

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18929 of 2021

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Bibeka Nand Sharma son of Late Ram Balak Singh resident of mohalla
Gagan Diwan, Pawapuri Bhawan, Bihar Sharif, Nalanda.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority
2. The Secretary Department of Industries cum Chairman, Bihar Industrial Area Development Authority.
3. The Addl. Chief Secretary Department of Industries, Bihar, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority, Ugyog Bhawan, East Gandhi Maidan, Patna- 800004.
5. The Executive Director, Bihar Industrial Area Development Authority, Ugyog Bhawan, East Gandhi Maidan, Patna- 800004.
6. The Area In-Charge, Bihar Shariff, Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rohan Verma, Advocate
For the Respondent/s	:	Mr. Lalit Kishore, Sr. Advocates
		Mr. Piyush Lall, Advocate
		Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(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.)

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Date : 15-02-2022

Heard learned counsel for the parties.

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



“1.That this writ application is directed against an office order dated 16-11-2019 passed by Executive Director, Bihar Industrial Area Development Authority, (referred to as BIADA herein after for the sake of brevity) issued vide memo no. 6731/D/CN- 51004 dated 20-11-2019, by which petitioner's title over the industrial land measuring about 4560 sq.ft. appertaining to industrial plot no. H1(P) situated within industrial campus, Bihar Sharif at Nalanda in terms of section 6(2) (a) of BIADA Act 1974, as amended in the year 1991, for the reason that after purchase of the said land by the petitioner in an auction sale conducted by Bihar State Financial Corporation (referred to as BSFC herein after for the sake of brevity), the petitioner did not get the mutation of the plot executed in his name for quite long and therefore allotment and title of the said land stood cancel.

This writ application is also directed against an order dated 30-07-2021 passed by the Addl. Chief Secretary Department of Industries, Bihar, Patna in Appeal No. 27 of 2020 preferred by the petitioner for setting aside the above referred order dated 16-11-2019 issued vide memo no. 6731/D/CN- 51004 dated 20-11-2019, but the petitioner's appeal was rejected by the impugned order dated 30-07-2021 in appeal no.



27 of 2020 and the order passed by the Executive Director has been upheld.

This writ application is also for issuance of appropriate writ or writs order or orders directing the respondents to restore the title of the leased out land in question measuring about 5000 sq. ft. located within Industrial Area Campus, Bihar Sharif, at Nalanda, appertaining to plot no. H1(p), which was purchased by the petitioner in an auction sale conducted by BSFC on 5-08-1999.”

On 31st of January, 2022, we had passed the following order:-

“Learned counsel for the petitioner, under instructions, states that, (a) if BIADA were to withdraw the order of cancellation of allotment, the petitioner would, within six months thereafter, commence commercial activity for which the plot stood allotted to the original allottee; (b) should the petitioner desire to change the activity, he shall file an appropriate application with the competent authority, BIADA, who should take the decision thereupon expeditiously; (c) petitioner is ready and willing to pay the entire outstanding dues so determined by BIADA.

Learned counsel for the BIADA states that as on date, a sum of Rs. 12 lacs (approx.) is due and payable by the petitioner. The petitioner has been dilly-dallying the issue of establishment of the industrial growth in terms of the plot allotted to him. However, if petitioner



were to furnish an undertaking to the statement made, recorded supra, BIADA may consider and take a favourable decision thereupon.

We direct the petitioner to immediately approach the respondent No. 4 namely, the Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna-800004 on 07.02.2022 at 10:30 A.M., with a concrete offer furnishing an undertaking in terms of the statement made before this Court and a decision shall be taken by the authority before 14.02.2022.

Affidavit of compliance be filed on the terms of statements.

Should the party agree to have the matter settled amicably, petitioner shall file his undertaking to this Court.

List on 14.02.2022.”

Today, supplementary affidavit dated 11th of February, 2022 stands filed by the petitioner, *inter alia*, making the following averments:-

2. That the petitioner is preferring this supplementary affidavit in accordance with an order dated 31-01-2022 passed in the present Writ application by Division bench of this Hon'ble Court.
3. That allotment of the industrial plot measuring about 5000 sq. ft. in Bihar Sharif Industrial Area to the petitioner was cancelled on 20-11-2019 by the Managing Director, BIADA and such cancellation was affirmed by an order dated 30-07-2021 passed by Additional Chief Secretary, Industries Department, Bihar, Patna (vide Annexure- 1 & 2 of the Writ Application).



