

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3847 of 2024

M/s. Champaran Rice Udyog through its representative Ashok Kumar Gupta,
49 yrs. Son of Late Rajbansi Prasad, Donwar, Ward No. 11. State Bank, Near
P.S. Shanichari, O.P. Donwar Kalan, West Champaran, Barwa Ojha, Bihar-
845452 ... Petitioner

Versus

1. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan,
Gandhi Maidan, Patna through its Managing Director.
2. The 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, North, Bihar Industrial Area Development
Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The Deputy General Manager, Motipur Cluster, Bihar Industrial Area
Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Area Incharge, Industrial Area- Kumarbagh, Bihar Industrial Area
Development Authority- (BIADA). ... Respondents

Appearance :

For the Petitioner	:	Mr. Rajendra Narain, Sr. Adv. with M/s Sachin Kumar, Abhishek Kumar Pandey & Annapurna Sinha, Advs.
For the Respondents	:	Mr. Ravi Kumar, Adv.

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

10 23-08-2024 Heard the parties.

2. The present writ petition has been filed for the
following relief(s) :

*i. For Staying the operation of the Order contained in
Memo No. 1601 Dated 44.02-2022 whereby and
whereunder the Respondent Deputy General
Manager. Motipur Cluster, BIADA has jurisdiction
and de hors, the provisions of BIADA Act, 1974, has
illegally, whimsically and arbitrarily directed for
stopping the running unit, and has also directed to*



hand over the physical possession of the unit, within a period of seven days which is completely illegal, non-est and in complete contravention to Section 6 2 (a) of the BIADA Act, 1974.

ii. For quashing the order dated 5.02.2024 passed in Appeal Case No. 147/2023 communicated vide Memo No. 714 dated 5.02.224 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.

iii. For setting aside order bearing Memo No. 1601 dated 14.12.22 passed by the Respondent No. 5, The Deputy General Manager. Motipur Cluster, Bihar Industrial Area Development Authority (BIADA), (hereinafter referred to as 'BIADA') whereby and where under the allotment of land measuring an area of 11780 sq. ft. for the establishment of Industry etc. within the Industrial Area- Kumarbagh 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.



iv. For declaration and to hold that the aforesaid impugned order dated 5.02.2024 passed in Appeal Case No. 147/2023 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 No. 1601 dated 14.12.22 has been passed by Respondent, The Deputy General Manager, Motipur Cluster, Bihar Industrial Area Development Authority (BIADA) and the order dated 5.02.2024 passed in Appeal Case No. 147/2023 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.

v. During the pendency of this Writ Application be further graciously pleased to stay the operation of the Order dated 5.02.2024 passed in Appeal Case No. 147/2023 passed by Appellate Authority and Respondents may be directed to maintain status quo ante, till the final disposal of the instant Writ Application.

vi. 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.

vii. For directing the respondents forthwith not to take



any coercive steps against the allotment of petitioner till disposal of this writ application. vin. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.

viii. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.

3. It is a case of the petitioner that he was allotted an area of 11780 sq. ft. in Kumarbagh Industrial Area (West Champaran) in year 2010 for the purpose of establishing a rice mill. That after the petitioner was put in physical possession of the subject property, the petitioner has established the rice mill and continued the industrial activity. However, it is stated that after the Covid-19 pandemic the Bihar State Food Corporation (in short, 'BSFC') had taken a policy decision to reduce the procurement of arwa rice and reduced the procurement of usna rice and, therefore, the private rice millers were excluded from the procurement season 2022-23. The petitioner has continued to run the unit at full pace and without any interruption and there was no complaint from any quarters till the respondents have issued Memo No. 1601, dated 14.12.2022, whereby the allotment made to the petitioner was cancelled. Counsel for the petitioner has stated that the authorities have issued show cause



