

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8280 of 2016

=====

M/s Indira I. V. F. Hospital Pvt. Ltd. 4th Floor, Kashyap Business Park, Khajpura,
Bailey Road, Patna through its authorized signatory Dr. Anuja Singh, wife of Dr.
Sanjeev Kumar, resident of Flat No. 303, Nagina Niketan, Mohalla- Hanuman
Nagar, Police Station- Patrakar Nagar, 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

=====

Appearance:

For the Petitioner/s : Mr. Sajid Salim Khan, Advocate
For the Respondent/s : Mr. U.S.S. SINGH, GP-1

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-05-2016

Heard Mr. Sajid Salim Khan, learned counsel for the
petitioner and learned counsel for the State.

In the nature of order which this Court proposes to pass it
would not require awaiting filing of a counter affidavit and
considering the nature of dispute raised that the present writ petition is
being disposed of at the stage of admission stage itself.

The petitioner is aggrieved by the order dated 22.4.2015
passed by the State Drug Controller-cum-Chief Licensing Authority
impugned at Annexure-3 whereby the license granted to the petitioner
under the provisions of Drugs and Cosmetics Act, 1940 (hereinafter
referred to as 'the Act') read with the provisions of Drug and
Cosmetics Rules, 1945 (hereinafter referred to as 'the Rules') bearing
License No. PAT-427/2015 in Form-20 and the License bearing No.

PAT-427A/2015 in Form-21 has been suspended for a period of 40 days pending report in respect of certain samples sent for laboratory test.

It is argument of Mr. Khan learned counsel appearing for the petitioner that there are emergency drugs stored to the hospital and thus the suspension order has practically paralyzed the functioning of the hospital. He submits that although the irregularity pointed out basically revolves upon maintenance of registers and the storage of medicines and thus a suspension order for such default is excessive. Mr. Khan has also invited the attention of this Court to a number of orders passed by the coordinate Bench which has been placed at Annexure-4 series and while accepting that a forum of appeal is provided under Rule 66(2) of 'the Rules' he submits that the petitioner in the extraordinary circumstances and in larger public interest as well as for the benefit of the patients admitted to the hospital, would pray for interim relief pending disposal of appeal so to be filed by the petitioner within two weeks from today.

Counsel for the State while objecting to the prayer made in the backdrop of the alternative remedy has questioned the conduct on non adherence to the procedures.

Having heard learned counsel for the parties and considering that there is a statutory remedy available to the petitioner under Rule 66(2) of 'the Rules', to question the order of suspension,

this Court for the present would not express any opinion on the merits of the dispute save and except that the petitioner should exhaust the alternative remedy of appeal so available to him under Rule 66(2) of ‘the Rules’. This Court however in the larger interest of the patients admitted to the hospital is persuaded to accept the prayer for interim relief as advanced by Mr. Khan and thus while directing the petitioner to exhaust the remedy of appeal available to him and which should be filed within two weeks from today, it is directed that until disposal of the appeal by the State Government, there shall be an ad interim stay of the order dated 22.4.2016 passed by the State Drug Controller-cum-Chief Licensing Authority, Bihar, Patna impugned at Annexure-3.

It goes without saying that if the appeal is not filed within two weeks from today as directed by this court then the interim order passed herein shall stand recalled.

The writ petition is allowed subject to stipulations above.

(Jyoti Saran, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.05.2016
Transmission Date	