

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1074 of 2015

IN

Civil Writ Jurisdiction Case No. 14685 of 2014

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M/s New Chaudhary Bakery through its Proprietor Ramnandan Chaudhary, S/O
Ambika Choudhary, Resident of Village -Ualow, P.S.- + Dist.- Begusarai.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Industries, Government of Bihar.
3. The Bihar Industrial Area Development Authority, Patna through its Managing Director.
4. Darbhanga Industrial Area Development Authority through its Managing Director.
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Darbhanga.
6. The Managing Director, Darbhanga Industrial Area Development Authority, Darbhanga.

.... Respondents- Respondent/s

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Appearance :

For the Appellant : Mr. Sudhanshu Shekhar, Advocate
Mr. Neeraj Kumar Singh, Advocate
For respondent Nos. 1 & 2 : Mrs. Archana Sinha, A.C. to G.P.31
For Respondent Nos. 3 to 6 : Mr. Lalit Kishore, P. A. A. G.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 08-10-2015

Pursuant to the appellant's application seeking allotment of land in the Industrial Estate by Bihar Industrial Area Development Authority, Regional Office, Darbhanga, (hereinafter referred to as 'BIADA'), the appellant was allotted a piece of land in the industrial area by letter, dated 23.5.1981, issued by the BIADA. In terms of the allotment so made, the appellant received, on a lease,

the land, in question, for a period of 99 years for manufacturing polythene bags, on the terms and conditions, which were to be incorporated in the deed of lease to be executed by the parties concerned. Following the agreement, a lease deed was executed by the parties concerned.

By letter, dated 30.07.1984, issued by the Managing Director of the BIADA, the appellant was allowed to diversify and start an industry for producing bread and biscuit. The appellant, according to the respondents, did not start the manufacturing process of bread and biscuit.

It is, however, claimed before us, on behalf of the appellant, that the appellant had started manufacturing process of bread, but he had to stop the production in the year 2002, because of illness of his wife. There is, however, nothing in the materials on record to show that the appellant had really started manufacturing bread and/or biscuit either within the allotted period from 30.07.1984 to 23.11.1984 or at any point of time thereafter.

The appellant was, then, served with a notice, dated 26.06.2007, to show cause as to why his allotment shall not be cancelled. The appellant chose not to respond to the notice to show cause, which had been served upon him. It was thereafter by order, dated 08.08.2007, that the allotment of the land, in question, to the

appellant was cancelled by the respondent-authority concerned.

The appellant, then, preferred an appeal; but in the appeal too, he failed to produce any material to show that he had carried out any manufacturing process on the land allotted to him. By order, dated 12.12.2013, the appellant's appeal was dismissed by the competent authority.

It was thereafter that the appellant filed a writ petition, under Article 226 of the Constitution of India, which gave rise to CWJC No.14685 of 2014.

By order, dated 28.08.2014, as the learned Single Judge of this Court has dismissed the writ petition, the writ petitioner-appellant has preferred this appeal.

We have heard Mr. Sudhanshu Shekhar, learned Counsel, appearing for the appellant, and Mr. Lalit Kishore, learned Principal Additional Advocate General, appearing for respondent Nos.3 to 6. We have also heard Mrs. Archana Sinha, learned Assistant Counsel to Government Pleader No.31, appearing for respondent Nos.1 and 2.

We do not find any illegality committed by the respondents in cancelling the allotment of land to the appellant. In fact, no illegality in making the order of cancellation of the allotment has been pointed out.

It has, however, been submitted, on behalf of the appellant, that the State may be directed to allow the appellant a specified period of time so as to enable the appellant to start an industry on the allotted land.

In the face of the facts, which have surfaced from the pleadings, and the materials on record, we do not find that the appellant has been able to make out any case, which warrant interference, in exercise of extra ordinary jurisdiction of this Court, under Article 226 of the Constitution of India, with the cancellation of the allotment of the land, in question.

Mr. Sudhanshu Shekhar, learned Counsel, appearing for the appellant, has referred to the order, dated 18.03.2015, passed, in LPA No.353 of 2008 (Bihar Industrial Area Development Authority & Ors. Vs. Deepak Paints Pvt. Ltd. & Ors) and analogous appeals, by a Division Bench of this Court to contend that the appellant needs to be given one more chance to utilize the land, allotted to him for establishing and running an industry.

We notice that the decision, which has been relied upon by the appellant, is wholly inapplicable to the facts of the present appeal inasmuch as the decision, in LPA No.353 of 2008, was given in the context of facts, which were different from the ones at hand inasmuch as the writ petitioners, in LPA No.353 of 2008, had

replied to the notices to show cause, which had been issued to them proposing to cancel their allotment, whereas the appellant herein chose not to respond to the notice to show cause, which had been served on him. This apart, there is nothing in the materials on record to show as to what manufacturing process the appellant had carried out in the land, in question. At any rate, even according to the statement made on behalf of the appellant, the appellant did not carry out any industrial activity over the said plot of land since after the year 2002.

In the circumstances indicated above, we do not find that the appellant can derive any strength from the order passed by this Court, on 18.03.2015, in LPA No.353 of 2008 and analogous appeals.

In the result and for the foregoing reasons, this appeal is dismissed.

There shall, however, be no order as to costs.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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