

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6638 of 2011

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1. M/S Om Beverage Barauni Industrial Area, Barauni, P.O. Tilrath, District - Begusarai Through Its Partner Sri Ram Bachan Singh S/O Ram Awatar Singh, R/O Village - Minapur, P.S Nayagaon, District - Begusarai

.... Petitioner

Versus

1. The State Of Bihar Through Commissioner -Cum-Principal Secretary, Department Of Industries, Government Of Bihar, Patna
2. Bihar Industrial Area Development Authority through Its Managing Director, Bihar, Patna
3. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Darbhanga
4. The Branch Manager, Bihar Industrial Area Development Authority, Branch - Barauni

.... Respondents

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Appearance :

For the Petitioner : Mr. Upendra Kumar Singh
For the Respondent- BIADA : Mr. Piyush Lal

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 29-10-2015

Mr. Upendra Kumar Singh for the petitioner and Mr.
Piyush Lal for the respondent Bihar Industrial Area Development
Authority (for short 'the BIADA').

A counter affidavit has been filed on behalf of the respondent –BIADA. No rejoinder thereto has been filed by the petitioner.

Petitioner became the applicant for allotment of plot/land in the industrial area and was allotted 0.27 acres of land in plot nos. 129 and 132 (part) by the BIADA vide communication dated 17.1.1991 (Annexure-A to the counter affidavit). The petitioner was required to make the industrial unit functional. For one reason or the another, it appears, the industrial unit was not made functional and on



request of the petitioner, the additional project report for production of Dhoop Batti etc. was submitted and accepted by the BIADA. Even then when the industrial unit was not made operational, the respondent- BIADA issued diverse notices calling upon the petitioner to explain against the proposed cancellation of the allotment of the land/plot. A reply was filed by the petitioner. The Managing Director/Executive Director of the Respondent –BIADA by order dated 8.8.2007 (Annexure-5) cancelled the allotment of the land/plot made in favour of the petitioner. Aggrieved thereby an appeal was preferred which was considered and rejected by order dated 10.10.2007 (Annexure-6).Petitioner kept waiting on the wings for more than four years when the writ petition was filed challenging the correctness/legality of those order(s) passed by the respondent-BIADA as well as the appellate authority.

Contention of the petitioner is that the land/plot was leased out to the petitioner under registered document. The case of the petitioner is, therefore, covered by judgment of this Court passed in C.W.J.C. No. 7352 of 2007 (M/S Deepak Paints Pvt. Ltd. vs. Bihar Industrial Area Development Authority) wherein this Court held that a registered document cannot be canceled by the Managing Director/Executive Director of the respondent-BIADA. Be it noted that aggrieved by the said order passed in CWJC No. 7352 of 2007 the respondent BIADA filed LPA No. 353 of 2008 which was disposed of on 18.3.2015 wherein the writ appeal Court held that the

petitioner/allottee(s), if desirous, should be given six months time to revive the industry, failing which the respondent-BIADA had jurisdiction to re-possess the land/plot.

It has been submitted that the case of the petitioner is covered by the said order passed in LPA No. 353 of 2008.

Mr. Lal, conversely, submitted that pleadings on record do not suggest that any such lease document was registered in favour of the petitioner by the respondent-BIADA. There is nothing on record to show that the unit of the petitioner ever came in production. The petitioner should not be granted any relief since he kept waiting on the wings for more than four years before approaching the Court. Delay and laches defeat equity. This Court being the Court of equitable jurisdiction should not grant any relief to the petitioner.

On a consideration of the rival submissions, it is found that no document worth the name has been produced on behalf of the petitioner to demonstrate that the land was leased out in favour of the petitioner under a registered document. Again, there is nothing on record to indicate that the petitioners unit ever came in production. If that be the case then the power of the respondent -BIADA to cancel the allotment of the land/plot and/or re-possess the same cannot be questioned. Mr. Singh, counsel for the petitioner, at this stage, has submitted that a project report was submitted by the petitioner in the year 2010 for registration and granting permission by the

respondent-BIADA to start a new industry which is pending consideration till date. Even the writ appeal Court in the case of Bihar Industrial Area Development Authority (supra) permitted the allottee 06 months time to revive the industrial unit which is in the interest of the petitioner, the respondent- BIADA as well as the State of Bihar.

Taking into consideration the aforesaid facts, in my view, the relief as prayed for in the writ proceeding cannot be granted to the petitioner. This Court, however, while disposing of the writ petition, would observe that if the petitioner files a fresh application for allotment of the land for the purpose of revival of the existing unit and/or setting up another industrial unit, I am sure the respondent- BIADA would consider the same in accordance with law and considering the fact that the petitioner has been desperately trying for revival of the industrial unit, it initially set up.

(Kishore Kumar Mandal, J)

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