

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6331 of 2016

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Gaurav Pharma, Husaini Markt, Pulpar, Biharshaif, P.S. Town District Nalanda, through its Proprietor Sri Sunil Kumar, son of Sri Rajendra Prasad, resident of Jhingnagar, P.S. Town District Nalanda

.... 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
 3. The Licensing Officer, Drugs Control Administration, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Advocate
 Mr. Alok Kumar @ Alok Kr Shahi
 For the Respondent/s : Mr. Gyan Shankar, AC to GP 6

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 12-04-2016 The petitioner has assailed the impugned order on the ground that the same has been passed without providing a show cause notice.

The petitioner was granted Drugs license bearing License Nos. 386 of 1989 and 386A of 1989 dated 28.8.1989. The business premises of the petitioner were inspected on 29.1.2016. After inspection, a show cause notice, dated 1.2.2016 was issued for alleged violation of the license and the Drugs Control Act. The petitioner submitted its show cause reply on 6.2.2016. On 17.2.2016 the petitioner appeared and submitted documents. Being satisfied with the show cause reply of the petitioner, six medicines imposed by respondent No.3 was lifted on 9.3.2016. However, his

drug licence was suspended vide memo No.226, dated 28.3.2016 for a period of 30 days.

Learned counsel for the petitioner submits that once show cause was accepted, the respondents ought to have given a fresh show cause notice before suspending his licence. The petitioner has also placed reliance on orders, dated 29.3.2016 passed in *C.W.J.C. No. 5730 of 2016 (M/s Nav Jyoti Medical Store vs. State of Bihar)* and order dated 18.3.2016 passed in *C.W.J.C. No.5471 of 2016 (M/s Paras HMRI Hospital vs The State of Bihar & Ors)*.

Learned State counsel submits that there is an alternative remedy of appeal under rule 66(2) of the Drugs and Cosmetics Rules, 1945.

Having regard to the facts and circumstances of the case, the petitioner is relegated to the forum of statutory appeal to enable the petitioner to file its appeal. There would be an ad interim stay of the impugned order, dated 28.3.2016 issued by respondent No.3, for a period of two weeks.

With the aforesaid observations and directions, this writ application stands disposed of.

(Samarendra Pratap Singh, J)

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