

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19060 of 2019

Shivdani Prasad Singh, aged about 33 years male, Proprietor of M/s Jai Shree Carbon, Industries, I/A Barauni, Plot- Tilrath, Distt.- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industry, Govt. of Bihar, Old Secretariat, Patna
2. Bihar Industrial Area Development Authority through its Managing Director, Udyog Bhawan, Gandhi Maidan, P.O.+ P.S.- Gandhi Maidan, Patna
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, P.O. and P.S.- Gandhi Maidan, Patna
4. The Executive Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Patna
5. The Regional Officer, BIADA, Barauni, Begusarai
6. The Development Officer BIADA Udyog Bhawan, Gandhi Maidan, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar, Advocate.
For the Respondent/s	:	Mr. Yogendra Prasad Sinha (AAG7)
		Mr. Rakesh Ambastha AC to AAG 7
For BIADA	:	Ms. Binita Singh (Advocate)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 24-02-2020

Counter affidavit on behalf of the BIADA has been filed today in Court.

Let it be taken on record.

The counsel for the BIADA sought adjournment but the same was opposed by the learned counsel for the petitioner on the ground that with any adjournment in the matter, there is every possibility of the allotment in favour of the petitioner being allotted to another person. He



therefore prays that if at all the matter is to be adjourned, there should be grant the stay of the operation of the order of the Secretary of the BIADA.

The prayer made on behalf of the BIADA for adjournment is rejected. In that view of the matter, there is no need to consider the aforesaid prayer made by the petitioner. This Court proceeds hear the writ petition on merits.

The petitioner has challenged the order dated 11.02.2019 passed by the Executive Director, BIADA cancelling the allotment of the petitioner as also the order dated 05.08.2019 passed by the Secretary of the Department of Industries, Bihar in Appeal Case No. 9 of 2019, whereby the order passed by the Executive Director, BIADA has been upheld.

From the perusal of records, it appears that an area of 1.25 acres was allotted to the petitioner for the purposes of running his business under the name and style of Jai Shree Carbon. Since the unit was not in a working condition, a show cause notice was served upon it way



back in the year 2005 and thereafter a reminder notice in the year 2007.

Notwithstanding the aforesaid two intimation to the petitioner, no tangible steps were taken by him for reviving/starting the unit and therefore the allotment was cancelled on 16.08.2007.

The petitioner approached the appellate authority against the aforesaid cancellation *vide* Appeal 156 of 2007. By order dated 26.11.2007, the cancellation of the allotment of land to the petitioner was stayed but subject to the undertaking being given by the petitioner that he shall give a written assurance by 30.11.2007 that the unit set up by him shall start production by 31.12.2007 and for which evidence also would be furnished by the petitioner before the BIADA.

It appears that nothing was done thereafter and inspections were carried out several times, the last one being on 13.06.2011 when the unit was found to be closed. Thereafter, several show cause notices were served upon the unit in the years 2013, 2014, 2017 and



2018 with an intimation to the petitioner to commence the work of production but no interest was shown by the petitioner in either commencing the production or clearing the outstanding dues. The allotment thereafter was cancelled on 14.02.2019, which order has been impugned in this petition along with the order dated 05.08.2019 which upholds the aforesaid cancellation.

The authorities have found out that despite the concession having been given to the petitioner way back in the year 2007, subject to the undertaking of the petitioner that production shall commence by 31.12.2007, such undertaking was never respected and therefore the order of cancellation was passed and the appeal against the aforesaid order was dismissed.

Both the authorities viz. the Executive Director of BIADA and the Secretary of the Department of Industries have taken note of the fact that land is scarce resource with the BIADA and it cannot be wasted over a non-starter company. That no production was started since 2007 was for some time disputed by the petitioner by taking



reference to one part of the order of the Executive Director which appears to have been inadvertently written, which reflected that in the year 2010, the unit was found to be functional. This clearly appears to be a typographical error as the preceding and succeeding paragraphs do not dovetail in the aforesaid position of the petitioner not having started his production ever since the land was allotted to him. There are several explanations which have been given by the petitioner but those do not appear to be factually correct.

This Court finds nothing wrong with the order of cancellation of the allotment as also the order upholding such cancellation.

The petition has no merits and the same is therefore dismissed.

(Ashutosh Kumar, J)

GAURAV
S./Krishna-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

