

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.431 of 2019

=====

M/s Pre Stress Concrete Poles , Industrial Area, Purnea City through its proprietor Sri Narayan Saraf, Son of Late Ramjeevan Prasad Saraf, Resident of Gulab Bagh, Purnea, Police Station- Sadar Thana, Purnea, District- Purnea.

... .. 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, Udhog Bhawan, East Gandhi Maidan, Patna-4
3. The Secretary, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna-4
4. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Barari, Bhagalpur.
5. The Area Incharge, Industrial Area, Maranga, Purnea.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Singh, Adv.
For the Respondent/s : Mr. Kumar Abhimanyu Pratap, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-02-2019 This writ application has been preferred for setting aside the order dated 17.12.2018 passed in Appeal Case No.41 of 2016 and also for quashing of the order dated 28.06.2016 issued vide memo no.436/D under the signature of the Executive Director, Bihar Industrial Area Development Authority (hereinafter referred to as the 'BIADA'), Regional Office, Bhagalpur by which two acres of land allotted in favour of the petitioner has been cancelled and the deposited amount has been forfeited.

Learned counsel representing the petitioner submits



that the petitioner is proprietor of the unit which is a small scale industry unit. The land in question was allotted in the year 1978, the lease deed was executed in the year 1982 for land measuring area 1.50 acres. Additional 0.50 acres of land was allotted vide allotment letter dated 14.11.1983.

The allotment of land of the petitioner was cancelled vide order dated 20.08.2011 which was challenged before the appellate authority in Appeal Case No.32 of 2011. The appeal was allowed with some interim order and the matter was remanded to the Managing Director, BIADA. On remand, the Managing Director passed order dated 11.12.2013 by which upon inspection and being satisfied that the unit is in commercial production the cancellation order was recalled. A copy of the order dated 11.12.2013 as contained in Annexure-P/2 has been brought on record to show that the cancellation order was recalled.

Learned counsel for the petitioner submits that the unit of the petitioner was engaged in manufacturing of Pre-stress Concrete Poles for which sole consumer was Power Distribution Company. Later on, due to the certain issues, the future of all the units including unit of this petitioner engaged in similar business had been jeopardized. It is submitted that the



cancellation of allotment by the impugned order vide memo no.436/D dated 28.06.2016 on the ground that after restoration of allotment the unit has not started production and has unnecessarily engaged the industrial plot without there being any use, is not based on correct facts. It is submitted that the unit was in production. It is further submitted that even the appellate authority while disposing of the Appeal Case No.41 of 2016 on 17.12.2018, vide order as contained in Annexure-P/1, failed to appreciate this aspect of the matter and dismissed the appeal. Both the orders have thus been assailed by learned counsel for the petitioner.

On the other hand, learned counsel representing the BIADA has taken stand as disclosed in the counter affidavit filed on behalf of the BIADA. It is submitted that the petitioner has moved this Court making vague statements and in fact he is not coming with truth before this Court. Learned counsel submits that after the possession was restored in favour of the petitioner under bonafide belief that the petitioner would engage in industrial activity, it was found subsequently that the petitioner was not doing any industrial activity from the industrial plot. There was no sign of the industrial activity on the demised premises despite long opportunity granted to the



petitioner. Learned counsel submits that these are the industrial plots which are being kept engaged on the strength of litigation without there being actual use of the land for the industrial purpose which is in fact a stumbling block in the industrial growth of the State.

Having heard learned counsel for the petitioner and learned counsel representing the BIADA as also on perusal of the records, this Court finds that not only the original authority of BIADA has found that the petitioner is not engaged in industrial activity on the land, even the appellate authority has recorded his finding on the basis of the materials available on the record as under:-

“i. The unit was allotted land in the year 1978 for starting a concrete pole manufacturing unit. The land was measuring 1½ Acres and later on another 0.5 acres were allotted in 1983 but the unit did not start any industrial activity and hence his allotment was cancelled.

ii. It also appears that the significant amount of dues are pending against the unit.

iii. The unit was earlier cancelled in the year 2011.

iv. However, upon filing an appeal, the then Appellate Authority gave another opportunity to the unit to start activity in the year 2013.

v. However, the unit did not start any activity till December, 2015.

vi. Numerous notices were sent by BIADA to the appellant to start the unit. However, since he did not



respond, his unit was cancelled in the year 2016.

vii. In his Appeal application he has mentioned that the BIADA gave him land on lease for 99 years and that they have paid the entire lease rent also. He further mentioned that he is considering starting a maize/wheat packaging unit but has no evidence to suggest that any concrete action has been taken by him.

Viii. His registered activity is for manufacturing of concrete poles but he is talking about maize and wheat packaging unit in his Appeal application.

ix. I find some receipts for sell of concrete poles issued to various parties. However, these cover only an area of 6 months between 2015 and 2016 (July 2015 to January 2016). It seems that the unit remained non-functional for most of other time forcing BIADA to cancel the unit in June 2016.

x. I have also seen the photographs and note with concern that the relevant plots is in state of disuse and is covered with thick forest under growth as is evident from the reports of Area In-charge Shri Gopal Prasad dated 25th October 2018. This clearly shows that there is no production in the unit. This cannot be allowed in a important place like Purnea where there are lot of applications pending for allotment of land.”

This Court is sitting in its writ jurisdiction under Article 226 of the Constitution of India and the reliefs in the writ jurisdiction is in the nature of discretionary relief.

In the given facts and circumstances of the case where there are concurrent findings of the authorities of BIADA as well as the appellate authority that the petitioner is retaining the



land without there being any industrial activity over a long period, this Court does not find any reason to interfere with the impugned orders.

This Court, therefore, finds no merit in the writ application. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

arvind/-

U			
---	--	--	--

