

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8493 of 2023

M/s Ashirvad Plasto through its Proprietor Devkinandan Bihani (male), aged about 67 years, resident of near R.K. Ashram, Bela, Mithanpura, Police Station - Bela District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, East Gandhi Maidan, Patna - 800004.
3. The Secretary, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, East Gandhi Maidan, Patna - 800004.
4. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur.
5. Area In-charge, Bihar Industrial Area Development Authority (BIADA) Bela Industrial Area, Department of Industries, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Prasad, Adv.
For the Respondent/s : Mr. P.K. Shahi (Ag)

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

9 11-12-2023 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following relief(s);

*(I) For quashing the
cancellation order dated 21.04.2023
passed by Joint Secretary of Bihar
Industrial Area Development Authority,
Muzaffarpur.*

*(ii) For issuance of a direction
to the respondent authority not to allot*



the industrial plot of the petitioner to any other person otherwise the petitioner will suffer irreparable loss which cannot be compensated from money.

3. Learned counsel for the petitioner has stated that without issuing any show cause notice to the petitioner, the order of cancellation has been passed. Learned counsel has stated that even though the petitioner has filed an appeal, the appellate authority without adverting the said fact has passed the impugned order in a mechanical manner. Learned counsel has stated that the passing of the impugned order without issuing any show cause notice or putting the petitioner on notice is bad in law and contrary to the well established principles of natural justice and equity and, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for passing orders afresh duly putting the petitioner on notice and giving him an opportunity of filing his explanation to the said show cause notice.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has been indulging in various illegal activities including production of illicit liquor. Learned counsel has stated



that the Excise Department has conducted the raid on the premises of the petitioner and found huge quantities of illicit liquor. Therefore, the authorities concerned had to take necessary action and pass the impugned order.

5. Admittedly in the present case, the order of cancellation has been passed by the authorities concerned without putting the petitioner on notice. This Court as well as the Hon'ble Supreme Court in a number of occasions has held that before passing any order the authorities are expected to issue Show Cause Notice to the person. However justified the authorities may be in cancelling the allotment the minimum that is expected from them is to serve a show cause notice to the petitioner and call for his explanation and then pass a reasoned order. That non issuance of the Show Cause Notice before the order are placed are in violation of principles of natural justice and equity and the same cannot be condoned.

6. Having regard to the above said fact, the impugned order is set aside and the matter remanded back to the authority concerned for putting the petitioner on notice and calling for his explanation and then pass a reasoned order. The entire exercise shall be completed within a period of eight weeks from the date of receipt of the copy of this order.



7. As it is stated by the learned counsel appearing on behalf of the BIADA that the entire premises has been sealed by the Excise Authorities, the same shall remain sealed till the passing of the orders by the BIADA.

8. It is needless to mention that the petitioner shall be giving an opportunity of hearing before passing any order. Any order passed shall be communicated to the petitioner.

9. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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