

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10645 of 2023

M/s Keyal Beverage and Food Udyog Private Limited represented through its Director, Kumar Ayush, Gender-Male, Aged about-26 Years, S/o-Suresh Pandey, R/o-E-136A, Laxmi Park Nangloi, Nilothi, West Delhi, Delhi 11004, Presently residing at- Flat No. 62, Mangal Deep Apartment, Gosai Tola, P.O. and P.S.-Patliputra, District-Patna, Bihar 800013.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Department of Industries, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director Operations, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
7. The Deputy General Manager, Hajipur Cluster, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
8. The Area Incharge, Bihar Industrial Area Development Authority (BIADA), Industrial Estate-Hajipur, Vaishali.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 2175 of 2023

1. M/S Supreme Tiles through its proprietor namely Captain Surendra Prasad, Son of Late Saheb Parmeshwar Dayal, Resident of Hira Bhawan, MP Sinha Road, Kadamkuan Patna-3 and Office Address- West of Plot No. C-22, Phase-2, Industrial Area, Hajipur.
2. M/S Vaishali Rice Mills Pvt. Ltd., through its Director namely Ajay Kumar Alias Ajay Kushwaha, corporate Office Plot No. D3(P), 4(P), 5(P), Industrial Area, Hajipur registered office, Flat No. 401, Uma Palace, Behind Officers Flat, Patna- 8.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar Patna.
2. Principal Secretary, Department of Industries, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna, District-Patna.
3. Chairman-cum-Managing Director, Bihar Industrial Area Development Authority, Bihar at Patna.
4. Joint Managing Director, Department of Industries, Bihar Industrial Area Development Authority, Bihar at Patna.



5. Deputy General Manager, Department of Industries, Bihar Industrial Area Development Authority, Bihar at Patna.
6. Executive Director, Department of Industries, Bihar Industrial Area Development Authority, Hajipur, District- Vaishali (Hajipur).
7. Regional In-charge, Industrial Development, Centre, Hajipur, District-Hajipur (Hajipur)
8. Development Officer, Department of Industries, Bihar Industrial Area Development Authority, Patna.
9. M/s Keyal Beverages and Food Udhog Private Limited, through its director namely Madhav Kumar, Address- Ward Number- 7 Suryoo Residency, Gandhi Chowk Lalganj Rd., Hajipur 844101, Vaishali.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 10645 of 2023)

For the Petitioner/s : Mr. Aman Raj, Adv.
: Mr. Sachin Kumar, Adv.
For Respondent BIADA : Mrs. Vagisha Pragya Vacanavi, Adv.
For the Respondent/s : Mr. Vikash Kumar (Sc11)
: Mr. Dhirdyuti Kumar, Verma, AC to SC11

(In Civil Writ Jurisdiction Case No. 2175 of 2023)

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv.
: Mr. Shivam Singh, Adv.
: Mr. Kumar Vikram, Adv.
: Mr. Kumar Avinash, Adv.
For Respondent BIADA : Ms. Manini Jaiswal, Adv.
For the Respondent/s : Mr. Yogendra Pd. Sinha (Aag7)

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

Date : 04-12-2024

Civil Writ Jurisdiction Case No. 2175 of 2023

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

reliefs:-

“That the present writ application is being filed in the nature of Certiorari for quashing an order vide letter no. 2938/D dated 07.07.2022, an order passed by the Deputy General Manager, Darbhanga Cluster, by which the land bearing 12752 sq. ft. allotted to the petitioner no. 1 has been cancelled on the ground that the petitioner is ready to revive his business if amnesty is given, there was no opportunity of hearing being given to the petitioner;

II. And pass any such order/ orders as this Hon’ble Court deem fit and propert.



III. The I.A. 02 of 2023 is on filed in the nature of Certiorari for quashing the Reference Number 7866 D, dated 31/12/2022 by which Executive Director-Operation, BIADA, Patna has issued a letter to the Private Respondent No. 9 (M/s Keyal Beverages & Food Udhog Private Limited) by which allot of Plot Number C-25 and C-22 (P) in Industrial area Hajipur for the establishment of Food Juice Unit has been leased out for 90 years on the ground that it is the subsequent action which has been taken by the respondent and the initial order is bad in the of law, then the subsequent action is also a nullity in the of law.

