

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7378 of 2024

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1. M/s Om Enterprises through its representative Deepak Kumar, Gender Male, aged about 53 years, S/o Dinesh Prasad Singh, R/o-Chakwa Ward No.10, Bathnaha Tole Chakwa, P.O. and P.s.-Bathnaha Sitamarhi, Bihar -843302.
 2. Jayanti Kumari W/o-Vijay Kumar Gupta R/o. Mohalla Ghi Patti, W.No.9 P.S. and Anchal-Bairgania, Sitamarhi-Bihar ... Petitioners

Versus

1. Bihar Industrial Area Development Authority (BIADA) through its Managing Director,Udyog Bhawan Gandhi Maidan, Patna.
 2. The Additional Chief Secretary Department of Industries, Govt. of Bihar, Vikash Bhawan, Baily Road, Patna.
 3. The Managing Director Bihar Industrial Area Development Authority(BIADA),Udyog Bhawan, Gandhi Maidan, Patna.
 4. The Joint Managing Director Bihar Industrial Area Development Authority(BIADA),Udyog Bhawan, Gandhi Maidan, Patna.
 5. The Executive Director North,Bihar Industrial Area Development Authority(BIADA),Udyog Bhawan, Gandhi Maidan, Patna.
 6. The Deputy General Manager Motipur Cluster,Bihar Industrial Area Development Authority(BIADA).
 7. The Area Incharge Industrial Area-Sitamarhi, Bihar Industrial Area Development Authority(BIADA) ... Respondents
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Appearance :

For the Petitioners : Mr.Aman Raj, Adv.
For the BIADA : Mr.Ravi Kumar, Adv.

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

6 02-08-2024 Heard the parties.

2. For the reasons stated in the Interlocutory Application No. 1 of 2024, it is allowed.

3. The present writ petition has been filed for the following relief(s) :

(i) For quashing the Office Order dated 15.02.2024, communicated vide Memo No. 193 by the Respondent No. 6, The Deputy General Manager, Motipur Cluster,



Bihar Industrial Area Development Authority (BIADA), (hereinafter referred to as 'BIADA') whereby an application for Transfer of the land bearing Plot NS-15 Part, admeasuring an area of 4,650 Sq. Ft., in terms of the One Time Opportunity Policy, 2023 preferred by the Petitioner, after taking the leave of the Hon'ble Court vide Order dated 31.10.2023 passed by the Hon'ble Court in C.W.J.C. No.15457 has been rejected in a mechanical, arbitrary, whimsical, pick and choose manner.

(ii) For setting aside office order bearing Memo No.28 dated 08.01.2024 passed by the Respondent No. 7. The Area Incharge. Industrial Area- Sitamarhi. Bihar Industrial Area Development Authority (BIADA), (hereinafter referred to as 'BIADA') whereby the direction for handover the peaceful possession within the period of 7 days has been issued behind the back, 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 quashing the Order dated 25.05.2023 passed in Appeal Case No. 155/2023, communicated by the Respondent No. 2, 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 Ors,



and in terms of Appeal No. 76/2022.

(iv) For setting aside order bearing Memo No. 1509 dated 22.11.2022 passed by the Respondent No. 6, The Deputy General Manager, Motipur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur, (hereinafter referred to as 'BIADA'), whereby and where under the allotment of land measuring an area of 4,650 Sq. Ft., for the production of Atta, Beasan and Sattu within the Industrial Area- Sitamarhi, 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.

(v) For declaration and to hold that the aforesaid impugned order dated 25.05.2023, passed in Appeal Case No. 155/2023 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. 1509 dated 22.11.2022 has been passed by Respondent No. 6, The Deputy General Manager, Area Motipur Cluster. Development Authority (BIADA), Muzaffarpur and the order dated 25.05.2023 passed in Appeal Case No. 155/2023 passed by Respondent No. 2 Additional Chief Secretary, Department of Industries who is colorably holding the same post at same time and as such liable to be quashed on this ground itself.

(vi) For a direction upon 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,

(vii) For direction upon the respondent authorities to either allow the application of transfer applied by the Petitioner or to restore the allotment of the land as the Petitioner is ready to pay the Transfer Fees as stipulated and envisaged in the One Time Opportunity Policy,

(viii) For directing the respondents forthwith not to take any coercive steps against the allotment of Petitioner till disposal of this writ application.

(ix) For any other relief or reliefs for which the Petitioner be found entitled in the eye of law.

4. Learned counsel for the petitioners has stated that the petitioners have applied for the benefit under the One Time Opportunity Policy, 2023, and the same has been rejected by the Respondent No. 6 in a mechanical manner vide order, dated 15.02.2024, bearing Memo No. 193 (Annexure P/12). Learned counsel has stated that the order passed by the Respondent No. 6 is not only contrary to the facts of the case, but, also the scheme formulated by the respondents themselves granting one time opportunity. Learned counsel has stated that the authority with a view to give a one time opportunity to the allottees whose units



