

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2030 of 2023

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M/S Hari Om Raw Rice Industries through its Proprietor Namely Gayatri Devi aged about 40 years, Wife of Lal Babu Jaiswal Resident of Village-B.I.A.D.A., Purnia City, Ward No. 5, P.O.- Gulab Bagh, P.S.- Sadar, District-Purnea
... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Industries Department, Bihar at Patna.
2. Principal Secretary, Department of Industries, Bihar Industrial Area Development Authority, Udhoyg Bhawan, Gandhi Maidan, Patna, District Patna.
3. Managing Director, Bihar Industrial Area Development Authority, Bihar at Patna.
4. The Executive Director, Department of Industries, Bihar Industrial Area Development Authority, Bhagalpur, District- Bhagalpur.
5. Regional In-Charge, Industrial Department, Development Centre, Purnea City, District Purnea.
... Respondents

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Appearance :

For the Petitioner : Mr.Nikhil Singh, Adv.
For the Respondents : Mr.Kinkar Kumar (Sc9)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

13 19-12-2023

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs :

That the present writ application is being filed in the nature of the Certiorari for quashing the Memo no. 164 dated 18.11.22 passed by the Deputy General Manager, BIADA, Office, Industries Development Centre, Purnea by which the plot allotted bearing no. 2 (part) area 20038 sq. ft. has been cancelled in the light of BIADA Act 1974, BIADA Amendment Act, 1991 under Section 6(2)(a) and Bihar Amended Act, 2017 etc. stating that the mill was closed when the surprise inspection was done on 19.10.2022; on the ground that there was no show cause notice issued to the



petitioner/company, there is a contrary finding given in the said order itself by which the rice mill industry was found to be open, there was no following of due process of law.

II. And pass any such other order/orders as this Hon'ble Court deem fit and proper.

3. Learned counsel for the petitioner has stated that the petitioner has been allotted 20038 Sq.ft. land in the year 2013 for the purpose of starting a rice mill. Learned counsel for the petitioner has stated that thereafter the petitioner has started the rice mill. That in the year 2019 the authorities have cancelled the allotment made to the petitioner on the ground that the petitioner has not started the rice mill as per the terms of the allotment. That aggrieved by the order of cancellation the petitioner has approached this Hon'ble Court by way of CWJC No. 19597 of 2021 and this Court vide judgment, dated 11.02.2022, has set aside the order of cancellation and granted an opportunity to the petitioner to start commercial production based on the undertaking given by the petitioner. That as per the undertaking given by the petitioner he was expected to start the commercial production within 6 months, learned counsel for the petitioner has stated that the authorities concerned without putting the petitioner on prior notice or issuing him any show cause notice have straightaway cancelled the allotment made



vide order, dated 18.11.2022. Learned counsel for the petitioner has stated that out of the authority concerned in cancelling the allotment without putting the petitioner on prior notice or calling for his explanation is contrary to principles of natural justice and equity and, therefore, the said order can not be sustained in the eye of law and prayed this Hon'ble Court to set aside the same. Learned counsel has stated that the petitioner has ample evidence to show that the petitioner has installed the rice mill and started production. However, the same could not be filed as the petitioner was not put on prior notice. Learned counsel has stated that had the authorities given him any prior notice, the petitioner could had produced the documents to show that the unit was running and in production. Learned counsel has, therefore, prayed for setting aside the impugned order and remanding the matter back to the authority concerned for passing order afresh.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the writ petition. Learned counsel has stated that the petitioner having given an undertaking to this Hon'ble High Court in CWJC No. 19597 of 2021, has violated the terms of undertaking. That the authorities have taken a decision to



cancel the allotment made to the petitioner as he had not started the production. Learned counsel has stated that there is no requirement under the law to issue any show cause notice to the petitioner as the orders of cancellation were passed pursuant to the order of this Hon'ble High Court. That the petitioner having given an undertaking that he will start commercial production within a period of six months and having failed to fulfil the condition can not now raise technical objections regarding cancellation. Learned counsel has stated that the documents filed by the petitioner in the present writ petition clearly demonstrate that the commercial production was not started by the petitioner and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. After going through the documents filed by the petitioner as well as the respondents-authorities, more particularly, the impugned order which is challenged in the present writ petition, this Court of the opinion that the impugned order is liable to be set aside solely on the ground that the authorities concerned have not put the petitioner on prior notice before passing the order of cancellation. Even though the counsel for the respondents has stated that the petitioner was obligated to start production as per the undertaking given by



him before this Hon'ble Court and no notice was required to be served on the petitioner, it is to be noted that the principles of natural justice and equity mandate that before passing any advance order which will have any civil consequence the minimum that is required is put the person on notice. This is a well settled principle of law which has being reiterated by the Hon'ble Supreme Court as well as the various High Courts in a catena of cases and therefore on this very short point the impugned order is set aside and the matter remanded back to the authority concerned for passing the order afresh duly putting the petitioner on notice and calling for his explanation. In case any notice is served on the petitioner the petitioner shall file his explanation within the time stipulated in the said notice. The authority concerned after receipt of the explanation by the petitioner shall pass a reasoned order duly taking into account the explanation submitted by the petitioner and also the documents annexed thereto. It is needless to observe that before passing any order the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of 8 weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.



6. With the above directions, the writ petition stands
allowed to the extent indicated.

(A. Abhishek Reddy , J)

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