

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1322 of 2020

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M/s Eastern Pharma Represented by Proprietor Anil Kumar Jaiswal (male),
aged about 58 years, S/o -Late-Ram Babu Jaiswal, Premise situated at Janta
Place, G.M.Road, Patna-04, R/o- Village-Road Satgharwa, Sandalpur, P.s.-
Bahadurpur, District-Patna

... .. 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 Assistant Drug Controller, Drug Control Administration Patna, 4th
Floor, N.M.C.H. Campus, Kankarbagh, Patna-

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ram Shankar Das

For the Respondent/s : Mr.Nagendra Prasad Yadav (Sc23)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 21-01-2020 Heard the learned counsel for the parties.

By this petition, the orders dated 21.08.2019
passed by the Assistant Drug Controller, Bihar, Patna,
whereby the license of the petitioner has been cancelled
as also the order dated 16.12.2019 passed in Appeal



Case No. 30 of 2019 by the Principal Secretary, Health Department, Government of Bihar, Patna, sustaining the order of cancellation of license by the Assistant Drug Controller, have been challenged.

The major ground on which this petition rests is that the order of the Assistant Drug Controller is based on non-existent grounds and without application of mind, which order has been affirmed by the Appellate Authority also in a mechanical manner.

This Court has perused the impugned orders.

It appears that the appellate authority has only taken note of what has been alleged against the petitioner and without discussing the response of the petitioner, has stated that the grounds raised by him are not fit to be entertained and has dismissed the appeal.

On several occasions, this Court has held that an appeal is a statutory provision which is not a mere formality. It is right of second opportunity to a person explain his cause.



It is precisely for this reason that in appeals, all the grounds which are raised before the designated authority are required to be re-appreciated. Disposing of an appeal in such a cavalier manner denies to the petitioner the opportunity of second hearing.

The appellate order does not successfully pass the rigors of law and the settled precedents for deciding an appeal.

Hence, the appellate order is set aside.

The matter is remitted to the appellate authority for writing out a fresh order in accordance with law. Should the appellate authority so deem it necessary, it will issue notice to the petitioner / appellant and the State Drug Controller / Assistant Drug Controller and pass an order which is an informed one, i.e., by giving reasons in support of such order. The appellate authority shall pass an order within 60 days of filing of Memo of Appeal by the petitioner. The petitioner shall file such memo of appeal within a period of three weeks



of passing of this order.

The writ petition stands allowed to the extent indicated above and disposed off accordingly.

(Ashutosh Kumar, J)

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