

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3454 of 2023

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M/s Jaiswal Rice Mill, Proprietor Sudama Prasad aged about 59 years son of Late Ramji Prasad, Resident of At Kumharpatti, Ward No. 02, Post Office- Chanpatia, P.S. Chanpatia, District-West Champaran PIN 845449.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industry, Government of Bihar, Patna.
2. The Industrial Development Commissioner, Government of Bihar, Patna.
3. The Joint Managing Director, Bihar Industrial Area Authority Muzaffarpur Cluster, 1st Floor, Udyog Bhawan, East gandhi Maidan, Patna-800004.
4. The Deputy Managing Diretor, Bihar Industrial Area Authority Muzaffarpur Cluster, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.
5. The Development Officer, BIADA,1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.
6. The Executive Director, BIADA, Regional Officer, Muzaffarpur.
7. The Development Officer, BIADA, Regional Officer, Muzaffarpur.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 4862 of 2023

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M/s Sanjay Rice Mill, Proprietor Sanjay Kumar aged about 47 Years Son of Bechan Prasad, Resident of Ward No.03, Shyam Cinema Road, Post Office- Chanpatia, P.S. Chanpatia, District- West Champaran PIN 845449.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industry, Government of Bihar, Patna.
2. The Industrial Development Commissioner, Government of Bihar, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority Muzaffarpur Cluster, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.
4. The Deputy Managing Director, Bihar Industrial Area Development Authority Muzaffarpur Cluster, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.
5. The Development Officer, BIADA, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.
6. The Executive Director, BIADA, Regional Office, Muzaffarpur.
7. The Development Officer, BIADA, Regional Office, Muzaffarpur.



... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 3454 of 2023)

For the Petitioner/s : Mr. Nishant Kumar Sinha

For the Respondent/s : Mr. Vikash Kumar (Sc 11)

(In Civil Writ Jurisdiction Case No. 4862 of 2023)

For the Petitioner/s : Mr. Waliur Rehman, Adv.

: Mr. Nishant Kumar Sinha, Adv.

For BIADA : Mr. Ravi Kumar, Adv.

For the Respondent/s : Mr. Vikash Kumar (Sc11)

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

Date : 20-08-2024

(In Civil Writ Jurisdiction Case No. 3454 of 2023)

Heard the learned counsel for the parties.

The present writ petition has been filed for the following
reliefs:-

*“I. For quashing the official order
vide memo no. 1575 dated 06.12.2022 under
the signature of authority BIADA whereby the
allotted plot no. D-43 Part Area 10890 sq.ft.
for establishment of Sub Shri Jaiswal Rice Mill
within the Industrial Area, Kumar Bagh at
Muzaffarpur arbitrary and whimsically
cancelled without appreciating the situation as
prevailing over the plot which allotted to the
petitioner.*

*II. For further direct the
respondent authority BIADA to facilitate the
way of approach to the main road as because
of fact after the allotment no approaching to
the main road has ever provided so that the*



petitioner could easily access his ready product to the market easily.

III. For that after setting aside the impugned order to the allotted plot and is failed to facilitated to better egrance and egrance to the approaching road then in alternative to re-allottee the better plot with a viability of better egrance and egrance to the approaching road for transportation of raw and ready material to the market.

IV. Till the pendency of the present writ application the operation of memo no. 1575 dated 06.02.2022 may stayed and also restrained the concerned authority BIADA, Muzaffarpur Cluster not to make any further allotment to any other person over plot in question.”

3. Facts in brief for the purpose of disposal of the present writ petition are that the petitioner has been allotted 10890 sq. ft. of land on 16.07.2013 for the purpose of establishing a Rice Mill (Annexure-2). The respondent authority vide order dated 06.12.2022 (Annexure-5) has cancelled the allotment on the ground that the petitioner has not utilized the land for the purpose for which it was allotted.

4. Learned counsel for the petitioner has stated that the land which has been allotted to the petitioner had no ingress or egress and, therefore, the petitioner could not establish the factory. Learned counsel has stated that though the petitioner has made several representations to the authority concerned for allotting



another land viable for setting up the industry, the authorities have till date not taken any action on the same. That the impugned order passed by the authority is without issuing any show cause notice to the petitioner. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority for allotting viable/alternate land for the purpose of establishing the factory.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-BIADA has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner without availing the alternate remedy of filing an appeal against the order of cancellation has straightway approached this Hon'ble Court and the same is not permissible. Learned counsel has stated that the present writ petition may be dismissed. Further, it is stated that though the land was allotted to the petitioner way back in the year 2013, the petitioner has not established the industry and, therefore, the authorities based on the inspection report (Annexure-A) have taken a decision to cancel the allotment itself. Further, it is stated that the petitioner was put on notice (Annexure-4) dated 16.04.2022 and then only the impugned order of cancellation was passed.



6. As seen from the record, admittedly in the present writ petition, the petitioner was allotted the land for the purpose of establishing Rice Mill. Thereafter, the petitioner has been making several representations to the authority concerned stating that the land which was allotted to the petitioner did not have any ingress or egress and, therefore, an alternate land may be allotted in lieu of the allotted plot and to that effect, the petitioner has also issued letter dated 19.12.2022 (Annexure-6). The fact that the petitioner has submitted representations has not been denied by the authorities. In fact, in the counter-affidavit filed by the authorities, it is clearly stated that the land which was allotted to the petitioner was situated beside the railway line and due to the adjacent plot being disputed, the approach road problem could not be solved and the authority vide Letter No. 29 dated 04.01.2022 has sought the consent of the petitioner to cancel the allotment made and refund the earnest money, fee and first installment deposited (Annexure-3).

