

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL WRIT No.24372 of 2018

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Sarvashree Sushil Tyre Re-Trading, Industrial Area, Barauni, P.O-Tilrath,
District-Begusarai through its proprietors Sushil Kumar Rai, Son of late
Nunulal Rai, Resident of Jaimra, Police Station- Barauni, district- Begusarai.
... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Industry,
Government of Bihar, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority,
Udhyog Bhawan, East Gandhi Maidan, Patna-4.
3. The Secretary, Bihar Industrial Area Development Authority, Udhyog
Bhawan, East Gandhi Maidan, Patna-4.
4. The Executive Director, Bihar Industrial Area Development Authority,
Udhyog Bhawan, East Gandhi Maidan, Patna-4.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar.

For the Respondent/s : Mr.Yogendra Prasad Sinha -AAG 7.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-02-2019 This writ application has been preferred for issuance
of a writ of certiorari to quash and cancel the order dated
24.11.2018 passed in Appeal Case No.40 of 2014, by which the
Principal Secretary, Department of Industry, Government of
Bihar being the Appellate Authority for hearing appeals against
the order passed by the Managing Director, Bihar Industrial
Area Development Authority ('BIADA') has been though
pleased to interfere with the order cancelling allotment of
industrial plot of the petitioner but while doing so, the Appellate
Authority has imposed certain terms and conditions without
there being any authority to do so, as claimed by the petitioner.



The grievance of the petitioner is limited to the imposition of a condition whereunder the petitioner has been directed to submit a Bank Guarantee of Rs.4,00,000/- for a period of two years. Learned counsel for the petitioner submits that the Appellate Authority could not have imposed a condition to submit a Bank Guarantee as no such conditions are provided either under the terms and conditions of the allotment letter nor any law on the subject.

On the other hand, learned counsel representing 'BIADA' has drawn the attention of this Court towards the fact recorded in the impugned appellate order to show that it was the petitioner who had offered to submit a Bank Guarantee of Rs.2,00,000/- with an undertaking that he would start production within four months if the plot in question is restored. Learned counsel for the 'BIADA' submits that earlier the Managing Director, BIADA had cancelled the allotment of the plot when it was found that the allotted premises has been deserted and is in dilapidated condition and that no any industrial activity was seen there during last six years. Learned counsel submits that the allotment was cancelled because the petitioner was violating the terms and conditions of the allotment. In these circumstances, the Appellate Authority has



rightly imposed a condition for submission of a Bank Guarantee or Rs.4,00,000/-.

Having heard learned counsel for the petitioner as well as learned counsel for the 'BIADA', this Court is of the considered opinion that the Appellate Authority while directing restoration of the plot in question in favour of the petitioner cannot impose a condition which is not envisaged under the terms and conditions of the allotment. The imposition of a condition to submit a Bank Guarantee would have been entirely bad in law, had it not been a case of 'BIADA' that the petitioner had himself offered before the Appellate Authority to submit a Bank Guarantee of Rs.2,00,000/- to show his *bona-fides*. This Court is of the view that to the extent the petitioner himself offered to submit a Bank Guarantee of Rs.2,00,000/- to show his *bona-fides*, at this stage, the petitioner cannot be allowed to turn back and challenge the direction to submit the Bank Guarantee, however, this Court finds that the amount of the Bank Guarantee has been fixed at Rs.4,00,000/- by the Appellate Authority. This has no basis.

The impugned appellate order is required to be modified to the extent that the petitioner will now submit a Bank Guarantee of Rs.2,00,000/- and not of Rs.4,00,000/-. If



such a Bank Guarantee along with other conditions mentioned in the impugned appellate order are fulfilled within the prescribed period by the appellate authority, from the date of receipt/production of a copy of this order, the 'BIADA' will take steps for restoration of the plot in favour of the petitioner and shall provide him three months time to start production from the unit in question for which the industrial plot was allotted by 'BIADA'. If the aforesaid conditions are not fulfilled, the petitioner cannot be allowed to retain the industrial plot and it will be open for 'BIADA' to take steps in accordance with law.

The writ application stands disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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