

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24798 of 2018

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Sarvashree Lovely Furniture House, Large Industrial Estate, Barari, Bhagalpur through its proprietor Umesh Kumar Yadav, Son of Late Chunchun Yadav, Resident of Village and Post-Tulsipur, Police Station- Kharik, District-Bhagalpur.

... .. Petitioner

Versus

1. State of Bihar through Principal Secretary, Department of Industry, Government of Bihar, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna-4.
3. The Secretary, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna-4
4. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Barari, Bhagalpur.
5. The Development Officer, Bihar Industrial Area Development Authority, Regional Office, Barari, Bhagalpur.
6. The Area Incharge, Bihar Industrial Area Development Authority, Large Industrial Estate, Barari, Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Advocate
For the Respondent/s : Mr.Naresh Dixit, Advocate
Ms. Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-02-2019 Heard learned counsel for the petitioner and learned counsel representing the Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA').

In view of the order passed in other cases disposed of today itself, this writ application is also being disposed of on the same line.

Learned counsel for the petitioner has assailed the impugned appellate order as contained in Annexure-1 saying that the appellate authority is not justified in imposing a penalty of Rs.



1 Lakh and then a condition to submit a bank guarantee of Rs. 5 Lakhs for a period of two years for the reason that those are not within the powers conferred upon the appellate authority while hearing an appeal preferred against the order of the Managing Director of 'BIADA' in the matter of cancellation of allotments.

Mr. Naresh Dixit, learned counsel for the 'BIADA' was called upon to answer this plea specifically. What appears in course of argument at the Bar is that there is no provision in the allotment letter or in any law on the subject whereunder such powers may be said to have been conferred upon the appellate authority. Learned counsel for 'BIADA', however has hasten to add that in the facts of the present case the petitioner himself had offered to deposit a bank guarantee of Rs. 1 Lakhs to show his bona fide and therefore to that extent the petitioner should be obliged to abide by his own promise made before the appellate authority.

This court is of the considered opinion that in the given facts and circumstances of the case, so far as the direction to pay the penalty amount of Rs. 1 Lakh is concerned, it is not sustainable. The same is struck down. Next condition to submit bank guarantee of Rs. 5 Lakhs is also not borne out from any conditions in the allotment letter or any law on the subject. Hence, the direction to the petitioner to submit a bank guarantee



of Rs. 5 Lakhs stands quashed.

This court would agree to the extent the submissions have been made on behalf of the 'BIADA' that petitioner should be obliged to submit a bank guarantee of Rs. 1 Lakh which he had himself undertaken before the appellate authority. The petitioner will do so by submitting a bank guarantee of Rs. 1 Lakh while fulfilling the other conditions mentioned in the appellate order. The appellate order would be deemed to have been modified to that extent.

This Writ Application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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