7. In the counter-affidavit filed by the authorities, it is further stated that the petitioner was given an opportunity under the amnesty policy vide Letter No. 590 dated 16.04.2022 (Annexure-4) but the same was not availed by the petitioner. That when the petitioner did not respond to the above letters, the



authority had no other option but to cancel the allotment. However, in the counter-affidavit filed by the respondents, there is no whisper with regard to the representation made by the petitioner for allotment of alternate land. Admittedly in this particular case, the petitioner has been making several representations seeking alternate land as there was a problem with regard to the approach road to the allotted plot. The authority instead of taking a pragmatic view of the matter has decided to cancel the allotment, that to without issuing any show cause notice to the petitioner and the same is contrary to the principles of natural justice and equity.

8. Having regard to the above, the impugned order dated 06.12.2022 is set aside and the matter is remanded back to the authority for considering the case afresh duly taking into consideration the representations made by the petitioner for allotment of alternate land. The authority shall take a pragmatic view of the entire matter and pass necessary orders. 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. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. Any orders passed shall be communicated to the petitioner.



9. With the above direction, the present writ petition stands disposed of.

(In Civil Writ Jurisdiction Case No. 4862 of 2023)

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

“I. For quashing the official order vide memo no. 1573 dated 06.12.2022 under the signature of authority BIADA whereby the allotted plot no. D-42 Part Area 10890 sq.ft. for establishment of Sub Shri Sanjay Rice Mill within the Industrial Area, Kumar Bagh at Muzaffarpur arbitrary and whimsically cancelled without appreciating the situation as prevailing over the plot which allotted to the petitioner.

II. For further direct the respondent authority BIADA to facilitate the way of approach to the main road as because of fact after the allotment no approaching to the main road has ever provided so that the petitioner could easily access his ready product to the market easily.

III. For that after setting aside the impugned order to the allotted plot and is failed to facilitated to better egrance and igrance to the approaching road oz then in alternative to re-allottee the better plot with a good viability of better egrance and igrance to the approaching road for transportation of raw and ready material to the market.

IV. Till the pendency of the present writ application the operation of memo no. 1573 dated 06.12.2022 may stayed and also restrained the concerned authority BIADA, Muzaffarpur Cluster not to make any further allotment to any other person over plot in question.”



3. Facts in brief for the purpose of disposal of the present writ petition are that the petitioner has been allotted 10890 sq. ft. of land on 16.07.2013 for the purpose of establishing a Rice Mill (Annexure-1). The respondent authority vide order dated 06.12.2022 (Annexure-4) has cancelled the allotment on the ground that the petitioner has not utilized the land for the purpose for which it was allotted.

4. Learned counsel for the petitioner has stated that the land which has been allotted to the petitioner had no ingress or egress and, therefore, the petitioner could not establish the factory. Learned counsel has stated that though the petitioner has made several representations to the authority concerned for allotting another land viable for setting up the industry, the authorities have till date not taken any action on the same. That the impugned order passed by the authority is without issuing any show cause notice to the petitioner. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority for allotting viable/alternate land for the purpose of establishing the factory.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-BIADA has vehemently opposed the very maintainability of the present writ petition and stated that the



petitioner without availing the alternate remedy of filing an appeal against the order of cancellation has straightway approached this Hon'ble Court and the same is not permissible. Learned counsel has stated that the present writ petition may be dismissed. Further, it is stated that though the land was allotted to the petitioner way back in the year 2013, the petitioner has not established the industry and, therefore, the authorities based on the inspection report (Annexure-D) have taken a decision to cancel the allotment itself. Further, it is stated that the petitioner was put on notice (Annexure-3) dated 16.04.2022 and then only the impugned order of cancellation was passed.

6. As seen from the record, admittedly in the present writ petition, the petitioner was allotted the land for the purpose of establishing Rice Mill. Thereafter, the petitioner has been making several representations to the authority concerned stating that the land which was allotted to the petitioner did not have any ingress or egress and, therefore, an alternate land may be allotted in lieu of the allotted plot and to that effect, the petitioner has also issued letter dated 19.12.2022 (Annexure-5). The fact that the petitioner has submitted representations has not been denied by the authorities. In fact, in the counter-affidavit filed by the authorities, it is clearly stated that the land which was allotted to the petitioner



was situated beside the railway line and due to the adjacent plot being disputed, the approach road problem could not be solved and the authority vide Letter No. 26 dated 04.01.2022 has sought the consent of the petitioner to cancel the allotment made and refund the earnest money, fee and first installment deposited (Annexure-2).

7. In the counter-affidavit filed by the authorities, it is further stated that the petitioner was given an opportunity under the amnesty policy vide Letter No. 592 dated 16.04.2022 (Annexure-3) but the same was not availed by the petitioner. That when the petitioner did not respond to the above letters, the authority had no other option but to cancel the allotment. However, in the counter-affidavit filed by the respondents, there is no whisper with regard to the representation made by the petitioner for allotment of alternate land. Admittedly in this particular case, the petitioner has been making several representations seeking alternate land as there was a problem with regard to the approach road to the allotted plot. The authority instead of taking a pragmatic view of the matter has decided to cancel the allotment that to without issuing any show cause notice to the petitioner and the same is contrary to the principles of natural justice and equity.



8. Having regard to the above, the impugned order dated 06.12.2022 is set aside and the matter is remanded back to the authority for considering the case afresh duly taking into consideration the representations made by the petitioner for allotment of alternate land. The authority shall take a pragmatic view of the entire matter and pass necessary orders. 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. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. Any orders passed shall be communicated to the petitioner.

9. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.08.2024.
Transmission Date	NA

