

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14553 of 2013

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1. M/S Swami Battery Company Through Its Proprietor Shatish Kumar Gupta Resident Of C-455/1, Street No. 20, Bhajanpura, New Delhi - 53

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Industries Department, Government Of Bihar, Patna
2. The Principal Secretary, Industries Department, Government Of Bihar, New Secretariat, Patna
3. Bihar Industrial Area Development Authority Through Its Managing Director, Udyog Bhawan, East Gandhi Maidan, Patna
4. The Managing Director, Bihar Industrial Area Development Authority Udyog Bhawan, East Gandhi Maidan, Patna
5. The Executive Director Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Atul Kumar Pandey, Advocate
For the State : Mr. Rajesh Kumar Sinha, AC to GP-25.
For the BIADA : Mr. Piyush Lal Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 31-03-2016 Heard the counsel for the petitioner and Mr. Piyush Lal for the respondent- Bihar Industrial Area Development Authority (for short 'the BIADA')

Challenge in this writ application is to the order dated 2.12.2011 (Annexure-6) passed by the Executive Director of BIADA under the orders of the Managing Director cancelling the allotment of plot made in favour of the petitioner industrial unit as also the order dated 11.6.2013 (Annexure-8) by which the appeal preferred thereagainst by the petitioner was rejected by

the respondent appellate authority .

On an application filed by the petitioner the respondent- BIADA allotted 1000 sq. ft land in the Industrial Estate, Muzaffarpur on 12.2.2008 (Annexure-1). Since the petitioner failed to establish the industrial unit and make it functional/operational, notice was issued and thereafter the impugned order (Annexure-6) was passed. The petitioner unsuccessfully challenged the said order in appeal.

A supplementary affidavit has been filed. Para 2 thereof reads as under:-

“2.That the petitioner undertakes that the unit in question would start production within a period of six months from today and in case of default the respondent would be entitled to resume the land in question for which the petitioner would have no objection.”

It is submitted that the petitioner deserves to be granted six months time for making unit functional in the light of the order passed by the Division Bench of this Court in a Batch of Letters Patent Appeals being LPA No. 353 of 2008 (Bihar Industrial Area Development Authority & Ors vs. Deepak Paints Pvt. Ltd.) and analogous appeals.

For better appreciation, this Court would extract the operative part of the aforesaid order hereinunder:-

“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 is submitted that this court in identical facts/circumstances granted relief to few industrial units in the light of the said order.

Having heard the parties, the writ application is allowed. The order(s) dated 02.12.2011 (Annexure-6) passed by the respondent –BIADA as well as the appellate order dated 11.6.2013 (Annexure-8) passed by the respondent no.1 are quashed and set aside. The petitioner shall make the industrial unit operational as per the undertaking given before this court within six months and produce the relevant prove before the respondent- BIADA, failing which the respondent-BIADA shall be legally entitled to cancel the allotment of the plot and resume the land/plot.

(Kishore Kumar Mandal, J)

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