

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17052 of 2009

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Metal India, D-12, Industrial Area, Buxar through, its Partner Madho Singh, S/O Late Ram Bhawan Singh, Presently Residing At C/O Sri Dadan Singh, Gola Ghat, Buxar

.... Petitioner

Versus

1. Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna through Its Managing Director
2. Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna
3. Executive Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna
4. Area Incharge, Bihar Industrial Area Development Authority, Industrial Area, Buxar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Subhash Chandra Bose, Advocate
For the BIADA : Mr. Piyush Lall, Advocate
For the Respondent No.5 : Mr. Krishna Nandan Singh, Sr. Advocate
Mr. Sriram Krishna, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-01-2017

Heard learned counsel for the petitioner, Bihar Industrial Area Development Authority (hereinafter referred to as the 'BIADA') as well as respondent no.5.

The challenge in the present writ application is to the order dated 13.8.2007, as contained in memo no. 3174 dated 14.8.2007, by which allotment and the lease of 15000 square ft. of land in favour of the petitioner in Buxar Industrial Area has been cancelled.

Learned counsel for the petitioner submitted that though the order has been challenged on various grounds, but in view of the law



settled by the learned single Judge and the Division Bench, such action has been held to be illegal and beyond jurisdiction. In this connection he relied upon the decision of a Bench of this Court in the case of **Deepak Paints (P) Ltd. Vs State of Bihar & Ors.**, reported as **2008(2) PLJR 293** which has been basically affirmed, though slightly modified, by the Division Bench, in L.P.A.No. 353 of 2008 (**Bihar Industrial Area Development authority and anr. vs. Deepak Paints Pvt. Ltd.**) and analogous cases by the judgment dated 18.3.2015.

He submitted that even after the judgment passed in the case of **Deepak Paints (P) Ltd.** (supra) in which it has been held that any third party interest which may have been created because of such illegal acts of BIADA will not create any right, title or interest in the leased property since right or claim flowing from an illegal act will not confer any legal right in them, BIADA has dispossessed the petitioner and handed over the land to the respondent no.5. He submitted that in any view of the matter, as per law settled, the case of the petitioner being fully covered by the said judgment, the Court may interfere in the present matter.

Learned counsel for the BIADA though has supported the order impugned but has no answer to the aforesaid judgment of this Court. His main defence was that the conduct of the petitioner has



disentitled him to any relief on the ground that his unit had stopped functioning after two years and thus, the land granted for running of industrial unit cannot be retained by the petitioner as it in an idle condition and also has dues towards BIADA.

Learned counsel for the respondent no.5 has only assisted the Court on the point that they have been rightfully allotted the land as per their own entitlement and should not be dispossessed because of the litigation *inter se* between the petitioner and BIADA.

Having considered the matter in its entirety, this Court has no hesitation to hold that the order impugned is unsustainable, particularly, after the judgment of this Court in the case of **Deepak Paints (P) Ltd.** (supra) which has been affirmed by the Division Bench in L.P.A.No. 353 of 2008 and analogous cases. However, the ultimate order which is required to be passed in the present case shall have to balance the equities between the parties.

The Court deems it appropriate to indicate that in terms of the judgment in the case of **Bihar Industrial Area Development Authority** (supra) passed in L.P.A. No. 353 of 2008, though the directions contained in the said judgment was restricted with regard to the respondent, who was writ petitioner before the learned single Judge, but since the petitioner herein has separately filed the instant writ petition, the same directions would apply in the present case also.



Accordingly, the writ application stands disposed off by holding that the action against the petitioner, of cancelling the allotment and lease, cannot be sustained, and the order impugned is, thus, set aside. However, setting aside of such cancellation will not automatically make the petitioner entitled to claim his right over the land which is subject matter of this writ application.

On a query of the Court as to whether there was equivalent land of BIADA in Buxar, the answer was in the affirmative. In that view of the matter, in the considered opinion of the Court, cause of justice shall be served by directing BIADA to allot an equivalent area of land to the petitioner for the purpose of setting up of his industrial unit.

However, the Court would also point out that the petitioner shall be liable to strictly comply with the terms and conditions of the lease agreement. Thus, finally the allotment in favour of respondent no.5 is also upheld. He may continue in peaceful possession and run his industry. The petitioner shall be given possession of the land in his favour within two months from the date of receipt of the order by the Executive Director, BIADA, after completing the formalities, in accordance with law. Thereafter, as has also been assured by learned counsel for the petitioner, he shall strictly comply with all the requirements as per terms and conditions



and shall run his unit.

It is clarified that the terms and conditions of allotment of the petitioner of a different piece of land shall be the same as was earlier.

It goes without saying that the plot to be allotted to the petitioner would be of one of the demarcated plots which is nearest in area which has to be allotted to the petitioner.

The Court would like to record that the order has been passed after broad consensus among the parties

(Ahsanuddin Amanullah, J)

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