

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17754 of 2022

M/s J K Lakshmi Cement Ltd. having its administrative office at Nehru House- 4 Bahadur Sah Zafar Marg, New Delhi-110002 through its Power of Attorney Holder namely Sri Ram Ratan Gupta, aged about 73 years, male, Sr. Vice President (Accounts and Commercial) of the Company, son of Late Satyanarayan Gupta, resident of A-4/304, Printers Apartment, Sector 13, Rohini-Delhi -110085.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Industries, Government of Bihar, Patna.
2. The Bihar Industrial Area Development Authority through its Managing Director, Udyog Bhawan, Gandhi Maidan, Patna.
3. The Appellate Authority-cum-Additional Chief Secretary, Department of Industry, Bihar, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Patna.
5. The Executive Director, Regional Office, Industrial Area, BIADA, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chakrapani, Adv. Mr. Neeraj Kumar, Adv.
For the Respondent/s	:	Mr. Yogendra Pd. Sinha (Aag7)
For the BIADA	:	Mr. Parth Gaurav, Adv.

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

13 30-07-2024

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

i) For issuance of appropriate writ, order or direction especially in the nature of “Certiorari” for quashing the letter no. 199 dated 25.3.2022 issued by Development Officer, Regional office, Bhagalpur, whereby and where-under the land allotted to the petitioner at



Bheriadangi, Kishanganj has been cancelled in the light of the letter No. 222 dated 3.6.2020 and further money deposited i.e. Rs.3,65,39,956/- (Three Crores Sixty five lacs thirty nine thousand nine hundred fifty six) has been forfeited and withheld.

ii) For issuance of appropriate writ, order or directions especially in the nature of “Mandamus” commanding the Respondent authorities to allot land which is adjacent to Bettiah Rambagh Railway Station Siding; and for which a direction was also given by this Hon’ble High Court vide judgment and order dated 22.01.2022 passed by Hon’ble the Chief Justice sitting with Hon’ble Mr. Justice Sanjay Kumar in C.W.J.C. No. 17185/2021 whereby this Hon’ble High Court observed that learned counsel for the petitioner states that petitioner is ready and willing to establish the unit within a time period, but site allotted at Kishanganj is not suitable and as such some alternate site in another district requires to be allotted for establishment of the unit; and directed petitioner to approach BIADA for allotment of alternate site.”

3. This Court vide order dated 22.01.2022 (Annexure-1) while disposing of the C.W.J.C. No. 17185 of 2021 filed by the petitioner herein has held as under:

“Today, learned counsel for the



petitioner states that petitioner is ready and willing to establish the Unit within a time bound period, but, however, the site allotted in District -Kishanganj is not suitable, and as such, some alternate site in another district requires to be allotted for establishment of the Unit.

Well, this Court cannot regulate the activities of BIADA and we leave it for the petitioner to immediately approach BIADA for allotment of alternate site.

At this stage, learned counsel for the petitioner states that in any event, petitioner shall hand over the vacant and peaceful possession of the site allotted at Kishanganj to BIADA.

Statement accepted and taken on record.

Petitioner through learned counsel has been explained the consequences of breach of his undertaking, including initiation of proceedings of contempt, should the petitioner not hand over the vacant and peaceful possession of the land to the BIADA within the said period.

Let needful be done within a period of three weeks from today. Also, petitioner undertakes to approach BIADA for allotment of alternate site.

Let BIADA take a decision on its own merit, within a period of two months, uninfluenced of the filing of the instant petition or the orders passed in any one of



the proceedings.

Learned counsel for the petitioner states that petitioner has already deposited a sum of 3 crore (Approx.) towards ₹ allotment of land at Kishanganj which may be adjusted against the site which may be allotted by BIADA.

Well, it is for BIADA to look into this aspect. On what terms the land would be allotted is for BIADA to decide. We are conscious that such allotment, if any, has to be as per the current prevalent policy and market rates. Adjustment would be carried out or not is for the BIADA to take a decision. BIADA shall positively take a decision within a period of two months.

Should the petitioner require the need to initiate proceedings for recovery of the amount already deposited, it shall be open to do so in accordance with law, including filing a petition afresh, challenging the orders passed by the Appellate Authority, subject matter of the present petition.

The instant petition stands disposed of in the aforesaid terms.”

(emphasis added)

4. Thereafter, the impugned order is passed by the authority vide order dated 25.03.2022 whereby the representation made by the petitioner seeking alternate site and



also for adjusting the amounts which were deposited with the authority was rejected and the amounts deposited by the petitioner at the time of allotment has been forfeited. A reading of the impugned order passed by the authority reveals that absolutely no reasons have been given by the authority while rejecting the application made by the petitioner. The High Court while remanding the matter was categorical that the authority should take a decision on its own merits without being influenced by the earlier orders passed and if any decision is taken for allotting an alternate site and take a decision as to whether to adjust the amounts already deposited or not. However, the authority while passing the impugned order has simply reiterated that the amount deposited by the petitioner cannot be refunded or adjusted as the same were already forfeited as per the earlier order of cancellation which was the subject matter of C.W.J.C. No. 17185 of 2021. The impugned order does not reveal any other reason whatsoever for rejecting the application/ representation made by the petitioner.

5. This Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasoning is given in the order, neither the



party nor Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the party. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application as the case may be.

6. In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his



prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

7. Having regard to the above, the impugned order is set aside and the matter remanded back to the authority concerned for considering the representation/application made by the petitioner afresh. The authority while taking a decision shall take into consideration the observations made by the Division Bench of this Hon'ble Court in CWJC 17185 of 2021 and pass a reasoned order.

8. It is needless to mention that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of this order. Any order passed shall be communicated to the party.

9. With the above directions, the present writ petition



stands allowed to the extent indicated above.

(A. Abhishek Reddy , J)

Gauravkr/-

U			
---	--	--	--

