

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9156 of 2023

M/s A.R. Agro Feed Industries through its partner Anil Kumar, Male, aged about 55 years, son of Sita Ram Saw, resident of Rajesh Market, Hospital Road, Jahanabad, P.S. Jahanabad, District-Jahanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Industry Department, Govt. of Bihar, Patna.
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 Executive Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Deputy General Manager, Industrial Area, Gaya Cluster, Bihar Industrial Area Development Authority (BIADA), Industrial Area, Jahanabad, District Jahanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Braj Kishore Singh Chouhan, Adv.
For the Respondent/s	:	Mr. Abbas Haider (SC 6).
For the BIADA	:	Mr. Lalit Kishore, Sr. Adv. with Mr. Gyan Shankar, Adv.

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

16 01-08-2024

Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

“.....for quashing the order vide Memo No. 326 dated 09.12.2022 passed by the Deputy General Manager, Gaya Cluster and approved by the Joint Managing Director and communicated to



the petitioner vide Memo No. 326 dated 09.12.2022 as well as the order dated 16.05.2023 passed by the Additional Chief Secretary, Industry Department, Govt. of Bihar, Patna in Appeal Case No. 59 of 2023 affirming the order passed by the Deputy General Manager forfeited the amounts deposited in context to allotment of land cancelling the allotment of land as well terminating the lease communicated to the petitioner vide Memo No. 326 dated 09.12.2022 in Jahanabad Industrial Area affirmed by the order dated 16.05.2023 passed by the Additional Chief Secretary, Department of Industry, Govt. of Bihar in Appeal No. 59 of 2023.”

3. It is a case of the petitioner that he has been allotted 20,000 sq. ft. of land in Industrial Area, Jehanabad in the year of 2007 for the purpose of establishing a Unit for Cattle Feeds/ Poultry Feeds. That the petitioner, thereafter, has established the Unit but due to circumstances beyond his control the production was stopped during the Covid period.

4. Learned counsel has stated that the authorities have passed orders of cancellation of allotment on 09.12.2022. Though the petitioner had filed an appeal against the order of cancellation, the appellate authority without considering the various grounds raised by the petitioner has dismissed the appeal filed on 16.05.2023 in a mechanical manner. Learned counsel has stated that though the petitioner has filed the present



writ petition and the same was pending adjudication, the possession of the Unit was taken from the petitioner on 06.06.2023. Learned counsel for the petitioner has drawn the attention of this Court to the order of the appellate authority wherein the authority while duly taking into consideration the fact that the petitioner has established a Unit has held that the petitioner is not continuously in production and the industrial activity is intermittent. Further, it is stated that the said finding given by the authority is contrary to the inspection report dated 09.02.2023 (Annexure R/2-6/11). Learned counsel for the petitioner has stated that the report has been prepared by the authorities of the Respondent-BIADA and the photographs enclosed to the said report duly establish the fact that the petitioner has established the Unit and the same is in production. Learned counsel has also stated that though the petitioner has filed documents to show that the Unit is in production, the same were not taken into consideration and the impugned order of cancellation passed. Learned counsel has, therefore, prayed this Court to set aside the order of the appellate court dated 16.05.2023 as well as the order of cancellation of allotment dated 09.12.2022 and further prayed this Court to direct the Respondent-BIADA to hand-over the physical possession of the



subject property to the petitioner.

5. Per contra, the learned counsel for the Respondent-BIADA has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that though the petitioner was granted ample opportunity to start commercial production, till date the petitioner has failed to do so. Learned counsel has drawn the attention of this Court to the report dated 24.11.2022 (Annexure R/2-6/10) and the photographs filed along with the said report wherein, it is stated that as on date of the inspection, the Unit was not working and the same is in dilapidated condition. That the petitioner has put up some machinery during the pendency of the appeal only to hoodwink the officials. That as a matter of fact, the production of the Unit is not been done as per the terms and conditions of the allotment. Learned counsel has also stated that though the petitioner was issued several notices to start production, he did not take any steps to start the commercial production. That the petitioner has not filed any electricity bills/GST bill/ the number of workers working or any proof of production to show that the Unit was working at full capacity at any point of time. Further, it is stated that out of the 20,000 Sq. Ft. of land which has been allotted to the petitioner, the petitioner has constructed a shed



only on the 10,000 Sq. Ft. and the balance 10,000 Sq. Ft. is still vacant. Learned counsel has, therefore, prayed this Court to dismiss the present writ petition.

6. Admittedly, as seen from the records, the petitioner was allotted 20,000 Sq. Ft. of land way-back in the year, 2007 for the purpose of establishing a Unit for production of Cattle Feeds/Poultry Feeds.

7. A perusal of the correspondence between the parties reveals that the petitioner was put on notice several times for starting the commercial production. However, the authorities for reasons best known to them have decided to take action only in the year, 2022 for cancelling the allotment made.

8. The order of the appellate authority passed in Appeal Case No. 59 of 2023 (Annexure-2) dated 16.05.2023, the authority has come to the following conclusion:-

“Having heard the counsel for the both parties. The site inspection report suggests a very shocking state of affairs on the said land. The inspection report and the photographs suggest that intermittently, industrial activity in the Unit takes place by the appellant. Moreover, this is second time, allotment of the land has been cancelled, after providing sufficient opportunities provided to the appellant.

In the circumstance, this is crystal clear that the appellant has



violated the terms and conditions of the allotment as there has not been any industrial activity on the said land for long. Therefore, there is no merit in the present appeal. Accordingly, the appeal is disposed of.”

9. However, it is pertinent to note that the report dated 09.02.2023 (Annexure R/2-6/11) has not been discussed by the authority at all. The authority came to the conclusion that the industrial activity is intermittent whereas the photographs reveal a contrary picture. The photographs annexed to the report reveal that the petitioner has constructed a shed and industrial activity is present.

10. This Court is of the opinion that the ends of justice would be met if the impugned order dated 16.05.2023 passed by the appellate authority is set aside and the matter remanded back to the authority concerned for passing orders afresh duly taking into consideration the inspection report dated 09.02.2023 and also any other documents that the petitioner may file.

11. It is needless to mention that before passing any order the petitioner shall be given an opportunity of hearing. 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. Any order passed shall



be communicated to the party. Till such time the final orders are passed, the possession of the subject property shall remain with the Respondent-BIADA and no third party interest shall be created. In case the appeal filed by the petitioner is allowed, the possession of the subject premises will be handed over to the petitioner immediately after the passing of the order.

12. With the above directions, the present Writ Petition stands disposed of.

(A. Abhishek Reddy, J)

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