

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1796 of 2024

M/s. Vishwa Laghu Udyog through its Proprietor Prashant Kumar Choudhary, aged about 46 years/M, S/o Vishwanath Choudhary, resident of Pankaj Markted, Near Shyam Mandir, Saraiyaganj, P.S.- Town, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
2. The Principal Secretary, Department of Industries, Government of Bihar, Patna.
3. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur.
6. The DGM, Industrial Area, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv.
For the Respondent/s	:	Mr. Government Advocate 5
For the BIADA	:	Mr. Piyush Kumr Pandey, Adv.

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

2 22-03-2024 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

*“(i) For quashing of the Office
Order bearing Memo No. 1200, dated
01.08.2022, passed by the Deputy
General Manager, Industrial Area,
Muzaffarpur Cluster, BIADA,*



Muzaffarpur, Bihar (respondent No. 6) in the light of the order of Joint Managing Director, BIADA (Respondent No. 4) whereby and where under, the Plot No. C-3(P), admeasuring a total are of 5400 Sq. Ft. allotted to the petitioner under Lease Deed dated 14.09.2012 has been cancelled.

(ii) For quashing of the order dated 02.11.2022 passed by the Principal Secretary Department of Industries, Government of Bihar (Respondent No.2), in Appeal No. 132 of 2022, by which the order dated 01.08.2022 passed by the Deputy General Manager, Industrial Area, Muzaffarpur Cluster BIADA, Muzaffarpur (respondent no. 6) has been duly affirmed and the Appeal was rejected.

(iii) For a direction upon the Respondent Authorities not to allot petitioner's Plot No. C- 3(P) to any other person, till the disposal of the present writ application.

(iv) For directing the respondents not to take any coercive steps against the appellant of the petitioner till the disposal of the writ petition."

3. Learned counsel for the petitioner has stated that



the petitioner has been allotted an area of 2200 Sq. ft. way-back in the year 2010 for the purpose of manufacturing *Besan* and subsequently in the year 2016, a further area of 3200 sq. ft. has been given for the purpose of manufacturing paper plates etc. Learned counsel has stated that the authority concerned without issuing any show cause notice to the petitioner has straightway cancelled the order of allotment. Even though the petitioner has filed an appeal before the appellate authority, the appellate authority without advertng to the grounds raised by the petitioner has mechanically dealt with the appeal and passed the order rejecting the appeal filed by the petitioner. Learned counsel has stated that the conduct of the authority in passing the impugned order of cancellation without issuing show cause notice is contrary to the principles of natural justice and equity. Therefore, prayed this Hon'ble Court to set aside the impugned order passed by the appellate authority as well as the primary authority.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and has stated that though the petitioner has been allotted the land way-back in the year 2010, the petitioner has not kept the unit in running



condition and the same is evident from the inspection Report dated 28.07.2022. Learned counsel has stated that the petitioner was issued a notice in the year 2018 but did not bother to reply to the same, therefore, the authorities left with no other option and had to pass the order of cancellation. Further, learned counsel has stated that the petitioner has not produced any scrap of paper to show that the unit is in a running condition and that the petitioner has taken necessary steps to keep the manufacturing unit in a running condition. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the orders passed by the primary authority reveals that before passing the order of cancellation, no show cause notice was issued to the petitioner. On this ground alone, the impugned order is liable to be set aside. This Hon'ble Court as well as the Hon'ble Supreme Court in a catena of cases has time and again held that the authorities before passing any adverse orders against any person have to necessarily put that person on notice and give him an opportunity of filing his explanation but the same is evidently missing in this case. The non-issuance of the show cause notice to the petitioner before passing order of cancellation is contrary



to the principles of natural justice and equity and, therefore, the same liable to be set aside. Once the order of the primary authority is held to be bad and is set aside, the order passed by the appellate authority does not have any independent legs to stand and the same is also liable to be set aside. Having regard to the same, both the order of cancellation dated 01.08.2022 and the order of the appellate authority dated 02.11.2022 are set aside. In case the authorities are of the opinion that any action needs to be taken against the petitioner, they shall issue a show cause notice to the petitioner calling for his explanation. After receipt of the explanation, they shall pass necessary orders giving the reasons for the same. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of this order. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated issued to the petitioner. As it is stated by the learned counsel for the petitioner as well as the learned counsel for the respondents that the possession of the unit has already been taken by the authority concerned the petitioner shall be put in possession of the same forthwith.

6. With the above directions, the present writ petition



stands disposed of.

(A. Abhishek Reddy , J)

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