

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12011 of 2023

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M/S Refresh Aqua Industrial Area, Donar, Darbhanga through its proprietor
Smt. Shila Devi, W/o Shree Indra Mohan Jha, house No. -28, Vill and Post-
Prari, P.s.-Biroul, District-Darbhangha ... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Additioal Chief Secretary, Department of Industries, Govt. of Bihar, Patna.
3. The Bihar Industrial Area Development Authority, Patna, Bihar.
4. The Managing Director, The Bihar Industrial Area Development Authority.
5. The General Manager, The Bihar Industrial Area Development Authority, Regional Office, Darbhanga. ... Respondents

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Appearance :

For the Petitioner	:	Mr.Prabhakar Singh, Adv.
For the State	:	Mr.Kumar Alok, SC VII
For the BIADA	:	Mr. Sanchay Srivastava, Adv.

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

9 14-03-2024 Heard the parties.

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

I. For issuance of writ/s in the nature of certiorari for quashing the order dated 12.07.2023 passed in appeal No. 347/2022 by the respondent. No. 2 whereby and where under appeal preferred by the petitioner against the office order issued vide memo no.-1016, dated-19.11.2022, by the respondent no. 5 has been dismissed, by which the allotment of land made in favour of the appellant in the year 2010 has been cancelled and the amount deposited for the lease of land has been forfeited and the land will be in possession of the BIARDA after cancellation on the ground of non-production by the unit and the use of



area as residential, which is totally against the actual facts as the unit of the appellant was in running position which was stopped by the water logging in the compound regularly since more than 10 years and machines/equipments have been become as ineffective due the said reason for which request was regularly being made before the Respondent no.-3 and all concern authorities for providing facilities of sewerage.

II. For issuance of writ/s in the nature of certiorari for quashing the order issued vide memo no.-1016, dated-19.11.2022, by the respondent no. 5 by which the allotment of land made in favour of the appellant in the year 2010 has been cancelled and the amount deposited for the lease of land has been forfeited and the land will be in possession of the BIARDA after cancellation on the ground of non-production by the unit and the use of area as residential, which is totally against the actual facts as the unit of the appellant was in running position which was stopped by the water logging in the compound regularly since more than 10 years and machines/equipments have been become as ineffective due the said reason for which request was regularly being made before the Respondent no.-3 and all concern authorities for providing facilities of sewerage.

III. For issuance of writ/s in the nature of mandamus for directing and commanding the respondent authorities to not disturb the petitioner and to not dispossess his from the property/land in question



during pendency of this writ application and to stay the further process of letter No.752 dated 15.07.2023 issued by the respondent no.6 by which direction has been given to the petitioner to hand over the possession of the land/property in question to the respondent BIADA.

IV. And for any other relief/s for which petitioner is legally entitled too.

3. It is the case of the petitioner that the unit of the petitioner has been allotted 13068 sq. ft. of land by the respondent-BIADA in the year 2010 for the purpose of establishing a packaged drinking water unit. Learned counsel for the petitioner has stated that the area where the allotted plot is situated is prone to floods and most of the years the area is water-logged. That in spite of difficulties faced by the petitioner, the petitioner was successful in establishing the unit and the production of the unit is still in subsistence. However, during the rainy season, due to the flooding of the plot, the petitioner is not in a position to run the unit and also due to market condition the unit is shut during certain times of the year. Learned counsel has stated that the petitioner has made several requests to the authority concerned for taking necessary steps to see that the plot area, the water logging does not take place and



requested the authority to lay a pipe line so that the water gets drained out. However, the authorities have not taken any steps to resolve the issue, but, on the other hand, cancelled the plot on the ground that the petitioner is not running the unit. That he petitioner has filed an appeal against the order of cancellation, but, the Appellate Authority in a mechanical manner has rejected the appeal without taking into consideration the documents filed by the petitioner and also the photos filed which clearly establish that the land allotted to the petitioner is prone to water logging.

4. 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 in spite of granting several opportunities to the petitioner to run the unit, the petitioner has failed to start production defeating the purpose for which the land has been allotted. Learned counsel has stated that the authorities duly taking into consideration the fact that the petitioner is not running the unit though the plot was allotted in the year 2010 have taken the decision to cancel the allotment. Further, it is stated that the petitioner was put on prior notice and given several opportunities for submitting the documents establish that the unit is in production but the



petitioner has failed to produce any documents to substantiate his claim. Further, it is stated that even at the time of inspection of the subject premises, it was found that the unit was not running and the same was locked. That left with no other alternative the authorities have taken a decision to cancel the allotment. That the Appellate Authority has considered all the grounds raised by the petitioner and affirmed the order of cancellation passed by the authority as there were no merit in the appeal. Learned counsel has stated that the petitioner has miserably failed to establish the unit on the plot allotted even though more than 13 years have elapsed and, therefore, prayed this Hon'ble Court to dismiss the present CWJC.

5. A perusal of the pleadings and the documents submitted by the petitioner reveal that the subject premises was allotted to the petitioner way back in the year 2010 for the purpose of establishing a packaged drinking water unit. It is not the case of the authorities that the petitioner has failed to establish the unit, but, on the other hand, it is their specific case that when the inspections have taken place it was found that either the unit was closed or that the same was being used for residential purpose. The fact that the entire area where the subject plot is situated is prone to floods has not been denied by



the respondents authorities. As seen from the documents filed, the petitioner has made an application for taking steps by the authorities for laying pipe lines for draining out the water from the subject premises, but, no action has been taken by the authorities. Further, as seen from the documents filed by the petitioner, the petitioner has filed sale receipts, purchase receipts and also GST receipts to show that the unit of the petitioner is running. Merely because on the date of inspection the unit was found to be closed it cannot be contended by the respondent-BIADA that the petitioner is not operating the unit. The Appellate Authority without verifying the above aspects has passed the impugned order confirming the order of cancellation.

6. Having regard to the above facts and circumstances this Court is of the opinion that the ends of justice would be served if the impugned order passed by the Appellate Authority is set aside and the matter remanded back to the authority concerned for passing the orders afresh duly taking into consideration the documents filed by the petitioner. The authorities shall also take into consideration the application made by the petitioner for laying of pipe lies in the subject premises for the purpose of draining water which is flooding the subject plot. The impugned order passed by the Appellate



Authority, dated 12.07.2023, passed in Appeal No. 347 of 2022 is accordingly set aside. The matter is remanded back to the appellate authority for passing orders afresh. The authority shall take into consideration the documents filed by the petitioner and pass orders in accordance with law. 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. It is needless to mention that before passing any orders, the party shall be put on notice and given an opportunity of hearing. Any order passed shall be communicated to the parties.

7. With the above direction, the Writ Petition stands **disposed of**.

(A. Abhishek Reddy , J)

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