

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10809 of 2024

M/s Bhagwati Coke Industries Pvt. Ltd., a Private limited Company having its Registered Office at Urmila Vila, Surya Mandir Road, P.S. Aurangabad, District- Aurangabad and its Industrial Unit at M-2, Industrial Area, Aurangabad, through one of its Directors namely, Shyam Kishore Prasad, Aged about 67 years, Male, Son of Late Dev Nandan Prasad, Resident Of Urmila Villa, Surya Mandir Road, P.S. Aurangabad, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industry, Government of Bihar, Patna.
2. The Additional Chief Secretary, Industries Department, Government of Bihar, Vikash Bhavan, Patna.
3. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Chairman-cum-Managing Director.
4. The Chairman cum Managing Director, Bihar Industrial Area Development Authority, Udyog Bhavan, Gandhi Maidan, Patna.
5. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhavan, Gandhi Maidan, Patna.
6. The Deputy General Manager, BIADA, Gaya Cluster, Gaya.
7. The Area Manager, Industrial Area, BIADA, Aurangabad, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mohit Agarwal, Adv.
For the Respondent/s	:	Mr.Advocate General
For the BIADA		Mr. Bindhyachal Singh, Sr. Adv.
		Mr. Gyan Shankar, Adv.

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

4 19-09-2024 Heard learned counsel for the parties.

2. The present writ petition has been filed for the
following relief(s):-

*“(a) For quashing of the ex parte Appellate
Order dated 08.07.2024 passed in Appeal No.
90/2024 by the Respondent Additional Chief*



Secretary, Department of Industries, Government of Bihar, whereby the Appeal preferred against the impugned communication of cancellation of allotment bearing Memo No. 483 dated 25.04.2024 has been affirmed without any service/communication of notice of hearing upon the Petitioner,

(b) For quashing the impugned order of cancellation purportedly passed by the Respondent Deputy General Manager, Bihar Industrial Area Development Authority, Gaya cluster, communicated vide Memo No. 483 dated 25.04.2022 whereby the industrial land bearing Plot No. M-2/1 measuring 1 Acre situated at Aurangabad Industrial Area, Aurangabad has been arbitrarily cancelled alleging the less production than the sanctioned production;

(c) For a declaration that the Respondent Additional Chief Secretary, Department of Industry, Government of Bihar cum Appellate Authority ought to have communicated/served the Notice of hearing upon the Petitioner through any mode, i.e. by Post or by Hand or by Email, to enable the Petitioner to attend the hearing in the Appeal as in absence of any communication of service of notice, the impugned order dated 08.07.2024 passed in Appeal No. 90/2024 is in violation of principle of natural justice and hence not sustainable;

(d) For a declaration that once it is admitted



that the Petitioner unit is functional with less production, the allotment of land could not be cancelled under section 6(2)(a) of BIADA Act, 1974 as it is not a case of non-production in the Industrial unit;

(e) For a declaration that the impugned order has purportedly been passed by the Deputy General Manager, Gaya Cluster, Gaya and not by an Authority as the power of cancellation of any plot allotted to Industrial Unit is vested in the Bihar Industrial Area Development Authority in terms of Section 6(2) of BIADA Act, 1974 whereas in the present case it is evident from the impugned order that the same has been passed by Deputy General Manager, Gaya cluster, Gaya hence the impugned order is per se without authority of law;

(f) For holding that as admittedly manufacturing activity is being carried out in the unit of the Petitioner Company, no purported of cancellation of land could have been passed under section 6(2)(a) of the BIADA Act;

(g) For restraining the respondents from interfering the peaceful possession of the Petitioner company with respect to the Industrial Plots, in question, and to further restrain from creating any third party right in haste by denying the petitioner to avail the remedy for which is entitled in the law; and to



grant such other relief or reliefs before this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

3. The only contention issue in the present writ petition is as to whether before passing the orders dismissing the appeal filed by the petitioner vide order dated 08.07.2024, the petitioner was put on notice or not.

4. Learned counsel appearing on behalf of the petitioner has stated that without issuing any notice of hearing to the petitioner, the impugned order has been passed by the appellate authority. That passing of the impugned order without giving any opportunity of hearing to the petitioner is illegal, bad in law and against the principle of natural justice and equity. Learned counsel has therefore prayed this Hon'ble Court to set aside the impugned order.

5. Learned counsel appearing on behalf of the respondents-BIADA has stated that the notice of hearing was put on the website of the BIADA and it was the duty of the petitioner to verify the dates of hearing. However the petitioner failed to do so and there was no appearance on behalf of the petitioner, therefore the authorities had to necessarily pass the order dated 08.07.2024 dismissing the appeal. However the learned Senior counsel has fairly stated that the impugned order



dated 08.07.2024 may be set aside and the matter remanded back to the appellate authority for passing orders afresh duly giving an opportunity of hearing to the petitioner.

6. Though the learned counsel appearing on behalf of the petitioner has also raised the question of jurisdiction of the Deputy General Manager in passing the order of cancellation of allotment, this Court is not inclined to go into the said issue as the matter is remanded back to the appellate authority and the petitioner can raise all his grounds in the said appeal.

7. Having regard to the above made submissions, the impugned order dated 08.07.2024 passed by the appellate authority is set aside. The matter is remanded back to the appellate authority for passing orders afresh. The authorities concerned shall intimate the date of hearing and give an opportunity of hearing to the petitioner. The appellate authority shall pass a reasoned orders strictly in accordance with law. All the grounds raised by the petitioner shall be duly considered by the appellate authority and a reasoned order passed.

8. The entire exercise shall be completed as expeditiously as possible preferably within a period of six weeks from the date of receipt of a copy of this order. Any order



passed shall be communicated to the parties. Further it is directed that till passing of the final orders in the appeal, no third party right shall be created if not already created.

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

(A. Abhishek Reddy , J)

Bhardwaj/-

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