

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5988 of 2023

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M/s Silver Line Hand Made Paper Industries Ramchandrapur, P.S.- Bihar Sharif, Nalanda through its proprietor, Kumar Indrasen aged 56 years, Male, son of Dr. Indrajit Prasad, resident of Mohalla Kachahari Road, P.S. Bihar Sharif District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Industries Department, Government of Bihar, Patna.
2. The Bihar Industrial Area Development Authority Bihar Patna through its Director General.
3. The Joint Director General, Bihar Industries Area Development Authority, Patna Cluster Officer Industrial Area Patliputra, Patna.
4. The Deputy Director General, Bihar Industries Area Development Authority, Patna Cluster Officer Industrial Area Patliputra, Patna.
5. The Commissioner Industries Department Government of Bihar Patna.
6. The Development Officer, BIADA, East Gandhi Maidan, Patna.
7. The Area Officer Industrial Estate Ramchandrapur Bihar Sharif, Nalanda.
8. M/s Shri Harihar Industries through its proprietor;- Mr. Shailendra Kumar, Resident of Bhaisasur, Ranchi Road, Hospital Chowk, Bihar Sharif, Nalanda, Pin Code 803101.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Sinha, Advocate.
For the Respondent/s	:	Mr. Vikash Kumar, SC-11 with Mr. Dhirdyuti Kumar Verma, AC to SC-11.
For the BIADA	:	Mr. Avinash Kumar, Advocate. Mr. Ajay Kumar Mehta, Advocate.

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

18 19-11-2024

Re. I.A. No. 02 of 2023

For the reasons mentioned in the Interlocutory
Application No. 02 of 2023, the same is allowed.

2. Registry is directed to make necessary changes in



the cause title accordingly.

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3. Heard learned counsel for the parties.

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

“A(i) To quash the order contained in Ref. 2643/D dated 10.04.2023 by which the land in question has been allotted to M/s Sri Harihar Industries and Memo No. 382 dated 20.04.2023 by which the Deputy General Manager, Patna cluster BIADA asked Respondent No. 8 to take possession over the land in question.

((ii) Order dated 29.11.2022 contained in Memo No. 640 issued under the signature of Dy. Director General, Bihar Industries area Development Authority (herein after referred as BIADA) Patna cluster Patna cancelling 9000 square feet land out of total 13600 square feet land allotted to the petitioner in the year of 2022 by the competent authority accordance with law.

(iii) Order dated 20.02.2023 passed in appeal No. 15/2023 by the Principal Secretary Industrial Department, Bihar Patna dismissing the appeal filed by the petitioner against the order dated 29.11.2022 contained in Memo No. 640.

(B) A writ in the nature of mandamus or any other appropriate writ order/s direction commanding the respondents for following:

(i) To treat the orders contained in Annexure 4 and 5 to the petition are non-est in the eye of law.

(ii) To holder their order



contained in Annexure 4 and 5 are suffering from error of records.

(iii) To hold that orders under challenge are in the teeth of aim and object of BIADA”

5. Learned counsel appearing on behalf of the petitioner has stated that initially the petitioner was allotted approximately 13600 sq. ft. of land in the year 2005 for the purpose of manufacturing hand-made paper. That subsequently, the petitioner has applied for change of the product into fabrication and the same was granted by the authority concerned for part of the land. That approximately an area of 9000 sq. ft. was earmarked for the purpose of fabrication and 4600 sq. ft. for use of the paper industries. That the authorities have issued a show-cause notice dated 26.08.2022 calling for the explanation of the petitioner as to why the allotment should not be cancelled as the petitioner has not been utilizing 9000 sq. ft. of land meant for fabrication. The petitioner has given a suitable reply along with a sworn affidavit on 26.09.2022. However, the authority vide order dated 29.11.2022 has cancelled the allotment of 9000 sq. ft.. Though the petitioner has filed an appeal against the order of cancellation dated 29.11.2022, the appellate authority also did not take into consideration the explanation submitted by the petitioner and rejected the appeal filed by the petitioner. That



having no other recourse, the petitioner has approached this Court by way of the present writ petition.

6. Learned counsel appearing on behalf of the petitioner has stated that though the petitioner has submitted his explanation to the show-cause on 26.09.2022, the impugned order of cancellation dated 29.11.2022 does not reflect that the explanation was even considered. On the other hand, the learned counsel for the petitioner has stated that a bare reading of the impugned order dated 29.11.2022 reveals that the authority has come to the conclusion that the petitioner has not submitted his explanation to the show cause notice. Further, it is stated that the petitioner has obtained information under the Right to Information Act and he has received a reply dated 26.09.2022 stating that the explanation submitted by the petitioner was very much available on record as on the date of passing of the order of cancellation.

7. Though the learned counsel for the Respondent-BIADA has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has miserably failed to establish the fabrication industry though more than 17 years have elapsed and that the authority duly taking into consideration, the inspection report has rightly cancelled the



allotment in favour of the petitioner. The fact remains that the petitioner was given a show cause notice and he has submitted his explanation on 26.09.2022 along with notarized affidavit but the impugned order passed by the authority does not reflect that the same was considered at all. On the other hand, the authority was of the opinion that the petitioner has not submitted any explanation to the show cause notice and has proceeded on the merits of the case. Though the petitioner has raised the above ground in the appeal, the appellate authority also did not take the same into consideration. Once the authority has issued a show cause notice seeking explanation from the petitioner and the petitioner has submitted his explanation, the authorities are bound to consider the said explanation and pass a reasoned order advertent to the explanation submitted by the petitioner but in this case the same is absent.

8. Admittedly, as per the information sought by the petitioner under the R.T.I., the copy of the explanation was on record as on the date of passing of the impugned order. Therefore, on this short ground alone, the order of cancellation dated 29.11.2022 and that of the appellate authority dated 20.02.2023 are both set aside and the matter is remanded back to the primary authority for passing a reasoned order duly taking



into consideration the explanation submitted by the petitioner, if the petitioner is so advised, he is free to file any other documents to show that the unit is under production. 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. Any orders passed shall be communicated to the party. It is needless to mention that the petitioner shall be given an opportunity of hearing before passing any orders. As it is stated that pursuant to the order of cancellation the allotment has been made in favour of the Respondent No. 8 and physical possession has also been delivered to him which fact has been denied by the petitioner. The petitioner has brought to the notice of this Court, the counter affidavit filed by the Respondent No. 8 wherein it is categorically stated as under:-

“That it is worth to submit here that in light of letter dated 15.04.2023 sent by the Respondent No. 8 the Office of BIADA has issued order vide memo No. 382 dated 20.04.2023 giving direction to hand over the physical possession of the allotted land as the instant respondent has complied the terms within given time period of demand order and accordingly allotted land was measured by the Amin on 02.05.2023 in presence of the Respondent No. 8 and till date only on the paper the possession has



been delivered to the instant respondent and after measurement the allotted land premises was locked by the authorities concerned despite several request was made by the respondent to hand over the actual possession of land so that he could start his business actively in the allotted land but without any positive response from the authorities land was not handed over and such this respondent is financial suffering irreparable loss as to he invested huge amount after taking loan from the bank and paying the interest due to BIADA lackadaisical approach.”

9. The allotment made to the Respondent No. 8 shall be kept in abeyance till the final orders are passed by the primary authority.

10. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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