

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11684 of 2013

Sarvashree Aditya Enterprises, Growth Centre, Maranga, Purnea Through Its Proprietor Anil Kumar Sah Son Of Late Nandlal Sah, Sipahi Tola, Boxa Ghat Road, Purnea, Police Station And P.O.- Maranga, District- Purnea

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary -Cum- Chairman, Bihar Industrial Area Development Authority, Department Of Industry, Govt. Of Bihar, Patna
2. The Managing Director, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna -4
3. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Bhagalpur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Singh
For the BIADA Mr. Pramod Kumar

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 08-03-2016

The petitioner is the proprietor of the industrial unit called Sarvashree Aditya Enterprises who was allotted industrial plot/land measuring 10,000 sq.ft. in Maranga Industrial Growth Centre, Purnea for establishment of an industrial unit to produce electrical appliances/stabilizers. The physical possession over the land was given on 26.03.2008. As the petitioner defaulted in complying with the condition(s) of the allotment, particularly clause 23 thereof, notices were issued to the petitioner and thereafter, vide order dated 09.08.2011 (Annexure-1/1) passed by the Executive Director, Regional Office, BIADA, the allotment of the plot/land was cancelled. Aggrieved thereby, the petitioner filed Appeal No. 19 of 2011. The appellate authority (respondent no.1) rejected the appeal on 13.05.2013 and communicated to

the petitioner vide communication dated 17.05.2013. Assailing those two orders, the writ petition is filed.

Heard Mr. Ranjan Kumar Singh for the petitioner and Mr. Pramod Kumar for the respondent-BIADA.

A counter affidavit has been filed on behalf of the Respondent-BIADA. The petitioner has filed a rejoinder thereto.

Various reasons have been disclosed by the petitioner for not getting industrial unit functional/operational within the time granted under the allotment letter. Referring to the order passed by the Principal Secretary, it has been stated that if the Court grants reasonable time the petitioner shall make the industrial unit functional and submit proof thereof to the respondent-BIADA. It is submitted that under such condition(s) this Court has granted relief to some other industrial unit(s) in the light of the order passed by a Division Bench of this Court in LPA No. 353 of 2008 (BIADA & Ors. vs. Deepak Paints Pvt. Ltd. & Ors.).

The counsel for the respondent-BIADA has opposed the prayer. It has been submitted that as the petitioner defaulted in complying with the condition of the allotment of the land/plot, notices were issued to the petitioner and only thereafter vide order dated 09.08.2011 the allotment of the land/plot was cancelled.

The purpose for allotment of the land of the industrial area is to encourage the growth of industrial unit. This was also the condition contemplated in the letter of allotment vide clause 23 thereof. It is not a case where the petitioner was not given a notice before the impugned action was taken against the petitioner.

In LPA No. 353 of 2008, copy whereof is enclosed to the

supplementary affidavit as Annexure-9, a Division Bench of this Court, while considering the appeal arising out of Deepak Paints, disposed of those appeals modifying the order passed by the learned Single Judge in the following manner:-

“Under the 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. Interlocutory application, if any, stands disposed of.”

The Court called upon the petitioner to file an affidavit in response whereof the petitioner in the supplementary affidavit has stated as under in para 5:-

“That, the petitioner undertakes before this Hon’ble Court after quashing the impugned orders as contained in Annexure-1 and Annexure-1/1 respectively, within six months unit will be in a position to start its commercial production of manufacturing of stabilizer and electrical goods.”

The counsel for the petitioner in his submission has also undertaken before the Court that in case the petitioner defaults in utilizing the time as granted by the Division Bench of this Court, the respondent-BIADA shall be at liberty to redeem the land of the petitioner for the alleged violation of the terms and conditions of the allotment. In the identical matter, this Court has granted relief to few industrial unit(s) in the light of the order passed by the Division Bench of this Court in LPA No.353 of 2008.

Regard being had to above, the writ application is allowed. The order dated 13.05.2013 passed by respondent no.1 (Annexure-1) is quashed. The cancellation order passed by the Executive Director of the BIADA as contained in Annexure-1/1 shall remain in abeyance till the expiry of six months from today. The time of six months shall be utilized by the petitioner to make the industrial unit functional and

produce the relevant document/proof before the Executive Director of BIADA. If the petitioner is able to do so the order dated 09.08.2011 shall be cancelled or withdrawn by the respondent Executive Director of BIADA.

(Kishore Kumar Mandal, J)

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