

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5473 of 2016

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M/s Medicana, Jay Kamla Plaza, East Boring Canal Road, P.S.- Kotwali, District- Patna through its Proprietor Poonam Singh, wife of Sri Umesh Prasad, Resident of Bihari Kunj, Makhania Kuan, P.S.- Pirbahore, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The State Drug Controller cum Chief Licensing Authority, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar @ Alok Kr. Shahi, advocate.

For the Respondent/s : Mr. Prasoon Sinha, GA 2

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 18-03-2016

Heard learned counsel for the parties.

The petitioner is aggrieved by the order dated 14.03.2016 issued by the respondent no. 2 by which the Drug Licence No. PAT-79/09 (Form-20) and PAT-79A/09 (Form-21) issued on 16.10.2009 has been suspended for 30 days from the date of receipt of the letter and for consequential reliefs.

Learned counsel for the petitioner submits that he is running a shop of retail sale of medicines and on a purported inspection, some anomalies are said to have been found for which the petitioner was noticed to which he has also given reply. He submits that though on merits, under the Drugs and Cosmetics Act, 1940 read with the Drugs and Cosmetics Rules, 1945 (hereinafter referred to as the 'Rules'), the procedure adopted for such suspension is bad and



further even on facts, the action taken by the respondents is not justified, however, to show his *bona fide*, he takes a categorical stand on behalf of the petitioner that he shall not commit any violation of the relevant provisions of law and the major reason for chances of any minor lapses is on account of the fact that many instructions of the Government are not publicly known due to which compliance of such provisions at times becomes difficult.

Learned counsel for the State submits that there is an alternative remedy available to the petitioner under Rule 66(2) of the Rules before the State Government which the petitioner should exhaust and the writ Court, at the very first instance, ought not to interfere in the matter.

At this juncture, learned counsel for the petitioner submits that he has no issue in going in appeal as per the statutory provisions, but keeping in mind the fact that the medicine shop is running, in the larger public interest the Court may give some interim protection especially in view of the fact that there are intervening State holidays.

Learned counsel for the State does not object to such proposition.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ

petition stands disposed off with a liberty to the petitioner to approach the State Government under appeal, as provided under Rule 66(2) of the Rules. If such appeal is filed by 4th April, 2016 along with a copy of this order, the same shall be disposed off in accordance with law after affording opportunity of hearing to the petitioner.

Till final disposal of the appeal, there shall be stay of the impugned order dated 14.03.2016 issued by the Respondent No. 2.

The Court would like to clarify that it has not gone into the merits of the case and it shall be open to the Appellate Authority to consider all issues raised by the parties and decide the matter.

(Ahsanuddin Amanullah, J)

Sujit/-

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