

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4475 of 2024

Sarvshree Chandrika Oil Mill Industrial Area, Sitamarhi through its Proprietor Chandrika Singh, aged about 66 years, Gender-Male, son of Late Ram Ayodhya Singh, Resident of Village-Marar, Police Station-Riga, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The Additional Chief Secretary cum Chairman, Bihar Industrial Area Development Authority Department of Industry, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna-4.
3. The Secretary, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna-4.
4. The Executive Director (Headquarter), Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna-4.
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur.
6. The Development Officer, Bihar Industrial Area Development Authority, Muzaffarpur Cluster, Muzaffarpur.
7. The Assistant Area Manager, Industrial Area, Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Ranjan Kumar Singh, Adv.
For the BIADA	:	Mr. Ravi Kumar, Adv.

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

4 01-04-2024 Heard the learned counsel for the parties.

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

“I. For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 19.02.2024, passed in Appeal no. 213/ 23 by which appeal has been dismissed.

II. For issuance of an



appropriate writ in the nature of certiorari for quashing the office order dated 26.05.2023 under memo No. 210 issued under the signature of Deputy General Manager, BIADA, Muzaffarpur Cluster by which 0.125 acres of allotted land, Plot No. D-1, East of Natrajan Industries has been cancelled.

III. For issuance of an appropriate writ in the nature of mandamus commanding the respondents to restore the status of the unit in question, inter alia, on the sole reason unit was/is in fully commercial benefits in terms thereof for which petitioner is entitled for.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has been allotted land to an extent of 0.125 Acres of land on 07.12.2000 for the purpose of production of Oil. The possession of the land has been given on 15.03.2001. That taking advantage of the notification issued by the authorities on 08.04.2022, the petitioner has applied for change of product along with the requisite fees on 08.08.2022. Thereafter, the petitioner has been issued letter written by BIADA stating that the demand draft submitted by the petitioner has expired and asking him to furnish a fresh demand draft on



13.02.2023 to which the petitioner has got issued a fresh demand draft on 22.02.2023. Learned counsel for the petitioner has stated that immediately thereafter the petitioner has been issued a show cause notice on 13.04.2023 seeking to cancel the allotment and the petitioner has submitted his explanation. Learned counsel has stated that the authority concerned without adverting to the Inspection Report dated 07.08.2023 has passed the order of cancellation on 26.05.2023. The petitioner has preferred a statutory appeal before the concerned authority and during the pendency of the Appeal, the Inspection Reports were called on 22.08.2023 and another one on 11.09.2023. Learned counsel has stated that even though the Inspection Report dated 07.08.2023 it was found that the unit of the petitioner is in working condition, the appellate authority has passed the impugned order recording a finding that the petitioner has not established the industry at all. Learned counsel has stated that the petitioner has not only established the unit but, the same is in production. Further the stand taken by the authority that the petitioner's unit is not working to the full capacity is also not correct and the same is dependent on the market conditions. That the finding recorded by the appellate authority as well as the primary authority is contrary to the facts of the case and



contrary to the Inspection Reports. Therefore, prayed this Hon'ble Court to set aside the impugned order and allow the present writ petition.

4. Per contra, the learned counsel appearing on behalf of the respondents BIADA has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that even though the petitioner has been allotted the land way back in the year 2000. The Inspection Report dated 07.08.2023, 22.08.2023 and 11.09.2023 revealed that the petitioner has not established the unit completely and using the said premises for the purpose of residence and also for raising cattle. Learned counsel has stated that the appellate authority duly taking into consideration the Inspection Report dated 22.08.2023 and 11.09.2023 has passed a reasoned order and, therefore, the same does not call for any interference by this Hon'ble court and prayed for dismissal of the present writ petition. Learned counsel has taken this Court to the order of cancellation passed by the Primary Authority as well as the appellate authority and also the Inspection Report dated 07.08.2023, 22.08.2023 and 11.09.2023 to buttress his contentions.

5. Admittedly, in the present case as seen from the



record, the petitioner has been granted land to an extent of 0.125 acres on 07.12.2000 for the purpose of establishing a oil unit, thereafter, the petitioner has applied for change of the product duly paying the requisite fees in the year 2023. It is pertinent to note that the petitioner pursuant to the letter dated 17.03.2023 by BIADA has submitted a renewed Demand Draft on 22.02.2023 and the same has been accepted by the authority concerned. However immediately, thereafter, on 13.04.2023 the petitioner has been issued a show cause notice asking him to submit his explanation as to why the allotment should not be cancelled. Though the petitioner has submitted his explanation the order of cancellation has being passed. The authority concerned has not taken into consideration the Inspection Report dated 11.09.2023 wherein it is clearly recorded that the petitioner has established the unit however the same is not in commercial production. Further in the inspection report it is recorded as under:-

“निरीक्षण के दौरान ईकाई आंशिक रूप से कार्यरत पाया गया। इकाई पर बस एक ही व्यक्ति मौजूद थे जो कि उद्यमी का बेटा था। अभि को भी स्टाफ मौजूद नहीं पाया गया। उनके द्वारा कहा गया मशीन डिजल से चलाया जाता है। इकाई में मात्र 21 बोरा गुड्डु का पाया गया एवं 6 बोरा आटा का पाया गया। ऐसा प्रतीत होता है



कि उत्पादन पूर्ण क्षमता के साथ नहीं होता है।”

6. But contrary to the finding of fact recorded by the Inspection Report, the appellate authority has held as under:-

“The recent site inspection report dated 11.09.2023 also proves that no industrial activity has been found to be carried out. It is apparent that numerous opportunities have been afforded to the Appellant for initiation of industrial activity. However, in spite of the efforts the unit is in despondent and desolated state as it is the epitome of misuse of mercies of law.

Therefore, in light of the fact that appellant has not established the industry power over the allotted land 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 land in question as it would defeat the Legislative intent of BIADA Act.”

7. The above findings of the appellate authority is contrary to the finding of fact arrived by the Inspection team in its Report.

8. Having regard to the same, the impugned order of



the appellate authority is set aside and the matter remanded back to the authority concerned for passing orders afresh duly taking into consideration the grounds raised in the appeal, the explanation submitted by the petitioner to the show cause notice, the bills submitted by the petitioner showing purchase and sale of the commodities, the electricity bills and any other documents submitted by the petitioner. The petitioner shall also file an affidavit of undertaking before the authority concerned stating that they will start the commercial production within a period of three months and the appellate authority is directed to take a decision on the same. In the said undertaking the petitioner shall also undertake that he shall not use the premises for any other purpose except for which the same has been allotted or the change of product which has been permitted by BIADA.

9. The appellate authority shall pass a reasoned order 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 appellate authority shall give an opportunity of hearing to the petitioner. Any order passed shall be communicated to the petitioner.

10. With the above directions, the present writ petition



stands disposed of.

(A. Abhishek Reddy , J)

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