

M/S. North Bihar Agency and Others

Vs

State of Bihar and Others

Civil Appeal No. 1411 of 1981

(V. D. tulzapurkar, A. N. Sen JJ)

16.04.1981

JUDGMENT

TULZAPURKAR, J. –

1. After hearing the counsel for the parties we are satisfied that no proper opportunity was given to the appellants before their licences were cancelled. At any rate at the appellate stage additional material, not furnished to them, has been relied upon and clearly they had no opportunity to meet it. It is very clear to us that the appellate authority was greatly influenced by the fact that :

Four such drugs (resembling the reputed drugs) were sent to the Central Drugs Laboratory for test and were declared not to be standard quality. This indicates that the petitioner (appellants) deals in sub-standard and spurious quality of medicines and was playing with the life of the ailing community.

This aspect of the matter was not mentioned in the show-cause notice initially served on the appellant presumably because by that time the Laboratory Test Report had not been received but as and when it was received it ought to have been furnished to the appellants before reliance was placed thereon for the purpose of confirming the cancellation order passed by the authority in the first instance. The appellate authority has also stated that non-production of godown licence etc. was violative of the Drugs Rules. If, as explained by the appellants in their reply dated December 17, 1979 the said licence had been deposited in the office of the Civil Surgeon for renewal, how could it be produced. It shows non-application of mind by the appellate authority to the explanation furnished and there is nothing to indicate that the explanation was false.

2. In the circumstances, both the impugned orders - initial order the State Drugs Controller dated August 23, 1980 as well as the order of the appellate authority dated October 30, 1980 are set aside and we direct that the respondent should proceed afresh to deal with the appellants in the matter of cancellation of their licence after giving them proper opportunity and following the principles of natural justice.

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