

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9487 of 2016

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1. M/s Dr. Louis Biotech represented By Upendra Kumar S/o Late Ram Lagan Singh R/o Dariyapur Gola Mohar Tola Devi Sthan, P.S. Kadamkuan Distt.- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department of Bihar, New Secretariat, Patna
2. That State Drug Controller - Cum-Chief Licensing Authority, New Secretariat, Bihar, Patna
3. The Licensing Authority, Drug Control Administration, Municipal Area Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Das, Adv.

For the Respondent/s : Mr. Prasoon Sinha- GA2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-07-2016

Heard Mr. Ram Shankar Das, learned counsel for the petitioner and Mr. Prabhat Kumar, A.C. to G.A.2 for the State.

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. BR-21(N)AL09 in Form-28 and the License bearing No. BR-22(N)AL09 in Form- 25 issued on 26.06.2009. The petitioner is aggrieved by the order passed by the State Drug Controller-cum-Chief Licensing Authority, Government of Bihar, Patna bearing letter no. 508(15) dated 5.5.2016 as contained in Annexure-3 whereby the drug licence of the petitioner has been suspended for a period of 90 days

inter alia on grounds that the medicines seized were of doubtful character. A copy of such order is impugned at Annexure-3 to the writ petition.

Mr. Das learned counsel for the petitioner submits that the petitioner being aggrieved by the suspension order has preferred an appeal under Rule 85(3) of 'the Rules' on 16.5.2016 before the appellate authority which remains pending for disposal. He submits that it is by reason of the delay in disposal of the appeal that the business of the petitioner has come to stand still and by passage of time, the appeal itself would be rendered infructuous.

According to learned counsel for the petitioner, the order of suspension is neither sustainable on jurisdiction nor on merits rather has been passed without application of mind and without reasonable opportunity to the petitioner. Learned counsel for the petitioner prays for interim relief pending disposal of his appeal.

Having heard learned counsel for the parties and considering the circumstances existing, I am satisfied that the petitioner has made out a case for indulgence for even when he has taken recourse to the statutory remedy so available to him under 'the Act', the delay in disposal thereof cannot be attributed to him.

In the circumstances discussed and since according to the petitioner the statutory appeal, a copy of which is present at

Annexure-4 remains pending for disposal before the appellate authority, there shall be a stay of the impugned order dated 5.5.2016 passed by the State Drug Controller-cum-Chief Licensing Authority, Bihar, Patna impugned at Annexure-3 until the disposal of the appeal. The petitioner should cooperate in the disposal of appeal.

This Court shall make it clear that this Court has not entered into the merits of the rival contentions and the parties shall be at liberty to raise their issues before the appellate authority.

The writ petition is allowed subject to the stipulations above.

(Jyoti Saran, J)

Bibhash/-

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