

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17185 of 2021

=====

M/s JK Lakshmi Cement Ltd., Industrial Area, Bheriyadangi, Kishanganj having its administrative office at Nehru House - 4, Bahadur Sah Zafar Marg, New Delhi - 110002 through its Power of Attorney Holder namely Sri Ram Ratan Gupta, aged about 72 yrs, male Sr. Vice President (Accounts and Commercial) of the company, son of Late Satyanarayan Gupta, resident of A-4/304, Printers Apartment, Sector - 13, Rohini, Delhi - 110085.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Industries, Government of Bihar, Patna.
2. The Bihar Industrial Area Development Authority through Managing Director, Udyog Bhawan, Gandhi Maidan, Patna.
3. The Appellate Authority - cum- Additional Chief Secretary, Department of Industries, Bihar, Patna.
4. Executive Director, Bihar Industrial Area Development Authority, Patna.
5. Executive Director, Regional Office, Industrial Area, BIADA, Bhagalpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Jha, Advocate
For the Respondent/s	:	Mr. Abbas Haider, SC-6
		Mr. Piyush Lall, Advocate
		Mr. Devesh Shankaran, Advocate
		Mr. Pankaj Kumar Sinha, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

=====

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)



Date : 22-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

1. That the present writ petition is being filed for quashing the letter dt. 21.05.2020 issued by the Executive Director, BIADA, Bhagalpur by which order of Managing Director, BIADA passed U/s Section 6(2)(a) of the Bihar Industrial Area Development Authority Act, 1974 r/w The Bihar Industrial Area Development Authority (Amendment) Act, 2017 cancelling the allotment of land and forfeiture of amount deposited by the petitioner was communicated, is without jurisdiction and contrary to statutory provisions of section 6(2)(a) of the Bihar Industrial Area Development Authority Act, 1974 as amended upto date.

That the petitioner further prays for quashing the order dt. 30.07.2021 passed in Appeal No. 53/2020 [M/s J.K. Lakshmi Cement Ltd. Vs. BIADA] passed by Appellate Authority, State Government u/s 6(2)(a) by which the order dt. 03.06.2020 passed by BIADA was affirmed and appeal of the petitioner was rejected without examining the order whether the order u/s 6(2)(a) was passed in accordance with law and the power was exercised within reasonable time from the date of cause of auction.

The petitioner further prays for direction to respondent authorities to give effect to letter dt. 5.3.2020 by which petitioner sought swapping of Kishanganj Land with BIADA land at Bettiah-Rambagh of about 40 Acres in front of Railway Station.

The petitioner further prays for issuance of any appropriate writ/writs, order/orders and/or direction/ directions for which petitioner may be found entitled.



Prima facie, we are of the view that the petitioner ought to have established the Industrial Unit on the site allotted by BIADA. We also notice that since the year 2011 onwards, petitioner has been simply litigating before different foras and not even a brick has been laid for establishment of the Unit.

Today, learned counsel for the petitioner states that petitioner is ready and willing to establish the Unit within a time bound period, but, however, the site allotted in District-Kishanganj is not suitable, and as such, some alternate site in another district requires to be allotted for establishment of the Unit.

Well, this Court cannot regulate the activities of BIADA and we leave it for the petitioner to immediately approach BIADA for allotment of alternate site.

At this stage, learned counsel for the petitioner states that in any event, petitioner shall hand over the vacant and peaceful possession of the site allotted at Kishanganj to BIADA.

Statement accepted and taken on record.

Petitioner through learned counsel has been explained the consequences of breach of his undertaking, including initiation of proceedings of contempt, should the petitioner not hand over the vacant and peaceful possession of the land to the



BIADA within the said period.

Let needful be done within a period of three weeks from today. Also, petitioner undertakes to approach BIADA for allotment of alternate site.

Let BIADA take a decision on its own merit, within a period of two months, uninfluenced of the filing of the instant petition or the orders passed in any one of the proceedings.

Learned counsel for the petitioner states that petitioner has already deposited a sum of ₹3 crore (Approx.) towards allotment of land at Kishanganj which may be adjusted against the site which may be allotted by BIADA.

Well, it is for BIADA to look into this aspect. On what terms the land would be allotted is for BIADA to decide. We are conscious that such allotment, if any, has to be as per the current prevalent policy and market rates. Adjustment would be carried out or not is for the BIADA to take a decision. BIADA shall positively take a decision within a period of two months.

Should the petitioner require the need to initiate proceedings for recovery of the amount already deposited, it shall be open to do so in accordance with law, including filing a petition afresh, challenging the orders passed by the Appellate Authority, subject matter of the present petition.



The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	25.01.2022
Transmission Date	

