

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11408 of 2019

M/s Shri Krishnaji Health Foods Private Limited, A company registered under the Companies Act, 1956, having its corporate office at B- 121, Sector- 71, P.O. Noida, P.S. Phase- III Noida, Dist. Noida, Uttar Pradesh, Pin Code- 201303, through its authorized representative, Prithviraj Burhagohain, Son of Rajendra Burhagohian, resident of C/o Sushil Kumar, Opposite Old Post Office, Near Grill Factory, Puniachak, Patna, P.O. Visvesvaraya Bhawan, P.S.- Shashtri Nagar, Distt. Patna, Bihar, (State), Pin Code- 800023.

... .. Petitioner

Versus

1. The State of Bihar through its the Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
2. The Deputy Secretary Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
3. The Bihar Industries Area Development Authority (BIADA) Having its head Office at 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004, through its Managing Director, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Legal Officer Bihar Industries Area Development Authority (BIADA), having its head Office at 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004.
5. The Development Officer Bihar Industries Area Development Authority (BIADA), having its head Office at 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Uttam Kumar Mishra, Advocate Mr.Abhi Sarkar, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar, SC-9 Mr.Devesh Shankaran, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 17-07-2019 Heard learned counsel for the petitioner and learned counsel representing Bihar Industrial Area Development Authority (in short 'BIADA').

A counter affidavit has been filed today on behalf
BIADA.



The petitioner in the present case has moved this
Court for the following reliefs :-

- “i) That the letter bearing no.6251/D33/DEV/BIADA/2012 dated 12.12.2018 (Annexure – 8) issued by the Respondent no.5, directing the petitioner to handover the allotted land, may be set-aside and / or quashed.
- ii) That the Respondent No.1 may be directed to give the petitioner sufficient opportunity to comply to the appellate order dated 06.11.2018 passed in Appeal Case No. 28/2015 (Annexure – 3) by the Respondent No.1.
- iii) That the Respondent No.3 may be directed to give the petitioner sufficient opportunity to comply to the appellate order dated 06.11.2018 passed in Appeal Case No. 28/2015 (Annexure – 3) by the Respondent No.1.
- iv) for granting any other relief (s) to which the petitioner is otherwise found entitled to.”

Learned counsel for the petitioner submits that petitioner was allotted the land admeasuring 21000 square feet in the Industrial Growth Centre, Gidha, Bihar for establishment of food proceeding industry but because of several infrastructure problem and lack of facilities the petitioner could not commence the establishment of the unit. In this regard he is said to have made request to BIADA to provide the required infrastructure facilities but instead of providing the same the BIADA cancelled the allotment of land and forfeited the allotment money deposited by the petitioner vide Annexure ‘1’ to the writ application. The petitioner appealed against the said order



before the appellate authority vide Annexure '2' but ultimately the appellate authority while interfering with the order passed by BIADA imposed certain conditions to be complied with by the petitioner which the petitioner was unable to comply within the stipulated period.

Learned counsel further submits that in order to comply with the conditions imposed by the appellate authority, the petitioner sought certain more time vide Annexure '6' and '7' to the writ application. The request of the petitioner was, however, refused vide letter dated 12.12.2018 (Annexure '8') issued under signature of the Executive Director, BIADA.

In the counter affidavit BIADA has come out with a stand that when the petitioner failed to comply with the condition imposed by the appellate authority BIADA resumed the land vide Memo No. 6464/L dated 20.12.2018. Subsequently the land was allotted to a new allottee i.e. M/s Rajdhani Food Products, Giddha in a meeting of Project Clearance Committee on 10.04.2019. Allotment letter was issued to the new allottee on 28.05.2019 and ultimately physical possession of the premises has also been handed over to the new allottee on 27.06.2019. It is stated that the petitioner had failed to establish the industry for more than six years which was in breach of the



terms and conditions of allotment, hence, the impugned action was taken.

Having heard learned counsel for the parties and on perusal of the records, this Court finds substance in the stand of BIADA. It is apparent from the records that after coming to know about the appellate order, the petitioner never challenged the said order rather he requested the authorities of BIADA to allow him for some time to comply with the order. In his letter as contained Annexure '6' to the writ application he prayed for seven working days time to complete and submit all the documents. In his e-mail he requested the authorities to grant extension of seven working days because he was not able to prepare the DD, BG and other documents in view of the bank's holiday due to Eidul Milad un Nabi. The petitioner did not comply with the order and again prayed for further extension of seven days vide his letter dated 21.11.2018. It is evident that even during the further period of seven days he could not comply with the order, thereafter his request was rejected vide Annexure '8' to the writ application. The petitioner, thereafter, once again wrote to the appellate authority vide Annexure '9' to the writ application.

In the opinion of this Court, the petitioner had no



point of time challenged the order of the appellate authority rather sought time to comply with the same but despite sufficient time having lapsed from the date of passing of the order of the appellate authority, the petitioner failed to comply with the said order. In the present writ application also there is no challenge of the orders of cancellation and appellate order.

In these circumstances, this Court finds no illegality or infirmity in the impugned communication dated 12.12.2018 (Annexure '8') issued by respondent no. 5.

In the given facts of the case as stated in Paragraph '8' of the counter affidavit of BIADA now the land has already been allotted to new entity, the possession has been handed over to him. This Court, therefore, finds no reason to issue any writ of mandamus at the instance of the petitioner.

The writ application is devoid of any merit, it is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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