

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8732 of 2013

1. M/S R.R.Plastic Through Its Proprietor, Ram Nath Sah S/O Late Gauri Shankar Sah Resident Of Mohalla - Larkaniya Tola, P.S. & District - Katihar
2. M/S Ram Rahim Makhana Udyog, Through Its Proprietor, Harsh Vardhan S/O Prakash Kumar Agrawal Resident Of Mohalla - Emergency Colony, Agrawal Mandir, P.S. & District - Katihar

... .. Petitioners

Versus

1. The Bihar Industrial Area Development Authority Through Its Managing Director, Udyog Bhawan, East Gandhi Maidan, Patna (Hereinafter Referred To BIADA)
2. The Executive Director, BIADA, Having Its Regionnal Office At Barari, District - Bhagalpur
3. The Development Officer, Biada, Barari, District - Bhagalpur
4. The Officer - In - Charge, Industrial Estate, Katihar
5. The State Of Bihar

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Bimal Kumar, Advocate
For the BIADA	:	Mr. Lalit Kishore, Sr. Advocate
		Ms. Binita Singh, Advocate
For the State	:	Mr. Raghwanand, G.A. 11
		Mr. Sanjay Kr. Tiwari, A.C. to G.A.11

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 08-01-2019

Heard learned counsel for the petitioner and learned counsel representing the Bihar Industrial Area Development Authority (hereinafter referred to as the “BIADA”).



This writ application was initially preferred for issuance of a writ in the nature of writ of certiorari to quash and cancel letter no. 13/D and 14/D dated 07.01.2013 by which the petitioners were called upon to file their reply to show cause as to why their allotment of plots be not cancelled.

During pendency of the writ application, it appears that 'BIADA' has come out with letter no. 703/D dated 20.12.2018 and letter no. 704/D dated 20.12.2018 by which final notice has been given to the petitioners and they have been called upon to submit their reply to show as to why the plot bearing 20(P) measuring area 10,000 Sq. feet and plot bearing no. 20(P) measuring area 5,000 Sq. feet be not cancelled.

By filing an amendment petition petitioners have challenged these two communications which are annexed as Annexure – 8 & 8/1 respectively to the Interlocutory Application No. 98 of 2019.

In course of argument, learned counsel for the petitioners tried to impress upon this court that in fact the land allotted to the petitioners are not suitable for establishing an industry as the entire land remain under water logging for all the times.



Learned counsel submits that there is no connected road to these plots to the industrial area. It is pointed out that for these reasons a request was made by one of the petitioners to BIADA to allot another land in lieu of the allotted land but the same has not been considered only because this writ application is pending for the present. In this regard, communication available at Annexure-‘O’ to the counter affidavit has been placed before this court.

Learned counsel representing the BIADA submits that this writ application is prematured inasmuch as the petitioners have moved this court against the show cause notice. It is submitted that in consonance with the provisions contained in the BIADA Act, 1974 (as amended up to date) and the regulations framed thereunder the petitioners have been given an opportunity of hearing by calling upon them to submit their reply as to why the allotment of land be not cancelled. It is submitted that instead of submitting their reply the petitioners are challenging those communications in this writ application. It is thus submitted that the writ application is not fit to be entertained at this stage and the same be dismissed.

Having heard learned counsel for the petitioner and learned counsel representing the BIADA, this court is of the



considered opinion that this writ application is prematured and is not fit to proceed. Annexure-8 & 8/1 to the Interlocutory Application No. 98/2019 are in the nature of communications to the petitioners calling upon them to submit their reply against the proposed cancellation of allotment. The petitioners have thus an opportunity to submit their stand before the Managing Director, BIADA and persuade him to take a view keeping in mind the submission of the petitioners. At this stage, it would not be just and proper for this court to take upon itself the functions of the Managing Director of the BIADA.

The writ application is thus not fit to be entertained. The petitioners are give liberty to file their reply in terms of Annexure – 8 & 8/1 respectively within a period of 30 days from today. The Managing Director, BIADA shall consider the same and pass a reasoned order thereon within a period of 60 days thereafter.

This writ application stands disposed in terms stated hereinabove.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.01.2019
Transmission Date	