are non-functioning, where allotment is cancelled, where appeal is pending either before the authority or Writ Petition is pending before this Hon'ble High Court has come-up with the above scheme. That the allotment of the plot was made to the petitioners was cancelled vide order, dated 22.01.2022, bearing Memo No. 1509 by Respondent No. 6 and aggrieved by the said cancellation the petitioners have preferred Appeal No. 155 of 2023, but, the said appeal was also dismissed in a mechanical manner by the Appellate Authority vide order, dated 25.05.2023. That the petitioners have, therefore, preferred a CWJC before this Hon'ble High Court and the same has been numbered as C.W.J.C. No. 15457 of 2023. Pending the CWJC, the One Time Opportunity Policy has been formulated by the authorities and the petitioners have applied under the scheme and withdrew the C.W.J.C. No. 15457 of 2023. This Court vide order, dated 31.10.2023, was pleased to permit the petitioners to withdraw the said Writ Petition with a leave to avail the One Time Opportunity Policy. That the authority without considering the provisions of the said Policy have rejected the application made by the petitioners in an arbitrary and mechanical manner. Learned counsel for the petitioners stated that one of the reasons given by authority for rejecting the said application is that the



petitioners have not filed a detailed project report/proposal to take forward the unit into commercial production. Learned counsel has stated that the petitioners have submitted a detailed proposal/project report, but, however the same has not been considered by the authority. That as on the date of passing of the impugned order the detailed project report was on the file of the respondent authority, but, without adverting to the same the impugned order has been passed. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present Writ Petition and set aside the impugned order.

5. Per contra, the learned counsel appearing on behalf of the Respondent-BIADA has vehemently opposed the maintainability of the Writ Petition and stated that the petitioners have miserably failed to establish the unit though they were allotted the land way-back in the year 2010. That the authority duly taking into consideration the fact that the petitioners have not started the unit/commercial production has cancelled the allotment vide order, dated 22.11.2022, and the appeal filed by the petitioners was also dismissed vide order, dated 25.05.2023 by a well reasoned order. That the petitioners did not submit the detailed projected report/proposal to take forward the unit into commercial production along with the



application under the one time opportunity, therefore, the authority was constrained to pass the order of rejection. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

6. A perusal of the impugned order passed by the Respondent No. 6, dated 15.02.2024, reveals that the said authority has rejected the application made by the petitioners under One Time Opportunity Policy solely on the ground that the petitioners did not submit a detailed proposal for taking forward the unit into commercial production. Except the above ground there is no other ground which has been stated in the impugned order for rejecting the application made by the petitioners. However, it is pertinent to note that along with the application made by the petitioners, the petitioners have submitted a detailed project report (Annexure P/10). In the said application the petitioners have clearly mentioned as under :

“Resultantly, the allottee is willing and agreeable to take the benefit of One Time Opportunity, 2023 (Circulated vide Memo No. 5129 dated 10.08.2023) and transfer the land of 4650 Sq. Ft., in favour of M/s. Bhardwaj Industries represented through its Proprietor Rajesh Kumar Singh out of own volition and Prerogative.



The Transferee M/s. Bhardwaj Industries represented through its Proprietor Rajesh Kumar Singh would carry out the manufacturing works of the Manufacturing of Sattu, Besan, Soyabean, fryums, which is allowed and envisaged under the Bihar Industrial and Investment Promotion Policy, 2016 and carry the commercial production, within the stipulated time as envisaged and stipulated under the One-Time opportunity Policy, 2023 (Circulated vide Memo No. 5129 dated 10.08.2023).

Since the allotment, the unit is continuously in operation of the authorised product namely is being carried out.”

7. Further, it is to be noted that as per the terms and conditions of the One Time Opportunity Policy where-ever the units are not functioning or where-ever the allotment has been cancelled no third party interest is created or possession taken, an opportunity has been given to the transferee to avail the benefit of One Time Opportunity Policy on payment of the stipulated fees. Admittedly, in this case, no third party interest has been created till date and the possession of the unit has not been taken over by the authority concerned. Further, as seen from the record, the C.W.J.C. No. 15457 of 2023 was filed against the order of cancellation, dated 22.11.2022 and appellate order, dated 25.05.2023, and the said CWJC was withdrawn



with a liberty to avail the One Time Opportunity Policy vide order, dated 31.10.2023. As mentioned above the petitioners have in their application stated how they will take the unit forward and gave a detailed proposal for manufacturing of atta (flour), sattu, besan, soyabeen etc. and starting of the commercial production between the stipulated time. However, the same has not been adverted to by the authority concerned and the impugned order has been passed stating that no proposal has been submitted by the petitioners, the said reason given by the authority is contrary to the record and goes against the very terms and conditions of the One Time Opportunity Policy formulated by the authority. Once, the authority have formulated scheme for giving an opportunity to the transferee/transferor for transferring the unit and start commercial production on payment of the fees as stipulated under the scheme, the authority concerned has to pass necessary orders duly taking into consideration the objection of the Policy and not reject the applications made under the One Time Opportunity Policy in an arbitrary and mechanical manner. The authorities have to take a pragmatic view of the entire scheme and pass necessary orders for continuing the industries/units more particularly when they themselves have come-up with the



scheme to keep the units in production.

8. Having regard to the above mentioned facts and circumstances the impugned order, dated 15.02.2024 (Annexure P/12), is set aside, consequently the Letter vide Memo No. 28, dated 08.01.2024 (Annexure P/11) as well as the order, 18.04.2024, bearing Memo No. 415 are also set a side. The matter is remanded back to the Respondent No. 6 for passing order afresh duly taking into consideration the scheme of the One Time Opportunity Policy and also the observations made by this Court.

9. The authorities are directed to pass orders afresh as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

10. Till such time the final orders are passed by the authority, no coercive steps shall be taken against the petitioners by the authority concerned.

11. The Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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