

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9270 of 2024

M/s PVC Processor Plot No.- C21 and 22, Industrial Area, Hajipur (Vaishali)- 844102 through its Authorized Signatory Manoranjan Kumar, aged about 35 years (Male), son of Shambhu Prasad, resident of village- Parsauna, Block- Parsa, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar, Patna- cum-Chairman, Bihar Industrial Area Development Authority.
3. The Director of Industries, Department of Industries, Government of Bihar, Patna.
4. The Bihar industrial Area Development Authority (BIADA) through its Managing Director, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Managing Director, the Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
6. The Executive Director (North), the Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
7. The Deputy General Manager (Hajipur) the Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
8. The Area Manager, the Bihar Industrial Area Development Authority (BIADA), Regional Office, Industrial Area, Hajipur, District- Vaishali.
9. The Assistant Area Manager, the Bihar Industrial Area Development Authority (BIADA), Regional Office, Industrial Area, Hajipur, District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Akshansh Kumar Choudhary, Sr. Adv. Mr. Akshansh Ankit, Adv.
For the Respondent/s	:	Mr. Standing Counsel (4)
For the BIADA	:	Mr. Vagisha Pragya Vashnavi, Adv.
For the State	:	Mr. Arvind Ujjwal, SC-4

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

Date : 25-10-2024

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-



“a) To set aside Letter No. 533/D dated 03.05.2024 [Annexure P9] issued by the Respondent No. 7 whereby and whereunder the Petitioner has been directed to return the Plot Nos. C-21 and 22 within the Hajipur Industrial Area to the Respondent Bihar Industrial Area Development Authority (BIADA) as the same was passed wholly without jurisdiction and in utter violation of the principles of natural justice as well as the statutory provisions.

b) For a direction upon the Respondents to not to give effect to Letter No. 533/D dated 03.05.2024 [Annexure P9] issued by the Respondent No. 7 during the pendency of the instant writ application.

c) For a direction upon the Respondents to allow the Petitioner to carry on its business/ manufacturing on the allotted plot Plot Nos. C-21 and 22 in the Hajipur Industrial Area during the pendency of the instant writ application.”

3. Learned senior counsel Mr. Ashok Choudhary assisted by Mr. Akshansh Ankit appearing on behalf of the petitioner has stated that the impugned order passed by the respondents dated 03.05.2024 (Annexure P/9) is bad, illegal and arbitrary and is liable to be set aside on the following grounds:-



4. Learned counsel has stated that the order has been passed by the Deputy General Manager of BIADA who is not authorized under the Act. Learned counsel has drawn the attention of this Court to the provisions of the BIADA Act, 1974 wherein, the authority constituted under the Act comprising of the Chairman, Managing Director and five other Directors are authorized to pass any order of cancellation; second, the explanation filed to the show cause notice by the petitioner has not been adhered to nor any reasons are given by the authority in support of the impugned order; thirdly that in the impugned order it is stated that the authorities have inspected the premises on 22.02.2024, the copy of the inspection report has not been served on the petitioner. Learned counsel has relied on the judgment of this Hon'ble Court in case of ***Deepak Paints (P) Ltd. v. State of Bihar & Ors.*** reported in ***2008 (2) PLJR 292***.

4. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the present writ petition and stated that the petitioner on an earlier occasion has given an undertaking before this Hon'ble Court. That on the basis of the said undertaking, the petitioner was obligated to start production within sixty/ ninety days and commercial production within 6/ 9 months but the petitioner has failed to do so. Further, it is stated



that the Managing Director has been authorized by the authority to pass necessary orders and, therefore, the order impugned is valid. Further, learned counsel has stated that the copy of the inspection report could not be served on the petitioner as the unit was non-functional and closed, therefore, the same was pasted on the gate of the premises. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned order reveals that the order has been passed by the Deputy General Manager who admittedly is not authorized by the authority nor any authorization letter has been filed by the respondent BIADA to show that the Deputy General Manager is an authorized person to pass the impugned orders. On this sole ground alone, the impugned order is liable to be set aside and the writ petition is to be allowed. That in so far as the other contentions raised by the petitioner are concerned, admittedly the copy of the inspection report has not been served on the petitioner. Moreover, a reading of the impugned order reveals that absolutely no reasons are given in the impugned order or nor the explanation submitted to the show cause notice by the petitioner has been dealt with.

6. This Court as well as the Hon'ble Supreme Court in a catena of cases has time and again held that the authority while



passing any orders are obligated to give reasons for passing the order. The authority simply cannot pass the order in a mechanical manner. Unless and until the reasons are given neither the Superior authority nor the courts will be in a position to know as to what has weighed with the authority while passing the order either accepting or rejecting the case of the petitioner. Further, the impugned order speaks of handing over the physical possession to the BIADA authorities without there being any order of cancellation. Even if it is a case of the respondent/ BIADA that the petitioner has violated the terms and conditions of the undertaking given by him to this Hon'ble Court in C.W.J.C. No. 17069 of 2022 (Annexure-1), the authorities are obligated to approach this Hon'ble Court seeking permission of this Court for taking over the possession or issue a fresh show cause notice to the petitioner calling for his explanation as to why the allotment made to him should not be cancelled due to his failure to adhere to terms of the undertaking given to this Hon'ble Court, but in this case the same is missing.

7. In view of the above mentioned facts and circumstances, the impugned order is set aside. The matter is remanded back to the authority concerned for issuing a fresh show cause notice to the petitioner calling for his explanation, giving



him sufficient time. In case any Inspection report or any other material is relied by the authority, a copy of the same shall be furnished to the petitioner along with the show cause notice. After receipt of the explanation from the petitioner, the respondent authority shall pass an order giving the reasons. The entire exercise shall be completed as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of the copy of this order. It is needless to mention that the petitioner shall be granted an opportunity of hearing. Any order passed shall be communicated to the petitioner.

8. As it is stated by the counsel for the petitioner that the authorities have taken over the physical possession of the subject property, the authorities are directed to hand over the physical possession of the property back to the petitioner within a period of one week from the date of receipt of the copy of this order.

9. With the above directions, the writ petition stands disposed of.

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.10.2024
Transmission Date	N/A

