

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12136 of 2023

Sudhir Kumar Singh Son of Surya Dev Singh, resident of Village - Batwan,
P.O. Ram Chandra Nagar, P.S. Simariya, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Department of Industries, Government of Bihar, Patna.
2. The Industrial Development Commissioner-cum-Chairman, Bihar Industrial Area Development Authority, (BIADA), Patna-cum-Principal Secretary, Department of Industries, Government of Bihar, Patna.
3. Bihar Industrial Area Development Authority (BIADA) through the Managing Director, Udyog Bhawan, East Gandhi Maidan, Patna - 800004.
4. The Deputy General Manager, Bihar Industries Development Authority (BIADA), Gaya Cluster, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The District Manager, Growth Centre, BIADA, Aurangabad.
6. The Assistant Regional Manager, Industrial Growth Centre, BIADA, Aurangabad.
7. The Area In-charge, Bihar Industrial Development Authority, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Rajesh Mohan, Adv.
For the State	:	Md. Nadim Seraj (Gp 5)
		Mr. Shailesh Kumar, Adv.
For the BIADA	:	Mr. Girijesh Kumar, Adv.

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

7 16-01-2024 Heard learned counsel for the parties.

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

“That the present writ petition



is being filed on behalf of the petitioner for issuance of a writ in the nature of a writ of certiorari to set aside the order impugned vide memo no. 390 dated 30.12.2022 issued by the Respondent No. 4 Deputy General Manager, Bihar Industrial Development Authority, Gaya Cluster, Udyog Bhawan, East Gandhi Maidan, Patna, whereby and whereunder in exercise of power conferred under section 6(2)(a)(b) of the Bihar Industrial Development Authority Act, 1974 (hereinafter referred to as 'the BIADA Act') pleaded to cancel the allotment of land admeasuring 10,000 sq.ft. to the petitioner here on the ground that the said land is being unused and running shops in front area as well as the subsequent order dated 17.08.2023 passed in Appeal no. 127 of 2023 (M/s Jyoti Shakti Rice Mill, Aurangabad Vs. BIADA & Ors.) by which and where under the Adl. Chief Secretary, Department of Industries, Bihar, Patna cum Chairman, BIADA pleaded to hold that "in view of the site inspection report vide memo no. 106/GC dated 31.01.2023 proved that that no industrial activity has been found and main gate of the premises was closed. Therefore, the appellant has not established the industry over the allotted land since the date of allotment



as well as in absence of any future plan for establishing industry over the allotted land. Therefore, the present appeal is devoid of merit,” accordingly dismissed, and consequently order vide letter no. 140/GC dated 18.08.2023 issued by the Assistant Regional Manager, Industrial Growth Centre, Aurangabad, who in the light of dismissal of Appeal no. 127/2023 vide order dated 17.08.2023, instructed to the petitioner hand over the Unit within 3 days failing which authority will take possession of the Unit with the help of police force, and further to pass direction/directions, order/orders to the respondents restraining them not to proceed further against the allotment to the petitioner and for further relief/reliefs in the fact and circumstances of the case, the petitioner may entitle too.

3. Learned counsel for the petitioner has stated that the petitioner has been allocated an area of 10,000 square feet way back in the year 2004 for the purpose of establishing a rice mill. Learned counsel has stated that the petitioner pursuant to the allotment has established a rice mill and entered into an agreement with Bihar State Food and Civil Supplies Corporation for the purpose of milling paddy. An agreement has also being entered between the petitioner and the Bihar State



Food and Civil Supplies Corporation (BSFC) to that effect and the petitioner has been operating the rice mill. Learned counsel has stated that the milling of the rice is seasonal in nature i.e. between the months of November till February and therefore, the Rice mill will not be in operation throughout the year. However, the authorities without taking the said factor into consideration have cancelled the allotment made to the petitioner. Learned counsel has stated that the petitioner has been milling the paddy received from various quarters i.e. from B.S.F.C., farmers and other traders has been continuously operating the unit. That the photos filed by the petitioner before this Hon'ble Court duly establish the fact that the petitioner has already established a Rice mill and the same is operating. Further, learned counsel has stated that both the primary as well as the appellate authority contrary to their own inspection reports have passed the order of cancellation in mechanical manner without taking into consideration the fact that the milling of rice is seasonal and the unit will not be in operation for the entire year. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present writ petition by setting aside the impugned orders.

