

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4564 of 2019

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Munni Kumari Gupta @ Munni Gupta Wife of Late Krishna Kumar Gupta,
Resident of Mohalla- Idgah, Ward No. 34, Old G.T. Road Bus- Stand, Dehari-
On-Sone, P.S.- Dehari, District- Rohtas (Sasaram).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Industrial Department Government of Bihar, 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 Development Officer, Bihar Industrial Area Development Authority, East Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority, East Gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Alok Ranjan, Advocate
For the Respondent/s	:	Mr. Rakesh Ambastha, AC to AAG-7
For Res. No. 2 to 5	:	Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-07-2019 Heard learned Senior Counsel for the petitioner and

learned counsel for the Bihar Industrial Area Development

Authority as also the State.

The petitioner has moved this Court seeking
following reliefs:

“(i) For issuance of an appropriate writ including a
writ in the nature of writ of certiorari setting aside
the order dated 01.04.2018 passed Managing
Director Bihar Industrial Area Development
Authority (Respondent No. 2) by which he has



cancelled the registered lease deed dated 03.12.1999 and 20.12.1999 under which an area of 20,400 sqft. land has been allotted in favour of the deceased husband of this petitioner for establishment of cement industries for a period of 90 years.

(ii) For issuance of an appropriate writ including a writ in the nature of writ of certiorari setting aside the order dated 13.12.2018 passed by Sri K. K. Pathak, Principal Secretary, Department of Industries Govt. of Bihar in Appeal Case No. 27 of 2016. Who is appellate authority and by way of this said order learned appellate authority has confirm the impugned order dated 01.04.2016 passed by the Managing Director BIADA against the petitioner. The appellate authority also directed the Managing Director to BIADA to take deposition of the land immediately.

(iii) For issuance of an appropriate writ including a writ in the nature of writ of certiorari setting aside the order dated 08.01.2019 passed by Executive Director BIADA under memo no. 235/L dated 08.01.2019 of his office by which he has inform the petitioner that in compliance of order dated 13.12.2018 passed in appeal no. 27/2016 the respondent authorities are going to take possession of the land in question.

(iv) For that the petitioners reserve their right to urge fresh grounds if required at the time of hearing of this writ petition.

(v) For issuance of any other appropriate writ (s) order(s), facts and circumstances of the case.



AND

In the interim, the petitioners pray for the following relief during the pendency of this writ.

(vi) For issuance of an appropriate writ including a writ directing the respondent authorities to stay the operation of order dated 08.01.2019 passed by Executive Director BIADA Respondent no. 5. By which he has inform the petitioner that the authorities are going to be take position of the land in question in compliance of order dated 13.12.2018.”

Mr. Rajendra Narain, learned Senior Counsel representing the petitioner submits that no doubt due to various unavoidable circumstances and particularly after the death of husband of the petitioner, the unit in question remained under closure but in view of the judgment of the Hon’ble Division Bench of this Court in L.P.A. No. 353 of 2008 decided on 18.03.2015, the petitioner may be given one opportunity to request the Bihar Industrial Area Development Authority (n short ‘BIADA’) for grant of permission to diversify the business and establish a unit for embroidery and cloth.

Learned Senior Counsel has submitted before this Court that the unit had to face a number of problems including disconnection of electricity in the year 2011 and then death of the husband of the petitioner who was the original allottee in the year 2013. It is submitted that the petitioner contacted the



authorities of BIADA for purpose of diversification of the unit in question but then she was informed about the outstanding of Rs. 2,08,496/- against the unit and a copy of cancellation order of unit was also supplied to her. It is submitted that the petitioner would be ready to start a production unit of embroidery products within a period of six months after the allotment in favour of the petitioner is revived.

Mr. Kumar Priya Ranjan, learned counsel representing the 'BIADA' submits that this writ application is fit to be dismissed in limine. It is his submission that the husband of the petitioner was allotted about 20 thousand sq. feet of industrial plot in the year 1998. Subsequently in the year 1999, 400 sq. feet of land was further allotted and physical possession of the land were handed over to her husband who had agreed to establish a cement industry unit. It is submitted that from bare reading of the impugned order it would appear that the unit came to be closed only few years after its commencement and since the year 2004 no industrial activities were going on over the said land. It is pointed out from the impugned order that in fact the petitioner has not denied the assertion made in the impugned order that the industrial plot/premises were being used as godown for paddy crops and the same was given



on rent to some other person. Learned counsel submits that these are the materials which have not been denied and in the whole writ application it has not been even tried to explain by the petitioner, therefore, the breach of terms and conditions of the allotment is an admitted position.

Learned counsel further submits that the petitioner had availed the remedy of appeal before the appellate authority against the order of cancellation of allotment, however, the appellate authority found that the appellant had not put up any proposal as to how she wish to arrange the money for starting the unit or solve the dispute with the Electricity Board. It is submitted that the plea which is being taken before this Court that the petitioner should be granted some time for diversification was not the plea before the appellate authority which shows that the petitioner is changing her stand as per her convenience, her sole intention is to some how continue with the possession over the industrial plot.

Learned counsel submits that the industrial plot cannot be allowed to be possessed in the manner petitioner has remained in possession over all these years, thus, at this stage a totally vague plea is being taken by the petitioner, the judgment of the Hon'ble Division Bench in L.P.A. No. 353 of 2008 was



passed in the year 2015.

Having heard learned Senior Counsel for the petitioner and learned counsel representing the 'BIADA' as also on perusal of the records, this Court finds substance in the submissions of learned counsel for the 'BIADA'.

On going through the statements made in the writ application, this Court finds no specific statement of the petitioner that at any time after closure of the unit in the year 2004 and thereafter, before cancellation of the allotment, either her husband or she had herself made any application before the 'BIADA' seeking permission to go for diversification. In paragraph '11' of the writ application only a halfhearted and vague statement has been made stating that while the petitioner contacted the authorities of 'BIADA' for purpose of diversification of the unit in question, she was informed that some amount is due against the unit and then she was supplied a copy of cancellation order. Neither any specific statement has been made to this effect nor any copy of request if any made by the petitioner has been brought on record.

In the nature of facts and circumstances of the case where the petitioner has not even denied the findings recorded in the impugned order saying that the industrial plot was being



used for storage purpose as a godown and the same has been provided on rent to some other person, this Court finds no fault with the impugned orders and is not willing to exercise its discretionary power under Article 226 of the Constitution of India to entertain this writ application.

The writ application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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