

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3452 of 2018

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M/s Maa Gaytri Medico, represented by Sanjeet Kumar, S/o Sri Brijnandan Prasad, R/o East Lohanipur, P.S.- Kadamkuan, District- Patna, Premises situated at Shop No. C-7, 1st Floor, Uday Place, G.M. Road, Patna.

.... Petitioner

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 Assistant Drug Controller, Drug Control Administration, Patna, 4th Floor, NMCH, Campus Kankarbagh, Patna- 20.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Shankar Das

Mr. Abhay Kumar, Advocates.

For the Respondents : Mr. Ran Vijay Singh, AC to SC-23

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-02-2018

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order dated 12.02.2018 as contained in Memo No. 90 passed by the Assistant Drug Controller, Bihar (respondent no. 3) by which the Drug License of the medicinal shop of the petitioner has been cancelled; and for connected reliefs.

3. Learned counsel for the petitioner submits that the action of the respondents is wholly arbitrary and unsustainable in law. An inspection was conducted in the shop premises of the petitioner on 09.03.2017 in which certain irregularities were found, leading to issuance of Form-15 prohibiting the petitioner from carrying on purchase, sale etc. of medicines. Thereafter, the petitioner produced the purchase invoices of all the 17 medicines in terms of letter dated 29.03.2017 before the Drug Inspector, Patna (Annexure-2) and on a



consideration of the materials, the same were accepted and the prohibition in terms of Form-15 was cancelled in terms of letter no. 418 dated 05.08.2017 issued by the Drug Inspector, Patna (Annexure-3). Soon thereafter by letter dated 25.08.2017, the petitioner was once again required to produce the purchase invoices relating to 15 medicines out of the 17 medicines under consideration in the earlier inspection dated 09.03.2017. The petitioner once again furnished the purchase invoices of all 17 medicines by letter dated 07.02.2018 (Annexure-8) but however the impugned order has been passed pointing out certain irregularities therein. It is further submitted that the ingredients of Rule-66 of Drugs and Cosmetics Rules, 1945 have also not been satisfied prior to passing of the impugned order inasmuch as no show cause of the nature contemplated therein has also been issued to the petitioner.

4. Learned counsel for the respondents appears and has been heard.

5. Having regard to the nature of the grievances of the petitioner, this Court is of the view that no counter affidavit would be required for disposal of the writ petition. It would appear that pursuant to the inspection dated 09.03.2017, the petitioner appears to have produced the relevant purchase invoices and after consideration of the materials, Form-15 had been cancelled. Relying on the same inspection report however the license has been suspended for 15 days in terms of the impugned order which has led to complete stoppage of the petitioner's business.

6. Admittedly, there is a statutory remedy by way of appeal which is available to the petitioner against the impugned order of suspension which has not been availed. In this view of the matter, this Court is not inclined to enter into the merits of the submissions made on behalf of the petitioner. The writ petition is accordingly disposed of granting liberty to the petitioner to prefer statutory appeal



within two weeks from today. In the larger interest of the consumers and in the interest of justice, this Court directs that in case the petitioner prefers statutory appeal within the stipulated period as above, the impugned order dated 12.02.2018 (Annexure-6) shall remain stayed till disposal of the appeal.

7. It is made clear that the appellate authority would dispose of the appeal, if filed, on its own merits and without being influenced of any of the observations made herein.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.02.2018
Transmission Date	N.A.