IV. The Present I.A. is being filed in the nature of Certiorari for quashing the Memo No. 44 Dev/HZI/Cluster/08/2023, dated 01.02.2023 by which Deputy General Manager has allotted the Plot No. C-25 & C-22 (P), Area 10800 Sq. feets to M/s Keyal Beverages & Food Udyog Private Limited; on the ground that the allotment of the land as the genesis of the case is bad in the eye of law.”

3. It is the case of the petitioners that the respondent-

BIADA has not served any show cause notice to the petitioners prior to the passing of the order of cancellation.

4. Learned counsel for the petitioners has stated that even though the respondent authorities have relied on the show cause notices (Annexure-P/6 & P/7), they were never served on the petitioners at any time before the order of cancellation was passed. Learned counsel has stated that the petitioners were always ready and willing to perform their part of the duties but due to the above cancellation made by the respondents, the petitioners are unable to continue the production. Further, it is stated that though the authorities subsequent to the cancellation have taken possession of the subject property and allotted to the third party, the third party is not interested in running the same. Learned



counsel has therefore, prayed that the impugned order may be set aside and matter may be remanded back to the authority concerned for passing orders afresh duly putting the petitioners on notice, giving him an opportunity of filing his explanation and, thereafter, pass a reasoned order duly taking into consideration the explanation submitted by the petitioners.

5. *Per contra*, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioners are having an alternative and effective remedy of filing an appeal and, therefore, prayed for dismissing the present writ petition.

6. When queried by this Court as to whether any show cause notice was served on the petitioners prior to the passing of the impugned order of cancellation, the learned counsel for the respondent-BIADA has drawn the attention of the Court to the dispatch register (Annexure-L) except, the dispatch register, the respondent-BIADA authorities did not file the postal receipts or the postal acknowledgment, served on the petitioners. Learned counsel has stated that in spite of their but efforts, they could not trace out the postal receipts nor the acknowledgments and as a matter of fact, they have approached the postal department seeking information with regard to the notices that were issued to the



petitioners and the Department of Post vide Annexure-M has replied that there is no record available pertaining to the information sought against the Postal Receipt No. EF-793262249IN dated 14.12.2021 & EF-793261583IN dated 19.04.2022 addressed to the petitioner. When the petitioners are vehemently denying the receipt of any show cause notice prior to the passing of the impugned order of cancellation and the respondents are unable to produce any proof that the same was served on the petitioners, this Court has no other option but to set aside the impugned order passed by the authorities and remand the matter back for considering the case afresh. Accordingly, the order dated vide letter no. 2938/D dated 07.07.2022 is set aside. The respondent-BIADA is directed to issue a fresh show cause notice to the petitioners giving their ample opportunity of filing their explanation and on receipt of explanation from the petitioners, the authorities are directed to pass necessary orders strictly in accordance with law duly taking into consideration the explanation submitted by the petitioners and putting all the parties on notice. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order.



7. With the above direction, the present writ petition stands disposed of.

Civil Writ Jurisdiction Case No.10645 of 2023

Heard the learned counsel for the parties.