4. That both the orders vide Annexure- 1 & 2 were challenged by invoking Writ jurisdiction of this Hon'ble Court vide CWJC No. 18929 of 2021.
5. That during the course of deliberation of the case the Hon'ble Division Bench of this Court was pleased to pass an order dated 31-01-2022 vide Annexure- 8, by which the petitioner was directed to approach the respondent no. 4, (MD, BIADA) positively by 7th of February 2022 at 10:30 A.M., in terms of the stipulation clearly indicated in the above order vide Annexure- 8.
6. That in accordance with the direction of this Hon'ble Court the petitioner approached MD, BIADA and filed representation/undertaking along with the copy of the order of this Hon'ble Court, that he is prepared to abide by the observations made by this Hon'ble Court vide Annexure- 8 with a further request to MD, BIADA to get the legal dues outstanding against the petitioner be ascertained which the petitioner is ready to liquidate in a soft equal installments to be decided by MD, BIADA.
7. That the petitioner is prepared to start industrial activity within a period of 6 months to be calculated from the date of the final order that may be passed by this Hon'ble Court.
8. That the petitioner also most humbly submits that within a period of 2 months he would get a project report prepared for the alternative items of production and will submit the same in the office of respondent no. 4 (MD, BIADA) and the petitioner also most humbly pray for the kind indulgence of this Hon'ble Court to direct respondent no. 4 to consider the project report of the petitioner within a period of 4 months thereafter.

Today, another supplementary affidavit dated 14th of February, 2022 stands filed by the petitioner, *inter alia*, pleading as under:-



2. That in view of the order dated 31-01-2022 passed in the present writ application, the case was taken up for its consideration on 14-02-2022 and during the course of deliberation this Hon'ble bench was pleased to observe that a 2nd Supplementary Affidavit be filed with more clarity in terms of undertaking be submitted before this Hon'ble Court.
3. That in terms para- 3 of the order dated 31-01-2022 passed by this Hon'ble Court (vide Annexure- 8) petitioner approached respondent no. 4 on 7-02-2022 at 10:30 AM with a concrete offer furnishing and undertaking in terms of the statement made before this Hon'ble Court and a decision was directed to be taken by the BIADA authorities before 14-02-2022.
4. That the earlier Supplementary Affidavit was filed submitting compliance by filing a concrete offer to respondent no. 4.
5. That the present affidavit is being filed, indicating an undertaking to this Hon'ble Court in terms of statement made to this Court.
6. That the petitioner is prepared to go for a change in the industrial activity and shall file an appropriate application with the competent authority of the BIADA within a considerable period of time so fixed by this Hon'ble Court and secondly the petitioner is also willing to pay the entire outstanding dues so determined by the BIADA.
7. That it is further submitted that the respondent no. 4 may be directed to take a favorable decision as per the observation of this Hon'ble Court stipulated in the order dated 31-01-2022 passed by this Hon'ble Court.
8. That the petitioner has gone through the contents of the present Supplementary Affidavit and fully understood the same, they are true to the best of my knowledge, as also true to the information derived from the records and the rest are by way of submissions.

Statement made by the petitioner in the affidavits is accepted as undertaking for complying with the stipulations



contained therein.

Learned counsel for the BIADA states that petition can be disposed of in terms of the undertaking so furnished.

Consequence of breach thereof, including initiation of proceedings for contempt having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

As such, petition is disposed of in the following terms:-

(a). Undertaking of the petitioner dated 11.02.2022 and 14.02.2022 (reproduced supra) is accepted and taken on record;

(b) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;

(c) In the event of default of the undertaking, petitioner shall hand over vacant and peaceful possession of the allotted property to BIADA;

(d) Liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court;

(e) Office order dated 16-11-2019 passed by Executive



Director, Bihar Industrial Area Development Authority, issued vide memo no. 6731/D/CN- 51004 dated 20-11-2019 (Annexure-1) and the order dated 30-07-2021 passed by the Addl. Chief Secretary, Department of Industries, Bihar, Patna in Appeal No. 27 of 2020 (Annexure-2) are quashed and set aside.

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	21.02.2022
Transmission Date	

