

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8743 of 2023**

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M/S Opel Paints and Chemicals Industrial Area, Hajipur, District- Vaishali,  
through its proprietor Manoj Kumar, son of Motilal Prasad, resident of Flat  
No. 4/A Narayan Nilayam Apartment, Opposite to Rajendra Nagar  
Government Eye Hospital, P.S. Rajendra Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industries, Government of Bihar.
2. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
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 Deputy General Manager, Bihar Industrial Area Development Authority (BIADA), Hajipur Cluster, Vaishali at Hajipur.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|--------------------------------|
| For the Petitioner/s | : | Mr. Ashutosh Kumar Singh, Adv. |
| For BIADA            | : | Ms. Manini Jaiswal, Adv.       |
| For the Respondent/s | : | Mr. Vivek Prasad (Gp7)         |

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**CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY**

**ORAL JUDGMENT**

**Date : 05-09-2024**

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

reliefs:-

*“(i) For setting aside the order dated 29.05.2023 passed in Appeal No. 357 of 2022 by the Additional Chief Secretary, Department of Industries, Patna, Bihar whereby and whereunder the appeal, preferred against the order contained in Memo No. 190/D dated 23.11.2022 passed by the respondent No. 4 cancelling allotment of land appertaining to plot No. B-44 measuring an area of 0.25 acre in the Industrial Area,*



*Hajipur allotted in favour of the petitioner has been cancelled without considering this aspect of the matter that the petitioner's industrial unit was carrying industrial activity which has also been found in the inspection reports submitted by the respondent authority, was rejected on non-sustainable grounds without taking into consideration the facts and circumstances of the case in its proper perspective.*

*Also*

*(ii) For quashing of the order contained in Memo No. 190/D dated 23.11.2022 issued by the respondent No. 4 whereby and where under the allotment of land appertaining to plot No. B-44 measuring an area of 0.25 acre in the Industrial Area, Hajipur allotted in favour of the petitioner has arbitrarily and whimsically been cancelled and the amount deposited against the land in question has been forfeited on erroneous grounds.*

*Also*

*(iii) For restraining the respondent authorities from taking possession over the land in question, till the disposal of the present writ petition.*

*(iv) For restraining the respondent authorities from taking any coercive steps against the petitioner during pendency of the present writ petition.*

*And/or*

*(v) For any other relief/reliefs for which the petitioner is found entitled."*

3. It is the case of the petitioner that he has been allotted 0.25 acre of land in the industrial area, Hajipur in the year 1994 by the respondent authority for the purpose of establishing a unit for a paints and allied products on micro scale. That pursuant to the allotment, the petitioner has established the unit and started commercial production and continues to do so. That the authority



on 08.07.2022 has issued a show cause notice (Annexure-6) alleging that the unit of the petitioner is not being run and that the land which was allotted for the purpose of establishment of a unit for paints and allied products on micro scale is not being utilized for the purpose for which it was allotted.

4. Learned counsel for the petitioner has stated that the petitioner has given a detailed explanation dated 22.07.2022 (Annexure-7) to show cause notice however, the authority without considering the same has cancelled the allotment made in favour of the petitioner vide (Annexure-9). That the petitioner has preferred a statutory appeal before the concerned authority but, the appeal was also dismissed in a mechanical manner without advertng to the grounds raised by the petitioner (Annexure-11) vide order dated 29.05.2023. Learned counsel has stated that the grounds on which the cancellation has been made is based on the inspection reports dated 29.07.2022, 26.10.2022 & 28.10.2022 which were relied by both the primary as well as the appellate authority. That as a matter of fact, the unit of the petitioner was closed in the month of October i.e, 26.10.2022 & 28.10.2022 due to *chhath puja* and *bhai dooj* respectively. That the petitioner has been conducting industrial activity and the authorities without taking into consideration the fact that there were raw materials,



paint drums and also paint cans in the premises at the time of inspection has cancelled the allotment made to the petitioner. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order dated 23.11.2022 and restore the allotment to the petitioner.

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 this Court sitting under Article 226 of the Constitution of India cannot go into the disputed questions of fact. That both the appellate as well as the primary authority having found that the petitioner is not running the unit and that the unit was found in an abandoned condition have rightly cancelled the allotment made to the petitioner. Learned counsel has stated that except for few articles, there was no industrial activity going on in the unit, as evidenced by the inspection reports dated 29.07.2022, 26.10.2022 & 28.10.2022. Learned counsel has stated that there are absolutely no merits in the present writ petition which warrants any interference by this Court. Learned counsel has further stated that the petitioner has miserably failed to continue the production and as a result of which there is not only a loss of revenue for the State Exchequer but also employment generation has been stopped, which defeats



the very purpose of the allotment. Learned counsel therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. A perusal of the impugned orders passed by both the primary as well as the appellate authority reveals that the unit of the petitioner is not in working condition as on date of inspection. A perusal of the inspection reports also reveal that except minuscule activity, there is no substantial production of the paints and allied products. Even when queried by this Court, the counsel for the petitioner has stated that there are no GST bills as the turnover of the unit is less than Rs. 30 lakhs and also no electricity connection has been taken by the petitioner as the same is running on a diesel generator set. Except the bald statements made by the petitioner, no other proof has been filed by the petitioner to substantiate his claim that the unit is under production and that the same is being continued till date. In the absence of any proof to show that the unit of the petitioner is running and commercial activities are going on, this Court is not inclined to grant the relief sought for by the petitioner. The inspection report dated 29.07.2022 (Annexure-8) also clearly points out to the fact that there is no industrial activity worth mentioning in the premises of the petitioner and that the unit is lying in abandoned condition. The finding of the fact recorded by the primary as well as the



appellate authority cannot be interfered by this Court sitting under Article 226 of Constitution of India. This Court does not find any perversity or illegality in the orders passed by both the authorities concerned which warrants any interference. The present writ petition is accordingly, dismissed.

**(A. Abhishek Reddy, J)**

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| AFR/NAFR          | NAFR        |
| CAV DATE          | NA          |
| Uploading Date    | 10.09.2024. |
| Transmission Date | NA          |