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

“I. For issuance of a Writ in the nature of mandamus, either to refund the total amount of Rs. 30,00,766/-, so deposited by the Petitioner along with interest @ 10% till the date of its refund, on account of Land Allotment Cost and other charges of Plot No. C 25 & C-22(P), Area 10,800 Sq. ft. at Hajipur Industrial Area because of being highly litigated plot provided to Petitioner without giving prior information, which is in teeth of the assurance given by Hon'ble Minister, Department of Industries in Bihar Legislative Assembly. Further, directing upon the Respondent BIADA to take back the plot in question after the refund of deposited amount along with interest.

ii. To declare and hold that notice vide Letter No. 154/D dated 31-03-2023, issued by the Respondent is illegal, unjust and accordingly by setting aside the same, the respondent be directed not to take any coercive steps against the Petitioner without refund of the admitted amount as prayed before this Hon'ble Court or till the land in question becomes free from all encumbrances in favour of petitioner or Alternatively, to give such time frame for start of the commercial production by the Petitioner in the said land after final adjudication of C.W.J.C. No. 2175/2023 as filed by the erstwhile allottee.

iii. To impose heavy cost upon Respondents for allotment of such Plots which are under litigation.

iv. For issuance of writ/writ(s) directing the Respondents to adopt equitable approach in terms of Article 14 of the Constitution of India whereby treating all similarly situated allottee of the same industrial estate equally and equitably.

V. For any other relief/relief (s) which this Hon'ble Court may deem fit and proper in the interest of justice.”



3. Learned counsel appearing on behalf of the petitioner has stated that the authorities have allotted an area of 10800 Sq. Ft. in Plot C-25 & C-22 (P) and put the petitioner in possession. However, subsequent to the allotment made by the respondent authorities on 31.12.2022, it has come to the knowledge of the petitioner that there is litigation pending in respect of the allotted plot before this Hon'ble Court vide CWJC No. 2175 of 2023. That the petitioners in that case are not permitting the petitioner herein to complete the construction or setting up the unit. Learned counsel also stated that the said factum of pendency of the writ petition i.e., CWJC No. 2175 of 2023 was not disclosed to the petitioner. Further, it is stated that had the petitioner known about the same, he could not have opted for this plot. Learned counsel has stated that the petitioner is interested in refund of the amount paid by him along with the interest and is not interested in allotment of any alternate plot. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petitioner and direct the respondents to refund the amount of Rs. 30,00,766/- paid by him along with interest of 10% from the date of payment till the date of actual refund.

4. *Per contra*, the learned counsel for the respondents has vehemently opposed the very maintainability of the present



writ petition and stated that as on the date of allotment to the petitioner i.e., 31.12.2022 vide Letter No. 7866/D, there was no litigation pending before this Hon'ble Court and that the CWJC No. 2175 of 2023 was filed in this Hon'ble Court only 02.02.2023. That the contention of the petitioner that there was litigation pending in this Court as on the date of allotment is totally wrong and contrary to the record. Learned counsel has stated that in case the petitioner in CWJC No. 2175 of 2023 succeeds then the authorities may consider the refund of the amount to the petitioner herein. Learned counsel has further stated that there is no provision for refund of the amount paid by the petitioner once an allotment has been made. That in case the petitioner faces any difficulties, he has to take necessary steps for resolving the same on his own and the respondent-BIADA cannot be blamed for the said impediments. Learned counsel has therefore, prayed this Court to dismiss the present writ petition.

5. The only question before this Hon'ble Court is as to whether the prayer sought by the petitioner for refund of the amount can be granted or not.

6. Admittedly, the BIADA was aware as on the date of allotment that the earlier allotment made to the petitioner in CWJC No. 2175 of 2023 was passed on 26.02.2022 and they did not



disclose about the same as the earlier allottee had not yet preferred any appeal or any writ petition. However, the authorities in all fairness should had informed the petitioner herein about the previous allotment and cancellation.

7. Having regard to the fact that this Court has passed the order of remand in CWJC No. 2175 of 2023, the authorities are directed to take a pragmatic approach to the entire issue and pass necessary orders for refund of the amount paid by the petitioner. However, taking into account the facts and circumstances of this case, the prayers sought for by the petitioner for refund of the amount with interest is declined. The authorities should endeavor to pay the amount of Rs. 30,00,766/- as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2024.
Transmission Date	NA

