

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8499 of 2012

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M/S Bihar Concrete Corporation Through Its Partner Sri Haricharan Bharti
Son Of Late Shiv Charan Bharati Resident Of Village Dararpur Math, P.S -
Teghra, District- Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar Through, The Principal Secretary, Dept. Of Industry,
Govt. Of Bihar, Patna
2. The Industrial Development Commissioner, Govt. Of Bihar, Patna
3. The Managing Director, Bihar Industrial Development Authroity, East
Gandhi Maidan, Patna
4. The Executive Director, Bihar Industrial Development Authority-Cum-
Regional Office, Darbhanga
5. The Regional In-Charge, Bihar Industrial Area Development Authority,
Branch Office, Barauni

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.10333 of 2012

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Chandra Electrical Works, Through Its Proprietor, Rajendra Prasad Singh,
Plot No. 37-A, Barauni Area, Tilrath, District- Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary. Government Of Bihar,
Patna
2. The Industrial Development Commissioner, Government Of Bihar, Patna
3. The Bihar Industrial Area Development Authority, Patna Through Its
Managing Director
4. The Executive Director, Bihar Industrial Area Development Authority,
Regional Office, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikas Kumar
For the BIADA Mr. Piyush Lal
For the State Mr. R.K. Singh AC to SC 16

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

22 12-10-2015

Heard Mr. Kumar for the petitioners and Mr. Piyush Lal

for the respondent-Bihar Industrial Area Development Authority (for short 'the BIADA').

Both the writ petitions have been filed by the original promoter(s) and raise common issues and as such they have been heard together with the consent of the parties. The order present shall govern them.

The writ applicant(s) want the original order passed by the respondent-BIADA cancelling the plot of the land allotted to the petitioner(s) for raising industrial unit(s) as also the order(s) passed by the appellate authority i.e. the Principal Secretary, Department of Industry, Govt. of Bihar, Patna rejecting the appeal(s) preferred thereagainst be quashed.

The petitioner(s) claiming themselves as Small Scale Industries having registered as such applied for allotment of the land/plot in the industrial area. The respondent-BIADA on a consideration of the request allotted plot(s) which was leased out in their favour in the year 1971. Since the petitioners failed to set up the industry and make the same functional, the respondent-BIADA took the impugned action against the petitioners and cancelled lease of the land and appeal thereagainst was also dismissed. Aggrieved thereby, the present writ petitions have been filed.

I have heard both sides.

The contention of the petitioners is that the case of the petitioners is squarely covered by the order passed in the case of Deepak Paints (P) Ltd. vs. State of Bihar {2008 (2) PLJR 293} whereagainst an appeal was preferred by the respondent-BIADA vide LPA No. 353 of 2008 and its analogous matters which were disposed of by a common order dated 18.03.2015 in the following manner:-

Under these circumstances, we dispose of the appeals by modifying the order passed by the learned single Judge to the following effect:

(A) The orders of cancellation of leases or allotment of the land to the respondents herein shall stand set aside, but they are given six months time from today either to establish the industries, wherever they are not established, or to revive the industries, if they were already established, but have become sick.

(B) If any of the respondents, i.e. the writ petitioners, intend to go for diversification, any application in that behalf shall be made within two months from today. The concerned authority shall take decision in one month thereafter. If permission for diversification is granted, reasonable time shall be granted by the

concerned authority, for establishment or modification.

(C) In default, i.e. if industry is not established or the closed one is not revived within the stipulated time, it shall be open to the authorities to resume the land for further allotment by inviting applications from the intending entrepreneurs, but not through individual allotments.

Such of the respondents who have either established the industries or have restarted the closed ones during the pendency of these appeals need not take any steps.

If any factors intervene for delayed commencement of production, it shall be open for the entrepreneurs to seek extension of time from the concerned authority.”

It has been submitted that the present writ petitions be also disposed of in the terms in which said LPA was disposed of as the petitioners are ready with alternate project for which adequate funds have also been made available to them. If within the six months’ window as indicated in the order dated 18.03.2015 the petitioners fail to install/establish industry and make the same functional then the respondent-BIADA shall be entitled to re-

possess the land/plot.

Mr. Lal considering the said stand taken by the petitioner has not objected saves and except submitting that there is delay on the part of the petitioners in approaching the court against the order which was passed in 2007.

Having heard the rival submissions of the parties, the present writ petitions, in my view, also deserve to be allowed in the terms in which LPA No. 353 of 2008 and its analogous matters was disposed of, relevant part(s)/portion(s) whereof have been extracted hereinabove.

The application is allowed in those terms. The impugned order contained Annexure-1 and 2 (in both the writ petitions) are quashed and set aside.

(Kishore Kumar Mandal, J)

HR/-

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