

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12470 of 2022

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Hanuman Structural Private Limited a private limited Company, registered under the provisions of the Indian Companies Act, 1956, through its Director, Shyam Sunder Choudhary, Aged about 48 years, Gender- Male, Son of Sri Hari Prasad Choudhary, Resident of Bara Bazar, Near Shyam Mandir, Police Station- Katihar Town, District- Katihar (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna.
3. The Bihar Industrial Area Development Authority, through its Managing Director, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeet Kumar, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar (SC9)
For BIADA		Mr. Pankaj Kumar Sinha, Advocate
		Mr. Devesh Shankaran, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-09-2022

Petitioner has prayed for the following relief(s):

“I. For quashing of order dated 17.05.2022 (communicated to the petitioner company vide letter dated 23.05.2022 through post) post by the learned Appellate Authority i.e. the Principal Secretary, Department of Industries, Bihar, Patna whereby and where under an appeal bearing Appeal No. 04/2000020 (M/s Hanuman



Structural Pvt. Ltd., Katihar, through its Director Vs The Bihar Industrial Area Development Authority & Ors.) filed by the petitioner has been dismissed on the sole ground that since the allotted plot has already been cancelled hence he cannot avail the exit policy for surrender of the land.

The petitioner firm has preferred the aforesaid Appeal inter alia for setting aside the order contained in memo no. 753 dated 25.11.2019 issued under the signature of the Executive Director, Bihar Industrial Area Development Authority (hereinafter to be referred as 'BIADA'), Regional Office, Bhagalpur, whereby where under, the allotment of land appertaining to 0.40 Acre situated at Industrial Area, Katihar has been cancelled and further forfeited the amount deposited in lieu of the said land by the appellant.

II. For quashing the order contained in memo no. 753 dated 25.11.2019 issued under the signature of the Executive Director, Bihar Industrial Area Development Authority (hereinafter to be referred as 'BIADA'), Regional Office, Bhagalpur, whereby where under, the allotment of land appertaining to 0.40 Acre situated at Industrial Area, Katihar has been cancelled and further forfeited the amount deposited in lieu of the said land by the appellant under the provision contained in Section 6(2)(a) and 6(2)(a) of Bihar Industrial Area Development Authority Act, 1974, as amended till date and



other related provisions.

The aforesaid impugned cancellation as well forfeiture of the amount is based on wrong finding that the establishment standing on the allotted land was not running and contrary to their own admission that the basic infrastructure for running the business establishment has not been provided by the BIADA.

III. For direction upon the respondents to allow the petitioner company to leave and exist honorably from the total allotted 1.40 acre of land situated at Industrial Area, Katihar by abiding their own offer to take back the aforesaid land as per the exist policy.

The Bihar Industrial Area Development Authority (herein after referred as BIADA), contrary to their own offer is trying to seize the aforesaid land, which is arbitrary and not in agreement of their own policy.

IV. For any other relief/reliefs, this Hon'ble Court may find fit and proper in the facts and circumstances of the present case.”

We are of the considered view that both the orders dated 17.05.2022 passed by the Appellate Authority, namely Principal Secretary, Department of Industries, Bihar, Patna and order dated 25.11.2019, passed by Executive Director, BIADA, Regional Office, Bhagalpur, need to be quashed and set aside as the authorities have not even bothered to call for the record, much



less examined the same.

The petitioner's request for taking the benefit under the Exit Policy was only in terms of the respondents' communication dated 04.06.2013 (Annexure-9). Such request was made vide communication dated 24.09.2013 (Annexure-10). Much prior thereto, respondents' action of canceling the allotment stood withdrawn with the passing of the order dated 21st August, 2009 by the Principal Secretary, Department of Industries, Bihar (Annexure-P/4).

Hence, both the authorities below erred in rejecting the petitioner's application holding that the petitioner's application could not be entertained for the reason that the cancellation stood rejected prior to the submission of such request for availing benefit under the Exit Policy. Hence, aforesaid annexures are quashed and set aside with the direction to the respondent No.5, namely The Executive Director, BIADA, Regional Office, Bhagalpur, to consider the petitioner's application in terms of the policy in existence as on the date of the application which is dated 24th September, 2013 (Annexure-P/10).

It stands clarified that petitioner only wants benefit under the Exit Policy.

We direct the petitioner to make himself available in



the office of respondent No. 5 on 15th September, 2022.

It shall be open for the petitioner to hand over possession of the property to BIADA.

Equally, it shall be open for BIADA to cancel the allotment, should the need so arise.

Liberty reserved to the petitioner to assail the order in an appropriate proceeding, if so required and desired.

If the petitioner is found entitled for payment of refund of any amount in terms of the Exit Policy, the same shall be made within a reasonable period and positively within a period of three months.

Petition is disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	05.09.2022
Transmission Date	

