

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.403 of 2024
In
Civil Writ Jurisdiction Case No.9651 of 2023

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1. The Bihar Industrial Area Development Authority (BIADA) through its Managing Director, Head office at 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
 2. The Managing Director, Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.
 3. The Deputy General Manager, Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna.

... .. Appellant/s

Versus

1. M/s Satya Sai Industries through its one of the partners namely Ravi Shankar Sharma, Male, Aged about 57 years, son of Braj Bhushan Sharma, Resident of Club Road, Shiv Shankar Path, Mithanpura, Muzaffarpur, Police Station Mithanpura, Muzaffarpur, Bihar - 842001.
2. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna.
3. The Principal Secretary, , Department of Industries, Govt. of Bihar, Patna.
4. The Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Abu Nasar, Advocate
For the Respondent/s	:	Mr.Addl. Advocate General (7)
		Mr.Prashant Kumar, Advocate
		Ms.Kritika Upadhya, Advocate
		Mr.Shashank Shekhar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-09-2024

The appellant-Bihar Industrial Area Development Authority (for brevity 'BIADA') is aggrieved with the judgment of the learned Single Judge interfering with the cancellation of



allotment of land to the 1st Respondent, who was the writ petitioner. The cancellation of allotment was made on an inspection which revealed no manufacturing activity being carried out in the unit. An appeal filed also stood rejected.

2. The learned Single Judge specifically directed the BIADA to verify the site and make an inventory of the cement electric poles; the product of the unit. The inventory carried out by the BIADA revealed that there were 5500 electric poles lying in the premises of the petitioner, which resulted in the setting aside of the cancellation. Also looking into the documents filed by the writ petitioner, which included the purchase orders issued by the North Bihar Power Distribution Company Limited and other Companies, the writ petition stood allowed.

3. The learned Counsel for the BIADA argued that the learned Single Judge erred insofar as finding a manufacture based merely on the presence of cement electric poles in the premises of the unit. It is the contention of the learned Counsel that there is nothing to show that these were manufactured in the unit. The specific allotment made by the BIADA is for manufacturing activity; which was found to be absent on inspection.



4. Learned Counsel for the 1st Respondent pointed out that not only was a proper notice not given to the 1st Respondent, the inspection report was also not supplied. The orders are cryptic, without any consideration and the various documents produced in the writ petition more than establish the manufacture carried out by the petitioner.

5. We have gone through the records produced in the writ petition also and obtained translated copy of the order passed. We notice that Annexure-3 order passed indicates that manufactured poles were seen in the unit campus, but the unit was closed and not doing production, which is against the terms and rules of allotment. Merely for the reason that there was no production at the time of inspection, there cannot be a cancellation of allotment. It is also very clear that the inspection revealed the manufactured poles in the premises of the unit. The appellate authority also did not consider the various factors pointed out by the 1st Respondent, as is evident from Annexure-5 order.

6. In this context, we also notice Section 6(2)(a) of the Bihar Industrial Area Development Authority Act, 1974, which specifically provides for cancellation, if effective steps are not taken within the fixed period to establish the industry. It is also



stipulated that before cancelling the allotment, one month time has to be given to the allottee to put up his case.

7. Obviously, there is no ground taken by the BIADA that industrial production was not commenced in the unit. It is also pertinent that show cause notice was issued vide letter bearing Memo No. 1003 dated 22.06.2022 under the signature of the 3rd appellant directing show cause within a period of three days from the date of the letter. Not only was the mandatory period of one month not allowed to the petitioner, the inspection report also was not furnished. The photocopy of the inspection report is produced as Annexure-R/3 -6/9 in the writ petition. The inspection report by the Deputy General Manager on 17.12.2022, speaks of the manufactured poles having been found in the premises, but makes a cryptic statement that the production is closed. It is very pertinent that the inspection was carried out without any independent witness.

8. We also have to notice that the product manufactured by the respondent unit is not one, which is normally available in the market and the specific contention of the petitioner was that manufacture is carried out based on purchase orders.

9. The writ petition indicates that the petitioner



initially got allotment of the industrial plot to set up an aluminium industry. The petitioner was unable to commence the production and an electric cement pole manufacturing unit was commenced in the industrial plot. Annexure-2 comprises of the electricity bill of the unit, the purchase orders, statement of bank account maintained with Punjab National Bank and annual return filed in Form GSTR-9 before the Sales Tax Authorities. All of these indicate the petitioner having been involved in commercial activities, which evidently is the manufacture of the electric poles. Annexure-10 to 12 also indicate regular supply of electric poles to the North Bihar Power Distribution Company Limited.

10. As we noticed above, the show cause notice did not comply with the provision as available in the statute. If the unit is left idle, definitely the BIADA would be entitled to take it back because industrialization is the motive behind the constitution of BIADA and allotment of plots for carrying on industrial activity. The specific products manufactured by the petitioner, as permitted by the BIADA; as we noticed, is not a product which can be regularly sold in the market. The petitioner's specific contention is also that it is as per purchase orders that the production is carried out.



11. Admittedly, at the time of inspection and even when the inventory was carried out, there was presence of the manufactured product in large numbers within the premises of the unit. The documents which are referred to also indicate regular commercial production of the 1st Respondent. We find absolutely no reason to interfere with the judgment of the learned Single Judge and we reject the appeal.

12. Interlocutory application, if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
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