
(2016) 05 PAT CK 0120

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 9032 of 2016

Emcure Pharmaceuticals Ltd.

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 20-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Drugs and Cosmetics Rules, 1945 — Rule 66(2)

Citation : (2016) 4 PLJR 103

Hon'ble Judges : Mr. Jyoti Saran, J.

Bench : Single Bench

Advocate : Mr. Fauzia Shakil, Advocate, for the Petitioners; Mr. Avinash Kumar, SC 30, for the Respondents

Final Decision : Allowed

Judgement

Mr. Jyoti Saran, J. (Oral)— Heard learned counsel for the petitioner and learned counsel for the State.

2. 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.

3. The petitioner is aggrieved by the order dated 05.05.2016 passed by the State Drug Controller-cum-Chief Licensing Authority impugned at Annexure-P3 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 - 445 in Form - 20B and the License bearing No. PAT - 445A in Form - 21B has been suspended for a period of 15 days pending report in respect of certain samples sent for laboratory test.

4. It is argument of learned counsel appearing for the petitioner that there are

emergency drugs stored and thus the suspension order has practically paralysed the functioning of the shop to the detriment of the consumer. He submits that although the irregularity pointed out basically revolves upon maintenance of registers, the storage of medicines, the price charged etc. but which are without foundation. Learned counsel has also invited the attention of this Court to a number of orders passed by the coordinate Bench 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 consumer, would pray for interim relief pending disposal of appeal so to be filed by the petitioner within two weeks from today.

5. 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 statutory prescriptions and prescribed procedures.

6. 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 consumers is persuaded to accept the prayer for interim relief as advanced by learned counsel 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 5.5.2016 passed by the State Drug Controller-cum - Chief Licensing Authority, Bihar, Patna impugned at Annexure-P3.

7. 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.

8. The writ petition is allowed subject to stipulations above.