

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4015 of 2019

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M/s India Animal Food Industries through its Proprietor Md. Aslam, Gender- Male, aged about 49 years, Son of Md. Iliyas, Resident of Village- Vikram Patti, Police Station- K. Hat in the District of Purnea... .. Petitioner

Versus

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

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
C.A.V. JUDGMENT

Date : 11-03-2019

This writ application has been preferred seeking set aside the order as contained in Memo No. 80/L dated 04.01.2019 by which the Bihar Industrial Area Development Authority (hereinafter in short 'BIADA') is said to have resumed possession of the land allotted to the petitioner being Plot No. 85 (P), area 1 Acre situated at Industrial Growth Center, Maranga in the district of Purnea. The said plot was earlier allotted to the petitioner for purpose of running the business of Animal Food Industry. The allotment of plot was cancelled by



‘BIADA’ on the ground of violation of terms and conditions of allotment order.

The petitioner had challenged the cancellation order before the Principal Secretary, Department of Industries, Government of Bihar in Appeal No. 08 of 2017.

The aforesaid order dated 04.01.2019 seems to have been passed by the Managing Director of ‘BIADA’ by taking note of the order dated 26.11.2018 passed by the Principal Secretary, Department of Industries, Government of Bihar being Appellate Authority in Appeal No. 08 of 2017. The petitioner has also challenged the appellate order dated 26.11.2018 as contained in Annexure-1 to the writ application as well in the present writ application.

It further appears that so far as challenge to the appellate order dated 26.11.2018 (Annexure-1) is concerned, the same is limited to the condition no. II by which the appellate authority has directed the appellant-writ petitioner to submit a Bank Guarantee of Rs. 6 Lakhs within 15 days from the date of order, for a period of two years along with an affidavit to ‘BIADA’ that the appellant will start the business within 3 months from the date of the order and shall remain in continuous operation and should he stop his operations or violate any other condition of the allotment letter/BIAIDA Rules, the above Bank Guarantee shall be encashed by ‘BIADA’.



In course of submissions learned counsel for the petitioner has submitted that the Managing Director, BIADA has passed the impugned order without waiting for a reasonable time as the petitioner was in the process of preparation of the writ application and filing of the same before this Court when the impugned order contained in Memo No. 80/L dated 04.01.2019 was passed. Prior to passing of the order dated 04.01.2019 as contained in Annexure-2, the petitioner was not called upon to give any opportunity to explain his position. It is submitted that in fact several similar orders passed by the appellate authority came to be challenged in series of the writ applications before this Court and upon considering the stand of 'BIADA' and the petitioner in those cases it was found that the direction of the appellate authority to the appellants of those cases to submit Bank Guarantee of the given amount had no basis. Such direction was neither in tune with the terms and conditions of the allotment letter nor the same had any sanction of law. In fact considering the fact that in all such cases the appellant had in order to show their bonafide agreed to submit a Bank Guarantee of a particular amount on their own volition, this Court had modified the appellate order to the extent that the appellants shall submit a Bank Guarantee of the amount to which they had agreed before the appellate authority and not more than that.



It is submitted that in the present case, as it will appear from the impugned order as contained in Annexure- '1' itself the appellant-writ petitioner had shown his willingness to deposit a Bank Guarantee of Rs. 1 lakh and had sought time for a period of six months to re-start the business if the plot is restored. It is submitted that the similar order may be passed in the present case also. A copy of the order dated 16.01.2019 passed in C.W.J.C. No. 1154 of 2019 has been placed before this Court to demonstrate that in similar circumstance this Court had disposed of the writ application directing the writ petitioner of the said case to submit a Bank Guarantee of Rs. 1 lakh only. The order passed in C.W.J.C. No. 1154 of 2019 is also supported by another order of this Court passed in C.W.J.C. No. 1029 of 2019. All those orders were passed after hearing learned counsel for the BIADA. It is submitted that direction of the Appellate Authority to submit a Bank Guarantee of Rs. 6 lakhs is causing immense hardship to the petitioner in augmenting its resources.

Since in this case no one has appeared on behalf of BIADA, after hearing the learned counsel for the petitioner and upon perusal of the records, this Court finds that the case is similar to some other writ applications which have been disposed of earlier by this Court in similar circumstance.

This Writ application is also being disposed of by modifying the order of the Appellate Authority to the extent that in



case the petitioner clear the pending dues, if any of 'BIADA', with interest up-to-date and submits an irrevocable Bank Guarantee of Rs. 1 lakh for a period of two years along with an affidavit that the petitioner shall start commercial production from the unit in question within three months from the date of issuance of the order restoring the allotment and possession of the plot to the petitioner by the Managing Director, BIADA, he will continue with his allotment of the plot.

If the aforesaid conditions are met within a period of three weeks from today, 'BIADA' shall restore the allotment and possession in favour of the petitioner within one week thereafter and the petitioner will be allowed to come in commercial production within next three months. Failure of the petitioner to abide by any of the conditions aforesaid within the prescribed period and non-compliance with the undertaking given in the affidavit would entitle the 'BIADA' to repossess the land in question and take other appropriate measures for recovery of the outstanding dues and other costs.

For a period of three weeks from the date of this order, the order of the Managing Director, BIADA as contained in Memo No. 80/L dated 04.01.2019 shall be kept in abeyance. If the aforesaid order of the Appellate Authority as modified by this Court hereinabove is not complied with within the given period, the



BIADA shall proceed in accordance with it’s decision as contained in Annexure- ‘2’ to the writ application.

In case the petitioner complies with the aforesaid conditions within the stipulated period, the consequences as above shall follow and the order as contained in Annexure-2 shall lose it’s significance.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	
CAV DATE	08.03.2019
Uploading Date	11.03.2019
Transmission Date	

