

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2924 of 2013

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1. M/S Khan Industrial Enterprises Having its Industrial Unit At Deona, P.O.-
Tilrath, Distt-Begusarai, Through Its Proprietor Md. Israil Khan, S/O Md. Razik
Khan R/O Deona, P.O.-Tilrath District-Begusari

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyogh Bhawan, East
Gandhi Maidan, Patna Through Its Managing Director
2. The Managing Director , Bihar Industrial Area Development Authority, Udyogh
Bhawan, East Gandhi Maidan, Patna
3. The Executive Director, Regional Office, Bihar Industrial Area Development
Authority, Bela, Darbhanga
4. The Regional Officer, Bihar Industrial Area Development Authority, Barauni
Industrial Area, Barauni, Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal
For the Respondent/s : Mr. Lalit Kishore, Senior Advocate
Mrs. Binita Singh

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 19-02-2016

Heard Mr. Kejriwal for the petitioner and Mr. Lalit
Kishore, for the respondent Bihar Industrial Area Development
Authority (for short 'the BIADA').

The petitioner was allotted a plot at Deona Industrial
Area, Begusarai by the BIADA in the year 1979. A deed of lease for a
period of 66 years was executed on 23.09.1980. It is stated that the
industrial unit was operational till 1993-94 but thereafter the industry
was closed on account of fire. Petitioner, however, continued on the



plot doing petty commercial activities. He was served with the order dated 31.01.2013 (Annexure-3) whereunder he was sought to be removed/evicted from the said industrial plot. Earlier to this, no information or communication, in this regard, was issued and served on the petitioner. Stating the aforesaid facts, the writ petition was filed. The respondent BIADA was restrained from taking possession of the unit or the industrial plot of the petitioner.

In the counter affidavit of the respondent BIADA, it is stated that since the petitioner stopped industrial activity on the plot, the respondent BIADA cancelled the allotment of the plot vide communication dated 10.12.1991. It is stated that instead of manufacturing industrial grease for which the allotment of the land was made, the petitioner started repairing work of the bodies of truck and tractor which is not the industry. The BIADA has earmarked industrial areas or /developmental centre for the type of industry which could be permitted thereon.

Mr. Kejriwal has submitted that several such matters came for consideration before this Court when a learned Judge of this Court finding illegality in the cancellation of lease, set aside the orders. The case of the petitioner is identical to those cases.

Mr. Kishore, conversely, submitted that a writ appeal was filed thereagainst by the BIADA vide L.P.A. No. 353 of 2008



which was disposed of modifying the order passed by the learned Single Judge. A web copy of the said order dated 18.03.2015 passed in L.P.A. No. 353 of 2008 and analogous writ appeals is handed in by him which is taken on record and marked 'Y' for identification. On going through the said order, this Court finds that the Appellate Court disposed of the appeal(s) by modifying the order passed by the learned Single Judge to the following effect:-

“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.”

The petitioner was called upon to file an affidavit. In response whereof, a supplementary affidavit has been filed. In paragraph 5 thereof, the petitioner has stated as under:-

“5. That the petitioner undertakes to resume the original industrial activity in the Industrial premises for the purpose of which the allotment and lease of the plot in question was granted by the respondent BIADA within six months in terms of the guidelines as laid down by this Hon'ble Court in the matter of Deepak Paints V/s The State of Bihar and Others.”

On such undertaking and in the light of the order passed in the batch of writ appeals, this Court has disposed of few applications. The case of the petitioner appears on the identical footing.

Regard being had to those orders as also the submissions of the parties, the writ application is disposed of permitting the petitioner to resume the original industrial activities and make the industrial unit functional within a period of six months failing which it shall be open to the BIADA to resume the land allotted to the petitioner in the said industrial area for further allotment in accord with the order passed in L.P.A. No. 353 of 2008 and analogous writ appeal(s).

(Kishore Kumar Mandal, J)

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