

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13328 of 2023

M/s Mahaveer Body Builder Corporation through Arvind Kumar, aged about 60 Years, Male, Son of late Jageshwar Ram, resident of Station Road, Rajbhog Gali, Mohan Bigha, Dehri On Sone, Police Station - Dehri, District - Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Industry, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna, Bihar.
4. The Executive Director, Udyog Bhawan, Gandhi Maidan, Patna.
5. The Deputy General Manager, Gaya Cluster Gaya, B.I.D.A.
6. The Deputy Manager, Industrial Area, Development Authority, Industrial Premises, Dehri On Sone, Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Dhananjay Kumar, Adv. Mr. Sunil Prasad, Adv.
For the Respondent	:	Md. Nadim Seraj (Gp5)
For the BIADA	:	Mr. Lalit Kishore, Sr. Adv. Mr. Gyan Shankar, Adv. Mr. Kanishk Shanker, Adv.
For the State	:	Mr. Nadim, Adv. Mr. Shalim, AC to GP-5

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

9 15-01-2024 Heard learned counsel for the parties.

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

“(i) To issue rule in the nature of certiorari to quash the order impugned dated 23.08.2023 passed in Appeal Case No. 356 of 2022 (M/s Mahabir Body Builder Corporation I.A. Dehri Versus BIADA and others) by which



the allotted land of the petitioner has been cancelled.

(ii) To issue Rule in the nature of Mandamus commanding the Respondents to not interfere with the allotment of the land of Industrial area, Dehri, over which, the Body Building Industry has been running since long after regular inspection and verification by the concerned authority.”

3. Learned counsel for the petitioner has stated that the appellate authority while passing the impugned order dated 23.08.2023 has relied on the site inspection report vide Memo No. 46 dated 09.06.2023 to reject the appeal filed by the petitioner and confirm the orders of cancellation. Learned counsel has stated that the site inspection report relied by the appellate authority pertains to some other industry i.e. namely, Nehal Shoe and does not pertain to the petitioner. Learned counsel has drawn the attention of the court to the supplementary affidavit filed by the authority concerned wherein that in para 4, it is stated that the inspection done on 09.06.2023 vide Memo no. 46 is with regard to the another industry, namely, Nehal Shoe that as a matter of fact the inspection report pertaining to the petitioner is dated 05.07.2023. Learned counsel has stated that the impugned order may be set aside and the matter remanded back to the appellate



authority for considering the appeal afresh duly taking into consideration the inspection report dated 05.07.2023.

4. Learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the appellate authority while passing the order has not only relied on the inspection report dated 09.06.2023 but also on the other aspects that the petitioner has failed to establish the industry over the allotted land and the industry that was being carried on by the petitioner is contrary to the allotment letter. Learned counsel has stated that merely because the wrong inspection report is relied by the authority concerned, the same does not accrue for the benefit of the petitioner and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned order passed by the appellate authority dated 23.08.2023 reveals that the authority concerned while relying on the inspection report dated 09.06.2023 vide Memo No. 46 has come to the conclusion that the petitioner has failed to establish the industry over the allotted land and dismiss the appeal filed by the petitioner. The relevant portion of the appellate order reads as under:-

“After hearing the rival contentions of the parties, it is found that



the appellant has miserably failed to establish the industry over the allotted land. The appellant has also failed to show any promising way forward in the direction of establishing the industry over the said land. The valuable land in the industrial area has been kept in an abandoned condition in possession of the appellant, which is detrimental for industrial growth as well as violation of terms of allotment under the BIADA Act. The recent site inspection report vide Memo No. 46 dated 09.06.2023 also proves that no industrial activity has been found to be carried out and the main gate of the premises was found locked. Therefore, in the light of the fact that 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, it would not be judicious to let the appellant retain the land in question as it would defeat the legislative intent of BIADA Act.”

6. In the supplementary affidavit filed by the authority concerned has stated as under:-

“4. That it is submitted that no inspection of the business premises of the petitioner was held regarding about



which a report vide memo No. 46 dated 09.06.2023 was submitted to the respondent authority. So far Knowledge of the petitioner is concerned it is stated that, a inspection vide memo No. 46 dated 09.06.2023 as referred in the order dated 23.08.2023 passed by the Addl. Chief Secretary, is inspection report of another industry namely Nehal Shoes bearing Memo No. 46 dated 14.08.2023 (not a date like 09.06.2023), and no other report issued vide Memo No. 46 of 09.06.2023

5. That it is relevant to note here that vide order dated 27.06.2023 passed by the Additional Chief Secretary in BIADA Appeal No. 356/2022, whereby an update inspection report was called for an in Compliance of the siad ordrr a joint inspection report was submitted on 05.07.2023 which is on record as Contained in annexure P/12 of the main writ application, but any reference to the said report.”

7. Having regard to the above mentioned facts and circumstances, this Court is of the opinion that the appellate authority has committed an error by relying on the report dated 09.06.2023 in Memo No. 46 while passing the impugned order dated 23.08.2023.



8. Admittedly, the said report does not pertain to the industry of the petitioner, therefore, this Court is constrained to set aside the order of the appellate authority and remand back the matter for deciding the same afresh duly taking into consideration, the inspection report dated 05.07.2023 which has been called for by the very same authority. The authority concerned before passing any order shall put the petitioner on notice and give him an opportunity of hearing. The entire exercise has been completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.

9. Pending the appeal, the petitioner is permitted to file an appropriate application before the concerned authority for unsealing the premises.

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

(A. Abhishek Reddy , J)

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