

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9634 of 2023

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M/s. Janki Mini Rice Mill through its representative Janardan Singh, Gender-Male, aged about 48 years, S/o Shambhu Sharan Singh, R/o- Near Gurukul School, Ward No. 4, Mela Road Bhiyia, Bhojpur, Bihar- 802152.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industries, Govt. of Bihar.
2. The Additional Chief Secretary, Department of Industries, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna.
3. The Bihar Industrial Area Development Authority (BIADA), through its Managing Director, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The Joint Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, South, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
7. The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Regional Office, Patna Cluster.
8. The Area Incharge, Industrial Area- Bhiyia, Bhojpur, Bihar Industrial Area Development Authority (BIADA).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sachin Kumar, Advocate.

For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7.

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

10 19-12-2023

Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following reliefs:-

“(i) For quashing the order dated 01.06.2023 passed in Appeal Case No. 167/2023 communicated vide Memo No. 3306 dated 05.06.2023 by the Respondent No. 2 whereby and where under the Appeal filed by the Petitioner has been dismissed in a mechanical,



arbitrary, whimsical, pick and choose manner, whereas the similarly situated allottees have been given the benefits as are being given by the Hon'ble Court in C.W.J.C. No. 6883/2020, M/s. Umesh Service Station vs. The State of Bihar and Ors., and in terms of Appeal No. 76/2022.

(ii) For setting aside order bearing Memo dated 18.11.22 passed by the Respondent No. 7, The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur, (hereinafter referred to as 'BIADA') whereby and where under the allotment of land measuring an area of 20000 Sq. Ft. for the establishment of Industry etc. within the Industrial Area- Giddha has arbitrarily been cancelled, since the reason recorded therein is non-est, not sustainable that too being perverse and in complete violation of the principles of natural justice and against all canons of justice.

(iii) For declaration and to hold that the aforesaid impugned order 1.06.23 passed in Appeal Case No. 167/2023 communicated vide Memo No. 3306 dated 5.06.23 is illegal and in contravention to the settled principles of law i.e. Nemo Judex in Causa Sua (No one should be made a judge on his own cause) as the impugned order vide Memo dated 18.11.22 has been passed by Respondent No. 7 The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur and the order dated 1.06.23 passed in Appeal Case No. 167/2023 communicated vide Memo No. 3306 dated 5.06.23 passed by Respondent No. 2 Additional Chief Secretary, Department of Industries who is colorably holding the same post at same time and as such liable to be quashed on this ground itself.

(iv) For a direction upon the Respondents to give the benefits as are being given to the similarly situated allottees in C.W.J.C. No. 13558/2022, C.W.J.C. No. 12560/2022, C.W.J.C. No. 6883/2020, C.W.J.C. No. 13037/2022 and other analogous cases.



(v) For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.”

3. Learned counsel for the petitioner, instead of assailing the impugned orders on merit, submits that the possession of the unit/plot has already been taken over by the BIADA but at this stage the petitioner is willing to file an undertaking that within 60/90 days from the handing over of possess on by BIADA the petitioner will start commercial production and in case of his failing to do so, BIADA shall take-over the vacant and peaceful possession of the premises from the petitioner.

4. Learned counsel relies upon an order dated 31.01.2023 passed by Hon'ble Division Bench of this Court in C.W.J.C. No. 18255/2022 (M/s Mahendra se Cream Factory Vs. The Managing Director, Bihar Industrial Area Development Authority). It is submitted that the case of the petitioner may be considered on similar lines.

5. Learned counsel for the BIADA does not dispute that the Hon'ble Division Bench order dated 31.01.2023 passed in C.W.J.C. No. 18255/2022 of this Court has attained finality. However, it is his submission that the said order is not a judgment on the merit of the case, therefore, no definite view may be taken in the present case on the basis of the said order.



6. Having heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the BIADA, this Court is of the considered opinion that in the facts of the present case as the petitioner is seeking only an indulgence as a matter of last resort to allow him to establish and run the industrial unit, the petitioner may, if so advised, file an appropriate representation before the BIADA which will be considered by the Managing Director of BIADA keeping in view the Hon'ble Division Bench orders of this Court passed in C.W.J.C. No. 18255/2022 and other similar matters.

7. It is expected that the Managing Director, BIADA shall take a uniform view of the matter in the light of the orders of the Hon'ble Division Bench of this Court passed from time to time in similar matters.

8. With the above observations, the present Writ Petition stands disposed off to the extent indicated above.

(A. Abhishek Reddy , J)

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