

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9536 of 2023

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M/s Deen Industries Registered Unit at Plot Nos. MUP-IV(P), Industrial Growth Centre, Gidha, Bhojpur through its Proprietor Md. Gayasuddin S/o Nabi Rasul, Gender-Male, aged Around 64 Years, Resident of Chitrasenpur, Daulatpur, P.S.-Koilwar, District-Bhojpur.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna through its Chairman Cum-Managing Director.
2. The Chairman Cum Managing Director, Bihar Industrial Area Development Authority (BIADA)-Cum-Addl.Chief Secretary, Department of Industries, Government of Bihar, Udyog Bhawan, Gandhi Maidan, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The DGM, Industrial Area, Patna Cluster, Bihar Industrial Area Development Authority (BIADA).
6. The DGM, Industrial Area, Bihta Cluster, Bihar Industrial Area Development Authority (BIADA).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Adv.
For BIADA	:	Mr. Prakritita Sharma, Adv.
For the Respondent/s	:	Mr. Lalit Kishore, Sr. Adv.

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

9 18-03-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

“A. For issuing writ in the nature of certiorari and thereby quashing the order dated 28.03.2023 whereby and whereunder the transfer application preferred by the petitioner under one time opportunity to transfer scheme has been rejected by the Respondent No.6 in the most laconic manner without assigning any



reason.

B. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Office Order dated 15.11.2022 bearing Memo passed by Respondent No. 5 (The DGM, Industrial Area, Patna Cluster), whereby the allotment of Plot MUP-IV (P) open land admeasuring 13276 sq. ft. out of 23276 sq. ft. which was allotted to the Petitioner, has been cancelled even without issuing show cause notice to the petitioner.

C. For issuing a writ of mandamus or any other appropriate writ directing the Respondents to restore the possession (if taken during the pendency of this writ application) and allow the Petitioner to continue to work and run the unit on the total allotted land admeasuring 23276 sq. ft. (including the portion of land which has been cancelled by the Respondent No.5).

D. For issuing appropriate order (s) staying all further proceedings and consequential actions pursuant to the impugned Order dated 15.11.2022 (Annexure-P/1).

E. For holding that the original cancellation order dated 15.11.2022 as is ex facie illegal and has been issued without giving any show cause notice to the petitioner and without understanding the nature of industrial activity of the petitioner.

F. For passing such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. Learned counsel for the petitioner has stated that the authority without putting the petitioner on prior show cause notice has passed the impugned order of cancellation. Learned counsel has stated that the petitioner with a view to avail the one



time amnesty scheme has applied to the authority but, the same has been rejected in a mechanical manner without giving any reasons. Learned counsel has stated that the petitioner was allotted an area of 23276 sq. ft. vide order dated 10.06.2020 and he was put in possession of the subject property on 20.09.2021. That as per the condition mentioned in the allotment order, the petitioner was required to initiate construction work within three months from the date of putting him in possession, that the trial production has to start after six months from the date of completion of the construction and the full commercial production within 12 months from the date of completion of construction. Learned counsel has stated that authority concerned without verifying their actual facts has passed the impugned order of cancellation. Learned counsel has stated that the authority concerned without giving any show cause notice to the petitioner has passed the order of cancellation in a mechanical manner and even the application made by the petitioner seeking one time opportunity to transfer under scheme floated by the BIADA has been rejected in a mechanical manner without assigning any reasons. Learned counsel has therefore prayed for setting aside the impugned order by allowing the present CWJC.



4. *Per contra*, learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner aggrieved by the order of cancellation has preferred an appeal and the same was withdrawn by the petitioner himself and therefore the order of cancellation has become final. Further, the Learned counsel has stated that though the petitioner was obligated to adhere to the various conditions imposed in the allotment letter, the petitioner has failed to do so. That, the authority duly putting the petitioner on notice have passed the order cancelling the allotment letter. Learned counsel has stated that prior to the passing of the impugned order, the petitioner was given several show cause notices and based on the explanation submitted by the petitioner, the impugned order of cancellation was passed. That the orders passed by the authority are well reasoned order and do not call for any interference by this Hon'ble Court. Learned counsel for the respondents has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the documents filed by both the petitioner as well as the respondent-BIADA reveals that the petitioner has not been given any show cause notice prior to the



order of cancellation dated 15.11.2022.

6. Admittedly, the BIADA authorities have floated a one time opportunity to transfer and the petitioner has availed the same but the order dated 28.03.2023 passed by the authority rejecting the application of the petitioner is without assigning any reason whatsoever. Though the learned counsel for the respondents has tried to impress upon this Court that the petitioner has been issued prior show cause notice, the said show cause notice reveals that the same was done after passing of the order of cancellation but not prior to the same. This Court as well as the Hon'ble Supreme Court in a catena of cases has time and again held that the principles of natural justice and equity mandate issuance of notice calling for an explanation before any adverse orders are passed. That the person who is likely to be affected by the said order should be put on prior notice and given an opportunity of submitting his explanation. In this particular case, no show cause notice has been issued to the petitioner and on this ground alone the impugned order of cancellation dated 15.11.2022 is liable to be set aside. Further order dated 28.03.2023 passed by the authority rejecting the application of the petitioner under the one time transfer scheme is also bad in law, as absolutely no reasons are given in the said



order for rejecting the same, except stating that the application is rejected no other grounds are given.

7. This High Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasons are given in the order, neither the party nor the superior forum or Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the petitioner. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the application as the case may be.

**In Assistant Commissioner,
Commercial Tax Department, Works
Contract and Leasing, Kota vs. Shukla and
Brothers, reported in (2010) 4 SCC, 785, the
Hon'ble Supreme Court has held as under:**

*“..... while exercising the power
of judicial review on administrative
action and more particularly the
judgment of courts in appeal before*



the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

8. Having regard to the above, the impugned orders dated 15.11.2022 & 28.03.2023 are hereby set aside. In case the authority is of the opinion that the petitioner has violated any of



the terms of the conditions of allotment and action needs to be taken, they may issue a fresh show cause notice to the petitioner detailing the violations, if any committed by the petitioner and give him an opportunity of filing his explanation. After receipt of the explanation from the petitioner, the authority concerned shall pass a reasoned order duly giving an opportunity of hearing to the petitioner. Any order passed shall be communicated to the petitioner.

9. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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