

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19270 of 2017

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Usha Liquors through it's Director smt. Usha Sinha, Wife of Dr. Amrendra Kumar Sinha, Surgeon, Imalichatti, Main Road, P.O. Imali Chatti, P.S. Brahampura, District- Muzaffarpur- 842001.

... .. Petitioner

Versus

1. The Bihar Industrial Development Authority, through it's Managing Director, Udyog Bhawan, East Gandhi Maidan, Patna – 800001.
2. The Managing Director, Bihar Industrial Area Development Authority BIADA Udyog Bhawan, East Gandhi Maidan, Patna – 800001.
3. The Director, Bihar Industrial Area Development Authority BIADA Udyog Bhawan, East Gandhi Maidan, Patna – 800001.
4. The Executive Director, BIADA, Regional Office, Bela Industrial Area, Bela Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Anshuman Singh, Advocate
For the BIADA : Mr. Yashraj Bardhan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 01-03-2019 Heard learned counsel for the petitioner and learned counsel representing the Bihar Industrial Area Development Authority.

Petitioner in the present case is seeking two fold reliefs. Her first prayer is to quash the office order vide memo no. 1319 dated 26.07.2017 by which the allotment of the plots in question were cancelled by the Bihar Industrial Area Development Authority (hereinafter referred to as the “BIADA”). The second prayer of the petitioner is that her claim for compensation has also been refused vide impugned letter dated 07.02.2017 without considering the case of the petitioner,



hence the impugned communication be set aside.

In course of argument, Mr. Anshuman Singh, learned counsel representing the petitioner submits that in fact the letter by which the allotment was cancelled was never served upon the petitioner. It is only when her son sought information under Right to Information Act, the “BIADA” supplied her a copy of the show cause notice and the cancellation order which were on the record.

It is further submitted that since the allotment of the plots was cancelled abruptly and without following the statutory provision, as contained under Section 6(2)(a) of the “BIADA” Act 1974, the petitioner has suffered huge lose and damages for which she would be entitled to be compensated by “BIADA”. It is submitted that the “BIADA” has rejected her claim in this regard.

On the other hand, learned counsel representing the “BIADA” submits that the writ application is fit to be dismissed on the ground of delay and laches alone. It is submitted that the plea of the petitioner that she was not aware of the cancellation order which was issued in the year 2007 is not fit to be accepted by the writ court as it is being agitated at least after 10 years of the cancellation of the allotment.



Learned counsel further submits that the plot was allotted to other units and these are the facts which are well within the knowledge of the petitioner. Even the letter as contained in Annexure-‘6’ issued by the Executive Director, “BIADA” Muzaffarpur has mentioned this fact, despite being this position the petitioner has moved this court challenging the cancellation order that too without impleading the entities which have already been allotted to plots long back.

It is further submitted that the “BIADA” cancelled the plot as it was a mortgaged unit with ‘BSFC’ and in order to come over the sickness and the ideal possession of the industrial plots the ‘BSFC’ and “BIADA” had taken some policy decisions.

Having heard learned counsel for the parties and on perusal of the records, this court finds force in the submission of learned counsel representing the “BIADA”. This court cannot entertain a writ petition challenging the cancellation order which has been passed in the year 2007. Nothing has been brought to the notice of this court to show that prior to seeking information after about 8 years of cancellation, the petitioner had taken any steps to know the status of the cancelled plots. Moreover, the new units have already been allotted the plots. This court sitting



in its writ jurisdiction under Article 226 of the Constitution of India cannot create a cause of action for the parties.

Thus, the challenge to the cancellation order passed in the year 2007 in this writ application is dismissed on the ground of delay and laches alone.

The second prayer for award of compensation is also not to be fit to be entertained in the present jurisdiction. The letter no. 122 dated 07.02.2017 as contained in Annexure-6 shows that the competent authority of "BIADA" has rejected the claim for compensation saying that there was no challenge to the cancellation and at this stage after 9 years the petitioner cannot be allowed to revive a dead issue.

In my opinion, if the petitioner is looking for compensation, she may seek her remedy before appropriate forum, if still available to her, but in no case the order of this court will constitute any cause of action to the petitioner. The application so far as prayer no. 2 is concerned is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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