

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19363 of 2018**

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M/s Ram Prakash Shyam Kumar a partnership firm having it's place of business at and P.O. Singhoul, P.S.- Singhoul, District- Begusarai through one of it's partners namely Giridhar Gopal Son of Late Mahendra Kumar, resident of At- Mungeriganj, P.O.- Begusarai, P.S. - Town Thana, District- Begusarai. ... .. Petitioner

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna through its Managing Director.
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna
3. The Executive Director, Regional Office, Bihar Industrial Area Development Authority, Bela, Darbhanga
4. The Regional Officer, Bihar Industrial Area Development Authority, Barauni Industrial Area, Barauni

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate  
For the BIADA : Mr. Priya Ranjan, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

3      25-02-2019                      The petitioner in the present case has challenged the cancellation of allotment of industrial plot by the Managing Director, Bihar Industrial Development Authority (in short 'BIADA') vide order contained in memo no. 4276/D dated 03.08.2018 which has been communicated to the petitioner vide letter no. 198 dated 28.08.2018 as contained at Annexure-5 to the writ application.

Mr. Kumar Priya Ranjan, learned counsel representing BIADA has taken a preliminary objection as to filing of the present writ application on the basis of there being a statutory provision of appeal against the impugned order. Learned



counsel submits that the writ application is not fit to be entertained on this ground alone. The petitioner may be relegated to approach the statutory forum of appeal.

On the other hand, Mr. Gautam Kejriwal, learned counsel for the petitioner has drawn attention of this Court towards the impugned order as contained in Annexure-5 to the writ application. It is his submission that in terms of Clause (a) of sub-section 2 of Section 6 of the Bihar Industrial Development Authority Act, 1974 (hereinafter referred to as the 'Act 1974'), the BIADA authorities were obliged to give an opportunity of hearing to the petitioner which has not been given in the present case.

Learned counsel submits that the earlier orders issued to the petitioner were nowhere calling upon the petitioner to show cause as to why the allotment be not cancelled and therefore, those letters cannot be taken to be in compliance with the aforesaid statutory obligation on the part of the 'BIADA'. Learned counsel submits that the petitioner is ready and willing to pay the old dues of the maintenance amount, however, the transfer fee is not required to be paid by the petitioner because the petitioner purchased the unit in question during a liquidation sale from this Court. Learned counsel submits that had an



opportunity been given to the petitioner in this regard, he would have satisfied the authorities concerned.

This Court called upon learned counsel for the 'BIADA' to show from the counter affidavit as to whether any notice seeking show cause from the petitioner as to why the allotment of industrial plot be not canceled, served upon the petitioner.

Learned counsel for 'BIADA' has only referred those letters which were sent to the petitioner calling upon him to pay the dues failing which appropriate legal action shall be taken. The last letter in this regard was written as back as on 07.11.2017. Copy of the notice dated 07.11.2017 is, however, not brought on record with the counter affidavit. The last notice, as per counter affidavit, is dated 15.05.2017 by which the petitioner was called upon to pay the outstanding amount and to show as to why the storage of foodgrains are being done in the premises of the unit.

Having heard learned counsel for the petitioner and learned counsel representing the 'BIADA', this Court is of the considered opinion that in the given facts and circumstances of the case, the impugned order has been passed without giving any opportunity of hearing to the petitioner as envisaged under



Clause (a) of sub-section 2 of Section 6 of the Act 1974.

There is nothing on the record to show that any notice to show cause calling upon the petitioner to show as to why the allotment in question be not cancelled, was ever served upon the petitioner. This being a case of violation of principles of natural justice, in stead of relegating the petitioner back to the appellate authority, this Court deems it just and proper to quash the impugned order and directs the Managing Director, BIADA to proceed afresh by issuing a show cause notice to the petitioner within a period of 15 days from today. The petitioner shall be given an opportunity to submit his explanation within one month from the date of service of show cause notice in consonance with the Clause (a) of sub-section 2 of Section 6 of the Act 1974 and thereafter, the competent authority would be in a position to take final decision whatsoever in accordance with law.

This writ application is disposed of in the terms stated above.

**(Rajeev Ranjan Prasad, J)**

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