

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4284 of 2024

M/s Skylark Hatcheries Private Limited, a company registered under the Companies Act, 2013 having its office at Plot No - 4P Industrial Growth Centre Maranga, PS- Maranga District- Purnea through its authorized signatory Manoj Kumar (Male) S/o Kapileshwar Pandit, aged about 47 Years, Resident of Raipur Chowk, Raipur Bujaurg, Rasulpur, PS-Sarairanjan, District-Samastipur-848505, Bihar.

... .. Petitioner/s

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), Bhagalpur.
5. The DGM, Industrial Area, Purnea Cluster, Bihar Industrial Area Development Authority (BIADA) Industrial Area, Maranga, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate.
For the BIADA : Mr. Lalit Kishore, Advocate.
Mr. Parth Gaurav, Advocate.

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

8 18-11-2024 Heard learned counsel for the parties.

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

“ (A) For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 10.01.2024 (Annexure-P/3) passed by the Respondent No. 2 whereby and whereunder the petition for modification preferred by the petitioner seeking modification of the order dated



26.10.2022 passed in Appeal No. 84/2022 has been dismissed.

(B) For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 26.10.2022 (Annexure-P/2) passed by the Respondent No. 2 in the appeal preferred by the petitioner bearing Appeal No. 84/2022 against the order of cancellation dated 20.06.2022 passed by the Respondent No. 5.

(C) For issuing a writ in the nature of certiorari or any other appropriate writ quashing the order of cancellation dated 20.06.2022 (Annexure P/1) passed by the Respondent No. 5 cancelling the transfer, of plot bearing Plot No. 4B admeasuring 3000 sq. ft. in the Industrial Area, Maranga, Purna, made to the petitioner.

(D) For issuing a writ in the nature of certiorari or any other appropriate writ quashing the letter dated 13.10.2023 (Annexure P/15) wherein the petitioner has been directed to hand over the possession of the plot to BIADA.

(E) For issuing a writ of mandamus directing the respondents to consider and allow for merger of the concerned plot to the adjacent plots allotted to the petitioner so that the petitioner can increase production and work effectively.

(F) 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.

(G) For holding that the Respondent No. 2, himself being the Managing Director of BIADA (on whose behest cancellations are done) cannot sit in appeal over the orders passed by BIADA in terms of Section 6 (2)(2-a) of the BIADA Act, 1974 as per which the State Government is the appropriate authority to hear an appeal against the orders passed by the BIADA.

(H) For issuing appropriate order(s) staying all further proceedings and consequential actions pursuant to the Appellate Order dated 10.01.2024 (Annexure P/1) and letter dated 13.10.2023 seeking possession of the plot.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner had requested for transfer of the allotment of the land admeasuring 3000 sq ft. in Plot 4B and 6000 sq. ft. in Plot 4P and another plot admeasuring 5000 sq. ft. which was originally allotted to third person and subsequently, the said plots were transferred in favour of the petitioner. Thereafter, the petitioner has paid the necessary transfer fees for transferring the said plots in the name of the petitioner to BIADA and the same was approved. Thereafter, the petitioner has made the requisite construction and started the production. However, due to the COVID-19 pandemic situation, the petitioner could not continue the business, therefore, he has



sought change of the product. That out of the total area of 14,000 sq. ft. of land (in three plots) an area admeasuring 3000 sq. ft. which was allotted to the petitioner on 25.09.2019 was cancelled vide order dated 20.06.2022. Therefore, the petitioner has preferred an appeal against the order of cancellation and the appellate authority granted three months time for trial production and six months time for starting commercial production for the purpose of bird feed plant along with Rs. 1 Lakh bank guarantee. Thereafter, the petitioner has started the production. Thereafter, the petitioner has filed another application seeking extension of time by another six months but the appellate authority without considering the same vide order dated 10.01.2024 has rejected the application made by the petitioner seeking extension of the time. That the petitioner apprehending that the authorities have cancelled the allotment made in favour of the petitioner and that the earlier order dated 26.10.2022 has been modified has approached this Court by way of the present writ petition.

4. A perusal of the documents does not reveal that consequent to the order dated 10.01.2024, the Respondent-BIADA has given any notice to the petitioner either seeking cancellation of the subject unit or for taking back the physical



possession of the subject land. Even though the Respondent-BIADA in their counter affidavit has stated that they have taken back the physical possession of the subject property, the same is vehemently denied by the petitioner and he has stated that the petitioner is in physical possession of the subject property as on date and the commercial production is going on.

5. Admittedly, as per the order dated 26.10.2022, the initial order of cancellation dated 20.06.2022 has already been set aside, therefore, the only option available to the respondent, if they are so advised, is to seek cancellation of the unit once again.

6. Admittedly, the Respondent-BIADA has not put the petitioner on notice after the orders dated 10.01.2024 either seeking back the physical possession of the subject property or cancelling the allotment in favour of the petitioner. In case, they want to proceed any further, they shall put the petitioner on notice giving the reasons for seeking the cancellation and giving the petitioner an opportunity to file his explanation to the said show cause notice. After receipt of the explanation, if any, submitted by the petitioner, necessary orders shall be passed strictly in accordance with law.

7. Before passing any orders, the petitioner shall be



given an opportunity of hearing. Any order passed shall be communicated to the party.

8. With the above observation, the present Writ Petition stands disposed of to the extent indicated.

(A. Abhishek Reddy, J)

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