

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5957 of 2023

Sushil Kumar Jhunjhunwala @ Sushil Kumar son of Sri Jagdish Prasad Jhunjhunwala, Proprietor Savitri Chemicals, Industrial Area, Dharampur, P.S. and District – Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar, Patna.
3. The Managing Director, Bihar Industrial Area Development Authority, Patna.
4. The Executive Director (Administration), Bihar Industrial Area Development Authority, Regional Office, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Shukla, Adv.
For the Respondent/s : Mr. P. K. Shahi (AG)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 21-08-2023

Heard learned counsels for the parties.

2. The present writ petition is filed for the following reliefs:-

- (i) For issuance of a writ in the nature of certiorari to quash the order dated 16/01/2023 passed by the respondent No. 3, the Managing Director, Bihar Industrial Area Development Authority (hereinafter called as BIADA for brevity) whereby and where under the petitioner's request of



extension of lease made way back in the year 1987 pursuant to allotment letter dt 18/09/1973 has been disposed of in a most arbitrary and dictatorial manner.

- (ii) For issuance of a writ in the nature of 'mandamus' directing/commanding the concerned respondents by issuing FIAT to renew the lease deed dated 14.12.1987 executed by Darbhanga Industrial Area Development Authority (as then existed) for remaining period of 66 years, requisite amount of which is already lying with the Darbhanga Industrial Area Development Authority (as then existed) now Bihar Industrial Area Development Authority.
- (iii) This Hon'ble Court is further prayed to adjudicate and hold that the petitioner is duly entitled for renewal of the lease deed dated 14.12.1987 executed by the competent authority of Darbhanga Industrial Area Development Authority (as then existed) for which all paraphernalia and requisite conditions have already been fulfilled by the writ petitioner.
- (iii) For issuing appropriate writ in the nature of mandamus directing/commanding the concerned respondents to comply with the requirement of law as much as the existing conditions incorporated in Clause 1 of Part II of the lease deed which has come into existence pursuant to letter no.9615/73 dated 18.09.1973 after depositing requisite



amount of Rs. 20,447.10/- as demanded by the office of Darbhanga Industrial Area Development Authority (as then was) in order to lease out the land appertaining to Khata no. 345, Plot no.278 and 279 for a period of 99 years.

3. Learned counsel for the petitioner has stated that during pendency of the present writ petition the lease-deed of the petitioner has been cancelled.

4. Thereafter the petitioner has filed I.A. No. 1 of 2023 seeking amendment of the prayer and the said I.A. was allowed vide order dated 03.07.2023.

5. Learned counsel for the petitioner has stated that the petitioner was initially allotted lease for the period of 99 years at the provisional rate of Rs. 20,447.10/- (**Annexure-1**) and thereafter, a lease-deed was executed in favour of the petitioner for a period of 33 years (**Annexure-2**).

6. Learned counsel has stated that as per the terms and conditions of the lease-deed most specifically Clause-1 of Part-II which reads as under:-

“That the lease of land/shed detailed in part-I of the Schedule is given for thirty three years to the lessee by the lessor subject to renewal at the option of either party for such period as may be mutually agreed upon”.



7. Learned counsel for the petitioner has stated that the petitioner is entitled to renewal of the lease but the authorities concerned instead of renew the lease of the petitioner are insisting for re-allotment of the land. Learned counsel has stated that at the time of allotting the land and also at the time of entering into lease-deed the entire subject land was allotted at the rate of Rs. 56,531.43/- for the three sheds and Rs. 20,447.10/- per acre for the open land but, the authorities instead of renewing the licence are insisting for re-allotting the land, and want to charge lease amount of 15 per cent of the land value which runs into lakhs of rupees and, therefore, prayed this Court to allow the prayer sought by the petitioner.

8. Per contra, the learned counsel appearing on behalf of the respondents (BIADA) has stated that the lease-deed executed in favour of the petitioner has expired in the year 2012 and the petitioner in spite of several reminders was not coming forward for re-allotment of the land. Learned counsel has stated that as per the terms and conditions of the original lease-deed, after expiry of the lease period, the officials have the prerogative of renewing or re-allotting the said land on such terms and conditions as they deem fit. Learned counsel has stated that left with no other option, the authorities had to cancel



the lease-deed executed in favour of the petitioner. Learned counsel has stated that due to the lapses committed by the petitioner, the land could not be allotted to the petitioner and, therefore, the impugned order was passed.

9. A perusal of the record shows that the petitioner has been allotted the land way-back in the year 1973 and, thereafter, a regular lease-deed was executed in between the parties vide lease-deed dated 14.12.1987 (**Annexure- 2**). As per the terms and conditions of the lease deed, the parties have the option of renewing the lease-deed for such period as may be mutually agreed upon. Admittedly, in the present case the lease-deed has lapsed in the year 2012 and, thereafter, the petitioner has been making request for renewal of the lease but the official-respondents have been insisting for re-allotment of the land and not renewing his lease-deed. This Court for the present is concerned with the cancellation of the allotment in favour of the petitioner.

10. A perusal of the cancellation order shows that the petitioner was not on prior notice before the cancellation order was passed. Moreover, it is not the case of the respondents that the petitioner had violated any of the terms and conditions of the allotment. The only point of difference between the



parties is as to whether the lease has to be renewed or it has to be re-allotted.

11. Having regard to the cancellation of the allotment without putting the petitioner on notice is opposed to the principles of natural justice and equity, therefore, the said cancellation order has to be necessarily set aside and the same is set aside accordingly.

12. In so far as the renewal of the lease-deed is concerned, the petitioner is directed to give a representation to the authority concerned for renewing the lease-deed and for a reasonable re-fixation of the lease amount within a period of two weeks from today. If any representation is made, the official respondents shall duly consider the same taking into consideration the fact that the petitioner was allotted the land for the period of 99 years lease and that the lease-deed executed for the period of 33 years and renew the lease-deed by fixing the lease amount duly taking into consideration the inflation and other administrative costs etc. but they cannot insist for payments of the lease amount at the rate of 15 per cent of the land rate. The parties are free to negotiate the amount of lease and come to a mutually agreeable amount. Till such time orders are passed, the authorities are directed not take any coercive



steps. Any order passed shall be communicated to the party.

13. With the above observations, the present writ petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

shakir/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2023
Transmission Date	NA

