

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.48 of 2017
IN
Civil Writ Jurisdiction Case No. 1965 of 2015**

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M/s Green Leather Industries, Industrial Area Muzaffarpur through its Proprietor Md. Sahid, C-24, Industrial Area, Bela, Muzaffarpur, Bihar and Proprietor residing at Maripur Chitraguptapuri Road, P.O. - H.P.O. P.s. - Kazi Mohammadpur, District - Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar through the Principal secretary, Department of Industry, Vikash Bhawan, Baily Road, Bihar, Patna.
2. Bihar Industrial Area Development Authority through its Secretary, Udyog Bhawan, Gandhi Maidan, Patna.
3. The Managing Director, BIADA, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, BIADA, Regional Office, Muzaffarpur.
5. The Development Officer, Regional Office, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjeev Kumar
For the State : Mr. Yogendra Pd Sinha, AAG 7
For the BIADA : Mr. Girijesh Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 13-11-2017

Seeking exception to an order dated 22.06.2016 passed by



the learned Writ Court in CWJC No. 1965 of 2015 this appeal has been filed under Clause 10 of the Letters Patent.

The petitioner-industries was allotted a plot being Plot No. C-24 for establishment of an Industrial Unit by the Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA'). In the agreement entered into the lease is said to have been granted for a period of 90 years. According to the petitioner, the respondents treating the petitioner to have been granted the lease for 30 years by communication made on 25.08.2014 indicate so, and therefore challenging the communication writ petition was filed.

The learned Writ Court went into various aspects of the matter including the order of allotment dated 12.12.1995 showing the allotment for a period of 30 years. After taking into other various aspects of the matter found that the petitioner's allotment was settled only for a period of 30 years and if there is some error in the agreement, the same cannot be put into force by the petitioner for claiming allotment for a period of 90 years.

Learned counsel for the appellant invited out attention to the Industrial Policy that came into force with effect from 1st September, 1995 and argued that in the said Policy under Clause 4 lease has to be granted for a period of 90 years and, therefore, the contention of the petitioner is correct. However, on going through the



record, we find the proposal for allotment was finalized by the Authority much before the Industrial Policy dated 1st September, 1995 came into force. It was approved by the concerned Board on 27.06.1995 for a period of 30 years and in the allotment order that was issued to the appellant vide order dated 12.12.1995. Based on this decision which was taken vide resolution dated 26.6.1995 lease for a period of 30 years was only granted.

That being so, we see no error in the order of the learned Single Judge warranting reconsideration. The Industrial Policy which came into force on 01.09.1995 will not apply in the case of the petitioner. From the evidence and documents available on record it is clear that lease was granted for a period of 30 years for two acres of land. Apart from that, another agreement for additional area of 0.39 acres of land was also made after the Industrial Policy came into force, on 1.9.1995 and in this the lease is for 90 years. Therefore, this itself shows that for the allotment made prior to coming into force of the Policy, i.e. prior to 1.9.1995 the allotment was for only 30 years and after coming into force of the Policy in question the allotment has been granted for 90 years.

Taking into account all these aspects of the matter if the contention of the petitioner has been rejected by the learned Writ Court we see no reason to make any indulgence into the matter.



The Appeal stands dismissed

(Rajendra Menon, CJ)

mrl./-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
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