

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13353 of 2014

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Upendra Kumar Singh Son of late Bhola Nath Singh, resident of Village-
Chintamanpur, P.S.- Pipra, District- East Champaran, presently residing at Zenith
Petrol Pump, C/O Prof. K.K. Singh, P.S.- Kazi Mohammadpur, Post- Ramna,
District- Muzaffarpur, Partner M/S Vaishali Sheo Company

.... Petitioner/s

Versus

1. The Chairman, Bihar Industrial Area Development Authority, East Gandhi
Maidan, Patna
2. The Managing Director, Bihar Industrial Area Development Authority, East
Gandhi Maidan, Patna
3. The Secretary, Bihar Industrial Area Development Authority, East Gandhi
Maidan, Patna
4. The Executive Director, Bihar Industrial Area Development Authority, Area
Office, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prashant Sinha, Advocate
For the Respondent/s	:	Mr. Rajeev Ranjan Prasad with Mr. Nilanjan Chatterjee and Mr. Abhishek Singh, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 20-02-2017

Heard learned counsel for the petitioner, State and the
Bihar Industrial Area Development Authority.

The petitioner has moved the Court seeking the



following reliefs:

“(i) For issuance of writ in the nature of certiorari for quashing of Memo No. 1293 dated 25-07-2007 issued by the Executive Director, Bihar Industrial Area Development Authority, Area Office, Muzaffarpur whereby the allotment of 0.25 acres of land made in favour of the Firm of the Petitioner in Plot No. C-25 has been cancelled without issuing any show cause notice to the petitioner.

(ii) For holding that the letter of cancellation is beyond jurisdiction as the Firm of the Petitioner was given with the land on lease and such type of allotment could have been cancelled only when the lease deed is cancelled by a competent Court.

(iii) For holding that the Petitioner cannot be held liable for delay and laches in challenging the order dated 25-07-2007 as the order was communicated to a partner, who died in the year 1999 and the Petitioner was never communicated about the order.

(iv) For restraining the BIADA from making allotment of the land, which was allotted to the Firm of the Petitioner to any other Firm or Unit during the pendency of the writ application.



(v) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.”

The petitioner was allotted a piece of land in Muzaffarpur Industrial Estate in the year 1978. Later, in the year 1991 due to the Company not doing well, the matter was referred to the Industries Department, Government of Bihar which declared it to be a sick unit in October, 1991 for a period of one year. Thereafter, by the impugned order contained in Memo No. 1293 dated 25.07.2007 issued by the respondent no. 4, the allotment in favour of the petitioner of 0.25 acre of land corresponding to Plot No. C-25 has been cancelled.

Learned counsel for the petitioner submitted that the said order has been passed without any notice or show cause to him and further the petitioner's livelihood being affected, he may be given an opportunity to re-start his unit as he has co-opted partners so as to bring in funds for revival of the unit.

Learned counsel for the BIADA submitted that the petitioner never really came into production and at least in the year 1991, it was declared a sick unit but the same was only for one year and till date it has not come into production again. It was submitted that the petitioner, thus, cannot be allowed to hold on to such plot of



land which is meant for running an industrial unit. Learned counsel further submitted that neither when one of the partners of the firm had died nor when new partners were brought in, such information was communicated to BIADA, as was required, nor permission taken.

Learned counsel for the petitioner, by way of reply, submitted that he had filed a representation for extension of the period for which the unit was declared sick but the respondents have not acted on the same.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present writ application. The petitioner was allotted the plot in question in the year 1978 and at least in the year 1991 it was declared to be sick and just because an application was pending to extend the period of such declaration, the same was never extended and there is nothing on record to show that the petitioner had made any effort to revive the unit except for the fact that he may have co-opted other person(s) to run the unit. It was incumbent upon the petitioner to show either to this Court, or more importantly, to the authorities concerned before whom he was required to furnish the Detailed Project Report and his proposal for revival of the unit, even after inducting any new person as partner, but him having chosen not to act and only wanting that the allotment in



his favour of the land be continued, does not reflect any sincere desire to run the unit. The Court need not overemphasize the fact that the developed industrial areas are meant for running industries and not keeping the allotment by way of investment. The cancellation having been made in the year 2007 cannot be said to suffer from any infirmity as the same has been done after almost 30 years of the initial allotment and more than 16 years of the unit having been declared to be a sick and that too only for one year. The fact that no steps have been taken by the petitioner even for getting the status of a sick unit extended beyond 1992 does not indicate the *bona fide* of the petitioner. Moreover, the fact that the death of a partner and reconstitution of the firm by induction of fresh partner(s) not having been brought to the notice of BIADA, as was required, leaves no doubt that the same was only on paper with no real intention to act on the ground.

Learned counsel for the BIADA has raised an objection with regard to the maintainability of the writ petition, inasmuch as, the firm, though a partnership, has not moved before the Court whereas only one of the individual persons has filed the writ petition in individual capacity.

The Court also finds substance in such contention of learned counsel for the BIADA, that the firm was required to move



before the Court and not any person in his individual capacity, even though he may be a partner in the said firm.

For the reasons aforesaid, the writ petition fails and is accordingly, dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	AFR
Uploading Date	23.02.2017

