

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5007 of 2024

Sarvshree Swarglok Residency through its representative Subham Pal Kumar,
Gender-Male, aged about 21 years, S/o Om Pal Kumar, R/o Ram Chandrapur,
P.O.-Bihar Sharif, P.S.-Laheri, Bihar, Nalanda, Bihar-803101.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna through its 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, North, Bihar Industrial Area Development Authority (BIADA), Patna.
5. The Deputy General Manager, Patna Cluster, Bihar Industrial Area Development Authority (BIADA), Bihta.
6. The Area Incharge, Bihar Industrial Area Development Authority (BIADA), Industrial Area-Biharsarif.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sachin Kumar, Adv. Mr. Abhishek Kumar Pandey, Adv.
For the Respondent/s	:	Mr. Piyush Lall, Adv.

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

Date : 21-06-2024

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

“i) For quashing the order dated 19.02.2024 passed in Appeal Case No. 07/2024 communicated vide Memo No. 1003 Dated 20.02.2024, by the Respondent No. 5 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 Others and in terms of Appeal No. 76/2022.

(ii) For setting aside order bearing Memo No. 1208 Dated 24.11.2023 passed by the Respondent No. 5, The Deputy General Manager, Bihar Sharif Cluster, Bihar Industrial Area Development Authority (BIADA), Bihta, (hereinafter referred to as 'BIADA') whereby and where under the allotment of land measuring an area of 5000 Sq. Ft. for the establishment of Bicycle & Parts Industry within the Industrial Area- Bihar Sharif from which a part of land admeasuring an area of 5,000 Sq. Ft. 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.

(iii) For staying the operation of Memo No. 1208 Dated 24.11.2023, whereby and where under the Respondent has illegally, arbitrarily



and maliciously directed the Petitioner to hand over the physical possession of his allotted land, so that the same may be allotted to any other intending entrepreneur; which is sans jurisdiction, dehors the provisions of BIADA Act, 1974 as well as in teeth of the Land Resumption Policy, as well as various judicial precedents of this Hon'ble Court and prejudices grossly and gravely, the fundamental right in legal right of the Petitioner.

*(iv) For declaration and to hold that the aforesaid impugned order dated 19.02.2024 passed in Appeal Case No. 07/2024 communicated vide Memo No. 1003 Dated 20.02.2024, 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. 1208 dated 24.11.2023 has been passed by Respondent No. 5, The Deputy General Manager, Bihar Sharif Cluster, Bihar Industrial Area Development Authority (BIADA), Bihar Sharif and the Order dated 19.02.2024 passed in Appeal Case No. 07/2024 communicated vide Memo No. 1003 Dated 20.02.2024, passed by Respondent No. 5, who is colorably holding the same post at same time and*



as such liable to be quashed on this ground itself.

(v) For a direction upon on 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.

(vi) For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this Writ Application.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner father was allotted an area of 5,000 sq. ft. on 29.01.2008 for the purpose of Hotel, Motel and Associated services. That the possession of the subject property was handed over on 16.11.2008. Thereafter, it is stated that the father of the petitioner has constructed the compound wall, however due to some family disputes he could not complete the construction of the unit. Learned counsel has stated that due to the changed circumstances, the petitioner father had applied for change the product i.e. to Bus Body and Automobile Workshop on 01.09.2010 along with the requisite fees. However, the authorities have not taken any action on the



said application. Learned counsel has further stated that the authorities in a post haste manner have passed the order of cancellation on 24.11.2023 without adverting to the explanation submitted to the show cause notice dated 04.10.2023. That though the petitioner has filed an appeal before the appellate authority, the appellate authority has also not constrained the various grounds raised and passed the order dismissing the appeal in a mechanical manner vide order dated 19.02.2024. Learned counsel has stated that under similar circumstances, this Court as well as the BIADA, the authorities have given an opportunity to many entrepreneurs who could not start their commercial production within the stipulated time by taking an affidavit of undertaking. Learned counsel has stated that the same benefit may be extended to the petitioner. Further, learned counsel for the petitioner has stated that due to the lapses committed by the authority themselves in not granting necessary permission to the petitioner for change of product, the petitioner could not move forward and, therefore, he should not be made a victim of the lapses committed by the authorities. Learned counsel has stated that both the appellate as well as the primary authority did not take into consideration the documents submitted by the petitioner to substantiate that the petitioner had



established automotive workshop and was continuing production. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present writ petition by setting aside the order of the appellate authority dated 19.02.2024 and also the order of cancellation dated 24.11.2023.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the writ petition and stated that the present writ petition is liable to be dismissed as it lacks merits and does not warrant any interference by this Hon'ble Court. Learned counsel has stated that though the father of the petitioner was originally allotted the land way back in the year 2008 till date they have not established the hotel, motel for which purpose the land was allotted. Learned counsel has stated that except constructing some tin sheds the petitioner has not constructed any building which bears any resemblance to any hotel or motel. Learned counsel has taken this Court through the Inspection Reports filed by the authorities along with photographs to show that absolutely there is no modicum of any activity on the subject property related to the hotel industry. Learned counsel has stated that the petitioner is running an automotive service center which is impermissible under law and contrary to the



terms and conditions of allotment. Learned counsel has stated that the petitioner himself in the year 2014 has given a letter to the BIADA authorities stating that the petitioner is willing to establish the hotel, motel and allied services but till date the petitioner has not taken any steps to establish the same. That the petitioner with a view to fool the authorities has constructed some tin sheds and in a part of the sheds is trying to conduct some hotel business but the photos filed along with the Inspection Report belie the claim of the petitioner. Learned counsel has stated that both the appellate as well as the primary authority have passed a reasoned order which does not warrant any interference from this Hon'ble court and prayed for dismissing the present writ petition.

5. Admittedly, in the present case, the father of the petitioner has been allotted land way back in the year 2008 for the purpose of hotel, motel and other allied services. Pursuant to the letter of allotment he was put in physical possession of the subject property on 16.11.2009 but as evident from the inspection reports and also the photos filed along with the said inspection report, no construction of any hotel or motel have been made. The photos filed along with the inspection report clearly establish that except constructing some tin sheds, the



petitioner has not made any construction of building for the purpose of running a hotel, motel or any other allied services. Even going by the own account of the petitioner, the petitioner had admitted that he is running an automotive service centre and carrying out repairs of automobiles for which no permission has been given. Though the petitioner has tried to impress upon this Court that he is having the necessary GST, electricity bills etc., to show that he is running the hotel and motel business, the same do not inspire any confidence in this Court.

6. A perusal of the order passed by the appellate as well as the primary authority reveal that the orders do not warrant any interference by this Court. Further, it is to be noted that the petitioner has not disputed the inspection reports nor the photographs filed along with the same said reports. The photographs filed along with the inspection report clearly establish the fact that the petitioner has not utilized the subject property for the purpose for which it was originally allotted. In the absence of any evidence to show that the petitioner has made any construction of any building for running the hotel, motel, the cancellation orders passed by the authority cannot be faulted with. This Court does not find any merit in the present case which warrants any interference, the orders passed by both



the appellate as well as the primary authority cancelling the allotment are well reasoned order.

7. Having regard to the above, the writ petition stands dismissed. However liberty is granted to the petitioner to make a fresh application for allotment of land and in case any fresh application is made, the same shall be considered on its own merits without reference to the order of cancellation. In case the petitioner makes any fresh application, the same shall be dealt as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the said representation.

8. With the above direction, the writ petition stands dismissed.

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.06.2024
Transmission Date	N/A