notice to the petitioner on 17.05.2019 (Annexure R/2) to which the petitioner had given a suitable reply and thereafter the impugned order of cancellation was passed after a lapse of more than three years vide order, dated 14.12.2022 (Annexure P/5). Thereafter the petitioner has preferred an appeal before the Appellate Authority who vide order, dated 05.02.2024, has dismissed the appeal filed by the petitioner. Counsel has stated that both the Appellate as well as Primary Authorities without advertng to the facts of the case, the explanation submitted by the petitioner and also the inspection report, dated 11.09.2023, have passed the order of cancellation and dismissed the appeal without any application of mind. Learned counsel has drawn the attention of the Court to the inspection report, dated 11.09.2023, to buttress his contention that as on the date of inspection the unit of the petitioner was functioning and the finding given by the Appellate Authority that the petitioner has failed to even establish the unit is contrary to the said report and therefore prayed this Hon'ble Court to set aside the impugned order.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petition. Counsel has stated



that even though the petitioner was allotted the land way-back in the year 2010, the petitioner has failed to maintain the full productivity and therefore the very purpose for which the land was allotted has been defeated. Learned counsel has stated that though several opportunities were given to the petitioner to start the commercial production he has failed to do so therefore the authority left with no other option but to cancel the allotment made in favour of the petitioner. Further it is stated that the physical possession of the land was taken on 20.03.2024. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

5. Admittedly, in the present case the petitioner was allotted the land way-back in the year 2010 for the purpose of establishing a rice mill. The documentary evidence filed by the petitioner as well as the inspection report, dated 11.09.2023, of the respondent authorities clearly establish the fact that the petitioner has established the Rice Mill. However, it is to be noted that in the order passed by the Appellate Authority, the Appellate Authority has held as under :

“After hearing the rival contentions of the parties, it is found that the appellant has miserably failed to establish the industry over the allotted land. The appellant has also failed to show any promising way



forward in the direction of establishing the industry over the said land. The valuable land in the industrial area has been kept in an abandoned condition in possession of the appellant, which is detrimental for industrial growth as well as violation of terms and conditions of the allotment. The recent site inspection report dated 11.09.2023 also proves that no industrial activity has been found to be carried out and the main gate of the premises was found closed. Therefore, in light of the fact that appellant has not established the industry over the allotted land since the date of allotment as well as in absence of any future plan for establishing industry over the allotted land, it would not be judicious to let the appellant retain the 'and in question as it would defeat the Legislative intent of BIADA Act.'"

6. However, the inspection report, dated 11.09.2023, clearly establishes the fact that the petitioner has established the unit and at the time of inspection it is stated that the repairs of the machinery was being undertaken and estimated ten quintals of paddy was available in the unit. Further, the report also states that the entire land allotted is being used merely because the unit is temporarily closed it cannot be said that the petitioner has filed to establish the unit. The authority ought to had taken a pragmatic view of the entire matter duly taking into



consideration the inspection report, dated 11.09.2023, but, the same was not done in this case and the Appellate Authority has passed this order in a mechanical manner. It is also pertinent to note that the Appellate Authority while passing the orders in appeals are simply copying and pasting the above extracted portion in all the appeals filed by various individuals, which clearly demonstrates that the appeals are not being dealt on individual basis but are being dealt in a pedantic and mechanical manner.

7. Having regard to the above mentioned facts and circumstances, this Court is constrained to set aside the order passed by the Appellate Authority and the same is accordingly set aside. The matter is remanded back to authority concerned for passing order afresh duly taking into consideration the explanation submitted by the petitioner, the grounds of appeal and also the inspection report, dated 11.09.2023.

8. The entire exercise shall be completed as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. Any orders passed shall be communicated to the petitioner.

9. It is needless to mention that before passing any orders, the party shall be put on notice and given an opportunity



of hearing. Any order passed shall be communicated to the parties.

10. That in case the appeal is allowed in favour of the petitioner the authorities are directed to put the petitioner back in possession and give him reasonable time to start the production. Till such time the final orders are passed in the appeal the authorities are directed not to create any third party right.

11. With the above directions, the Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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