

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5466 of 2023

M/s Ravi Enterprises A proprietorship firm having its office at Plot No. C- 20, Industrial Area, Donar, through its proprietor Rambabu Yadav Male, aged about 47 years S/o Jangal Yadav, Resident of at Mathurapur, Kabirchak, P.S. and District- Darbhanga ... Petitioner

Versus

1. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Chairman cum- Managing Director.
2. The Chairman cum Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The DGM, Industrial Area, Darbhanga Cluster, Bihar Industrial Area Development Authority (BIADA). ... Respondents

Appearance :

For the Petitioner : Mr.Brisketu Sharan Pandey, Adv.
For the BIADA : Mr.Yashraj Bardhan, Adv.

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

8 21-09-2023 Heard learned counsel for the parties.

2. The present Writ Petition is filed for the following relief(s) :

“A. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 31.03.2023 (Annexure- P/1) by the Respondent No.2 whereby and whereunder the appeal preferred by the petitioner bearing Appeal No. 373/2022 against the Office Order dated 21.11.2022 passed by the Respondent No. 5 has been dismissed upon wrong appreciation of terms and conditions of allotment.

B. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Office Order dated 21.11.2022 passed by Respondent No. 5 (The DGM, Industrial Area, Darbhanga Cluster), whereby



the allotment of Plot No: C- 20 admeasuring area of 8712 Sq. Ft which was allotted to the Petitioner vide allotment letter dated 26.03.2021 in the Industrial Area, Donar, Darbhanga.

C. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the final notice dated 30.09.2022 whereby and whereunder after stating that the petitioner was required to complete the construction work within a period of one year from the date of allotment, the petitioner was asked for explanation for the same, with further contemplation that the allotment made to the petitioner shall invite cancellation.

D. For issuing a writ of mandamus or any other appropriate writ directing the Respondents to restore the possession (if taken during the pendency of this writ application) and allow the Petitioner to continue to work and run the unit on the allotted land.

E. For issuing appropriate order (s) staying all further proceedings and consequential actions pursuant to the Appellate Order dated 31.03.2023 (Annexure-P/1).

F. For holding that the show cause notice dated 30.09 2022 is ex facie illegal and has been issued after erroneously understanding the terms of allotment of land made to the petitioner.

G. For passing such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. Learned counsel for the petitioner has stated that the impugned order passed by the authority is liable to be set aside on the sole ground that the same is passed contrary to the facts of the case and the record. Learned counsel has stated that the petitioner was allotted the subject land on 26.03.2021 vide



letter of allotment bearing Reference No. 208. The possession of the subject property was handed over to the petitioner on 09.07.2021. Learned counsel for the petitioner has stated that as per the terms of the allotment, the petitioner was obligated to fulfill the following conditions :

<u>Sl. No.</u>	<u>Activity</u>	<u>Time Frame</u>
a.	Allotment of land	0
b.	Payment of 10% of land cost as 1 st installment & submission of bond	Within 15days of allotment
c.	Physical possession	Within 15 days of payment of land cost and the evaluated cost as per Para 5.
d.	Initiation of construction work	Within 1(One) year from the date of allotment
e.	Lease deed will only be executed after complete payment of cost of land	After allottee makes an investment of 30% of the promoter's contribution on the allotted plot
f.	Start of trial production	Within 6 (six) months from the completion of construction.
g.	Start of commercial production	Within 3 (three) years fro the date of allotment
h.	Permanent memorandum number (Udyog Adhar)	Within 1 (One) year

4. The authority without considering the above time frame has passed the impugned order of cancellation vide order, dated 21.11.2022 (Annexure P2) on the ground that the



petitioner has not completed the construction of the unit within the mandated period. That aggrieved by the said order the petitioner has preferred an appeal before the Appellate Authority. However, the Appellate Authority has dismissed the appeal filed by the petitioner in a mechanical manner.

5. Learned counsel has drawn the attention of the Court to the letter of allotment made by the BIADA vide Reference No. 208, dated 26.03.2021, wherein it is stated that the initiation of construction work by the petitioner should be within one year from 09.07.2021. Further, it is stated that as per the terms and conditions of the said allotment the petitioner has to start trial production within six months from the date of completion of the construction. However, the authority without adverting to the above stipulations has passed the impugned order of cancellation on 21.11.2022, that is even before the time period fixed by the authorities themselves. Learned counsel has stated that as per the terms and conditions of the allotment the petitioner did not have to complete the construction, but, only start the work in the subject premises within one year from the date of being put in possession. Learned counsel has drawn the attention of the Court to photos filed along with the Writ Petition to show that the construction has commenced and that there is no violation of the terms and conditions of the allotment. Learned counsel for the petitioner has prayed for



allowing the present Writ Petition.

6. Per contra, the learned counsel for the petitioner has vehemently tried to defend the orders passed by the authorities, but, when it was pointed by this Court that as per the terms and conditions of the allotment letter the petitioner was obligated to initiate the construction within one year from the date of putting him in physical possession, i.e., 09.07.2021 and, therefore, the passing of the impugned order on the ground that the petitioner has not completed the construction cannot be countenance and the same is contrary to the terms of the allotment letter, the counsel has fairly accepted.

7. A perusal of the terms and conditions of the allotment which are extracted above reveal that the petitioner was obligated to start the construction work in the allotted premises within one year from the date of putting him in physical possession and thereafter, the petitioner is obligated to start the production within six months from the date of completion of the construction work. Further, the petitioner was obligated to start the commercial production within three years from the date of allotment. However, the authorities concerned on the premise that the petitioner was obligated to complete the construction within one year from the date of putting him possession have passed the impugned order. The



authorities have not verified the terms and conditions of the allotment letter and passed the order in a mechanical manner. There is no obligation on the part of the petitioner to complete the construction within one year from the date of allotment nor is there any condition that the petitioner should start the production within a period of six months from the date of allotment. As evidenced from the photos filed by the petitioner, the petitioner has already completed most of the civil work and has started production also. The orders impugned in the present Writ Petition cannot be held to be valid as they are passed contrary to the record and have to be necessarily set aside.

8. Having regard to the above, the impugned order, dated 21.11.2022 (Annexure P2) passed by the Deputy General Manager, Industrial Area, Darbhanga Cluster, Bihar Industrial Development Authority (BIADA), and the order of the Appellate Authority, dated 31.03.2023 (Annexure P/1) passed by the Additional Chief Secretary, Department of Industry, Government of Bihar, Patna, are set aside. As it is stated by the counsel for the petitioner that the possession has been taken by the authorities concerned, the concerned authorities are directed to put the petitioner in possession of the subject premises forthwith, preferably within a period of one week from the date of receipt of a copy of this order.



9. With the above directions, this Writ Petition is
allowed to the extent indicated.

(A. Abhishek Reddy , J)

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