

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6420 of 2016

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M/s Aastha Medico, represented by Dr. Smt. Neelu Prasad, W/o Dr. Mahesh Prasad, R/o C - 104, Vrindawan Apartment Phase - 2, Malahi Pakri Kankarbagh, P.S.-Patrakar Nagar District- Patna the Premise N - 4, Professor Colony, Kankarbagh.

.... 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, Municipal Area, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Das

For the Respondent/s : Mr. Partha Sarthi, G.A.-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 11-05-2016 Heard Mr. Ram Shankar Das, learned counsel appearing for the petitioner and learned counsel appearing 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.PAT 475 of 2013 in Form-20 and the license bearing no.PAT 475A of 2013 in Form- 21 issued on 13.9.2013. The petitioner is aggrieved by the order of cancellation passed by the State Drug Controller –cum- Chief Licensing Authority, Bihar, Patna bearing letter no.266(15) dated 17.2.2016 as contained in Annexure-4 whereby and whereunder, on alleged default committed by the petitioner, the license have been cancelled.



Mr. Das, learned counsel appearing for the petitioner while questioning the jurisdiction of the State Drug Controller 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 since 9.3.2016, a copy of which is present at Annexure-5. According to Mr. Das, 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 Mr. Das 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 State Drug Controller bearing letter no.266(15) dated

17.2.2016 impugned at Annexure-4 shall remain stayed pending disposal of the appeal filed by the petitioner.

The writ petition is allowed.

(Jyoti Saran, J)

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