor on merits rather has been passed without application of mind. He however prays for interim protection pending disposal of the appeal filed by the petitioner.

Although a prayer for adjournment has been made by learned State counsel but in my opinion since the matter is yet resting before the appellate authority hence it would neither require an affidavit from the State nor an adjudication of the matter on the merits of the claim since the order of cancellation is pending disposal before the appellate authority. In the circumstances the prayer made by the petitioner for interim protection until the disposal of the appeal is held justified and acceptable for the end of justice.

In result the operation of the order of cancellation

passed by the Licensing Authority, Drug Control Administration, Samastipur bearing letter no. 29 dated 01.2.2016 impugned at Annexure-5 shall remain stayed pending disposal of the appeal filed by the petitioner on 08.2.2016.

The writ petition is allowed.

(Jyoti Saran, J)

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