

(2015) 01 UK CK 0036
In the Uttarakhand High Court
Case No : Writ Petition No. 213 (MS) of 2008

Luxmi Herbal Product

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 08-01-2015

Acts Referred:

Citation : (2015) 01 UK CK 0036

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : A.V. Pundir, for the Appellant; Gajendra Tripathi, Brief Holder,
Advocates for the Respondent

Judgement

Alok Singh, J.

1. Present petition is filed assailing the order dated 07.01.2008 whereby drug manufacturing license of the petitioner was revoked/cancelled. Rule 159 of the Drug and Cosmetics Rules, 1945 reads as under:

"159. Cancellation and suspension of licences

1. The licensing authority may, after giving the licensee an opportunity to show cause, within a period which shall not be less than fifteen days from the date of receipt of such notice, why such an order should not be passed, by an order in writing stating the reasons therefor, cancel a licence issued under this Part or suspend it for such period as he thinks fit, either wholly or in respect of some of the drugs to which it relates, if in his opinion, the licensee has failed to comply with any of the conditions of the licence or with any provisions of the Act or the rules made thereunder.

2. A licensee whose licence has been suspended or cancelled may appeal to the State Government within a period of three months from the date of receipt of the order which shall, after considering the appeal, decide the same."

2. A bare perusal of Rule 159 would reveal that minimum fifteen days" notice is

required to be served on the manufacturer to show cause as to why his license may not be cancelled on the ground(s) mentioned in the notice. In the present case, no notice was issued to the petitioner before passing the impugned order by the Licensing Authority, therefore, impugned order does not sustain in the eyes of law. Consequently, writ petition is allowed. Impugned order is quashed. However, it shall be open to the respondents to initiate de novo proceedings in accordance with law.