

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6478 of 2019

=====

Ravindra Kumar Proprietor of M/s Sidhi Rice Mill Industrial Development
Centre Maranga, Purnea, Resident of Vill.- Korathlari, Maithil Tola, Mohalla-
Madhubani, Distt.- Purnea

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Industry Department, Govt.
of Bihar, Patna
2. The Principal Secretary Department of Industries Govt. of Bihar, Patna
3. The Managing Director Bihar Industrial Area Development Authority, Bihar,
Patna
4. The Development Officer Regional Office, Bihar Industrial Area
Development Authority, Bhagalpur

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar, Adv. Ms. Arti Kumari, Adv.
For the State	:	Mr.Kinkar Kumar (SC9) Mr. Zaki Haider, AC to SC-9
For the Respondent nos.3&4:		Mr.Lalit Kishore, Sr.Adv. Mr.Devesh Shankaran, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-04-2019 Heard learned counsel for the parties.

This writ application has been filed for the following

reliefs:-

*“(i) For quashing the order of the Principle Secretary,
Industries Department, Government of Bihar dated
12.12.2018 passed in Appeal Case No.32 of 2015 by
which Ld. Principle Secretary has been the pleased to
passed the order ex-party and refuse to interfere with
the order of the M.D. BIADA and dismissed the
appeal.*

*(ii) For issuance of writ of certiorari for quashing of
the order dated 15.07.2015 passed by Ld. Managing*



Director, Bihar Industrial Area Development Authority, Bihar, Patna by which the Ld. Managing Director has been pleased to cancel the Allotment of land/shade which is allotted to the petitioner for establishment of cattle and pottery feed industry in the name & style of Sidhi Industries, in the Industrial Development Centre, Maranga, Purnea vide letter no.742/D dated 26.09.2011.

(iii) For direction to the respondent BIADA to take the admitted dues/transfer fee from the petitioner in easy installment as the petitioner is ready to pay the entire dues in easy installment.

(iv) For other reliefs for which petitioner is found entitle in the facts and circumstances of the case.”

Learned counsel for the petitioner submits that the impugned order passed by the Principal Secretary, Department of Industries, Government of Bihar being the appellate authority is liable to be interfered with and be set aside on the ground of violation of principles of natural justice. It is submitted that the impugned order is an ex-parte order and as the petitioner had no proper opportunity to represent his case, the order of the appellate authority suffers from violation of the principle audi alteram partem.

It is further submitted that earlier the plot measuring area 5000 sq. ft. of land was allotted in favour of the petitioner for establishment of cattle and pottery feed industry in the name and style of Sidhi Industries. The possession of the land was



also given to the petitioner, but after some time the petitioner applied for transfer of the industrial plot in favour of M/s Chitrans Rice Mill. For this purpose, the petitioner had deposited initially a sum of Rs.15410/- for the transfer of the land in the light of the memo no.1412/D dated 19.09.2013. The necessary permission for transfer of land was also given by the authorities of the BIADA and the petitioner was directed to pay transfer fee. It is admitted in the writ application that as back as in the year 2014, the BIADA issued a notice to the petitioner for payment of transfer fee, but then the contention of the petitioner is that because the petitioner was facing some financial constraint due to non-payment of his dues by the Bihar State Food and Civil Supplies Corporation Ltd. for milling and transportation work done by the petitioner, the petitioner was unable to pay the transfer fee. He could not make payment of the transfer fee as a result thereof show cause notice was issued to the petitioner. An explanation, as contained in Annexure-2 to the writ application, was submitted by the petitioner in which he requested for sympathetic consideration and prayed for six months time to allow him to make entire payment in six installments.

Some other difficulties have also been expressed in



the writ application to explain as to why the petitioner was unable to deposit the amount towards transfer fee. It appears that vide order dated 15.07.2015 (Annexure-5 to the writ application) the Managing Director of BIADA rejected the request of the petitioner to grant installment and then set aside the permission granted to the petitioner for transfer of land in the name of Chitrans Rice Mill and also cancelled the allotment of the land in favour of the petitioner. Apart from this, a direction was also issued to forfeit the amount which was earlier deposited by the petitioner.