4. Per contra, the learned counsel appearing on



behalf of the respondents has vehemently opposed the very maintainability of the writ petition and has stated that the petitioner has not utilized the land for the purpose for which it was allotted. Learned counsel has stated that though the petitioner was allotted the land way back in the year 2004 has not being operating the rice mill right from 2013 but has been using the same for unauthorised purposes. That the inspection reports conducted by the authorities at various points of time clearly establish the fact that the petitioner has not being running the unit and was using the premises for running of the showroom, servicing of vehicles and for other unauthorized purposes. Though the petitioner has been given number of opportunities to start the production of the Rice mill, the petitioner has failed to do so. That even after the cancellation of allotment order was passed, the appellate authority has with a view to grant an opportunity to restart the unit and start production has directed the petitioner to file an undertaking and give a bank guarantee. However, the petitioner has failed to do so. Learned counsel has drawn the attention of the court to the various inspection reports to buttress his contention that the petitioner has not been using the land for the purpose of rice mill but for using the same for some other purposes. Learned



counsel has further stated that even though the petitioner has been granted time by this Hon'ble Court to substantiate his claim that he was running the unit for the last 10 years, the petitioner has failed to do so. Therefore, learned counsel for the petitioner has prayed for dismissal of the present writ petition.

5. When denied by this Court as to what documents have been filed by the petitioner to substantiate that the unit was in production for the last 10 years and whether any electricity bills have been filed by the petitioner, GST returns or any other documents to show that the Rice mill was running. The counsel for the petitioner has stated that the unit is being run on a diesel generator set and, therefore, the petitioner could not file any electricity receipts. Learned counsel has stated that the petitioner obtains paddy from various small farmers, therefore, there are no receipts to substantiate his claim that the petitioner has purchased any paddy from the farmers for the purpose of milling.

6. A perusal of the documents more specifically the show cause notice, the order of cancellation dated 30.12.2022 and order of the appellate authority dated 17.08.2023 reveals that the Rice mill of the petitioner is not in production since the last more than 10 years. A perusal of the inspection reports filed



by the respondents along with the counter affidavit i.e. Annexure P/2 reveals that the land was being used for some other purposes other than the purpose of running the rice mill. Even in the order of the appellate authority, it is clearly stated that the petitioner was granted an opportunity to start a production and to that effect he was directed to file an undertaking and also give a bank guarantee but for the reasons best known to the petitioner, the petitioner has not furnished the same before the said authority. The inspections reports filed by the authority reveals that the petitioner has not been using the Rice mill for the last 10 years for the purpose for which it was granted but has been using the same for the running of a showroom, servicing of vehicles and for other purposes which are not authorised by the Respondent/BIADA.

7. Moreover, it is an admitted fact that the petitioner has not filed any proof that the unit is in production since the last 10 years. Not even a scrap of paper has being filed by the petitioner to substantiate his claim that the Rice mill is in production. The petitioner ought to have filed electricity bills, GST returns, income tax returns, attendance registers of the employees to substantiate that the Rice mill was functioning and was in a running condition. Even for the sake of argument, if it



is accepted that the unit was being run on a diesel generator set as claimed by the petitioner, the petitioner has not filed any receipts to show that he has purchased any diesel to run the diesel generator set in the last 10 years. The order of cancellation passed by the Deputy General Manger, Bihar Industrial Development Authority, Gaya Cluster,Uhdyog Bhawan, East Gandhi Maidan, Patna (Respondent No. 4) Dated 30.12.2022 and order of the appellate authority dated 17.08.2023 are both well reasoned orders which do not require any interference. Once the lands are allotted by the BIADA Authority for the purpose of running an industry the allottees are legally bound to utilize the land for the said purpose and run the units. The entire idea behind allotment of land at a subsidized rate is not only to generate employment but also increase productivity and industrialisation. In case the allottees do not establish the industry and continue the manufacturing activity, the very purpose of allotment will be defeated. In the absence of any evidence to show that the Rice mill was running and in production since the last more than 10 years, no orders can be passed in favour of the petitioner. This court does not find any merit in the present case which warrants any interference.

8. Having regard to the above, the present writ



petition stands dismissed.

(A. Abhishek Reddy , J)

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