Learned counsel for the petitioner submits that in the aforesaid circumstance, the petitioner had preferred an appeal bearing Appeal No.32 of 2015 which has now been dismissed ex-parte. It is submitted that the appellate order be set aside and the matter be remitted for fresh consideration.

Learned counsel representing the 'BIADA' has opposed the writ application on the grounds inter-alia that it is an admitted fact in this case that the industrial plot was handed over to the petitioner in the year 2012 and the petitioner did not commence any industrial activity on the land, he requested to allow the transfer of land in favour of another entity which was also permitted subject to payment of transfer fee, but over a



period of one year the petitioner failed to deposit the transfer fee. It is submitted that the intention of the petitioner was only to retain the industrial plot without carrying any industrial activity which was not in the larger public interest and in the interest of the State. It is submitted that the decision taken by the Managing Director, 'BIADA' in the given facts and circumstances is not only just and proper in terms of the allotment but is also in public interest, hence, this Court sitting under Article 226 of the Constitution of India did not interfere with the decision of the cancellation and forfeiture.

As regards the hearing in the appeal matter, learned for the BIADA has drawn the attention of this Court towards the statement made in paragraph '17' of the counter affidavit in which it is stated that this appeal was instituted in the year 2015 itself and for the last three years numerous dates were given but the petitioner was not present on most of the occasions. It is submitted that the petitioner was also given notice of last two dates and such notices are also available on the website of the Department of Industry. It is submitted that the plea taken by the petitioner with regard to violation of principles of natural justice has no basis. Learned counsel submits that the principles of natural justice cannot be put in a straightjacket formula and



when it comes to a decision taken in public interest, this Court need not interfere with the same only on a mere asking or on bald statement of the petitioner that he had no notice of the case. Learned counsel further submits that what has been stated in paragraph '17' of the counter affidavit has not been denied by the petitioner.

In the given facts and circumstances, learned counsel submits that holding of the industrial plot by litigating the matter is going against the very effort of the State towards industrialization and thus the writ application is fit to be dismissed.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the facts are not much in dispute. It is admitted in the writ application that the industrial plot was handed over to the petitioner in the year 2012. It is also not in dispute that on the request of the petitioner made by an application dated 10.05.2013, the authorities of the 'BIADA' had allowed transfer of land in favour of M/S Chitrans Rice Mill. Further the fact that despite repeated demand notice from 'BIADA' the petitioner had failed to deposit the transfer fee is also apparent from the record. It is thus evident that for a period of at least two years i.e. from the year 2013 to year 2015



prior to issuance of the cancellation order the petitioner had opportunity to deposit the amount and to take steps towards transfer of the land and setting up of industrial unit, but no such effort was taken by the petitioner. Under these circumstances, if the Managing Director, 'BIADA' took a decision to cancel the permission granted for transfer of land and then the allotment of the land, this Court would have no hesitation in recording that the said decision has been taken when it was found that the petitioner was not complying with the terms and conditions of the allotment despite the opportunity granted to him. The decision taken by the Managing Director is in the public interest also because the industrial plot of 'BIADA' cannot be allowed to remain in the hand of the petitioner without there being any industrial activity on the same.

So far as challenge to the appellate order on the ground of violation of principles of natural justice is concerned, again this Court is not persuaded to accept the plea of the learned counsel for the petitioner. It is specific stand of the 'BIADA' in its counter affidavit that during last three years on numerous occasions the petitioner was not participating and further there is no denial of the fact that notice of hearing of appeal is put on the website of the Department of Industry. This



Court agrees with the submission of the learned counsel representing the 'BIADA' that the principles of natural justice cannot be put in a straightjacket formula and as the matter involves the larger public interest, this Court would not be willing to interfere with the impugned order on the mere asking of the petitioner.

In the opinion of this Court, the impugned orders do not suffer from any illegality or infirmity and as such no fault may be found with the impugned order so as to interfere with the same.

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

(Rajeev Ranjan Prasad, J)

arvind/-

U			
---	--	--	--

