

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15961 of 2023

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Amarnath Son of Ramdev Singh Sharma resident of Flat No. 102, Ram Krishna Amar Villa, Road no.01, New Patliputra Colony, Patna - 800013
Proprietor of M/s Ruby Industrial Fastners having its registered office at E- 4 Industrial Area, Patliputra, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Industries Department, Government of Bihar.
2. Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East of Gandhi Maidan, Patna - 800004.
3. Managing Director, Bihar Industrial Development Authority, 1st Floor, Udyog Bhawan, East of Gandhi Maidan, Patna - 800004.
4. Executive Director (Operation), Bihar Industrial Development Authority, 1st Floor, Udyog Bhawan, East of Gandhi Maidan, Patna - 800004.
5. Joint Director, Bihar Industrial Development Authority, 1st Floor, Udyog Bhawan, East of Gandhi Maidan, Patna - 800004.
6. General Manager, Bihar Industrial Development Authority, 1st Floor, Udyog Bhawan, East of Gandhi Maidan, Patna - 800004.
7. Deputy General Manager, Bihar Industrial Development Authority, 1st Floor, Udyog Bhawan, East of Gandhi Maidan, Patna - 800004.

... .. Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Umesh Prasad Singh, Sr. Adv.
	: Mr. Vaibhava Veer Shanker, Adv.
For the BIADA	: Mr. Ajeet Kumar, Adv.
For the State	: Mr. Arvind Ujjawal, SC-4

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 06-03-2024

I.A. No.01 of 2024

The present interlocutory application has been filed by the petitioner for amendment and incorporation of additional prayer, as mentioned at paragraph-7 of the application, in prayer portion of the main writ application.



2. Learned senior counsel for the petitioner submits that during the pendency of the present writ application, the appeal filed by the petitioner has been disposed of merely on the ground that the matter is pending consideration before this Court, accordingly, the same is questioned bringing on record by way of the present application.

3. For the reasons stated in application, especially at paragraph No.7, the present interlocutory application is allowed.

4. I.A. Stands disposed of.

C.W.J.C. No. 15961 of 2023

Heard learned senior counsel appearing for the petitioner and learned counsel for the respondent-State and BIADA.

2. The petitioner has challenged the order contained in memo No. 1068 dated 16.10.2023 issued by the respondent No.7 by which the petitioner 's allotment of Industrial Area land bearing Plot No. E-4, measuring 10500 sq. ft. situated at Patliputra Industrial Area, Patna, has been canceled. The petitioner preferred an appeal before the appellate authority during the pendency of the present writ



petition and the appellate authority vide order dated 19.12.2023 in Appeal No. 265 of 2023 disposed it on the ground that the issue raised in appeal is pending consideration before the Patna High Court.

3. The petitioner was allotted the land bearing Plot No. E-4, measuring 10500 sq. feet of land situated in Patna Industrial Area vide letter contained in memo No. 16258 dated 30.12.1971 issued by the office of Bihar Industrial Area Development Authority (For short “**BIADA**”) and a registered lease deed was executed by the Secretary of BIADA in favour of the petitioner on 22.07.1975. Since then the petitioner was in possession of the aforesaid land. A notice for the first time was issued to the petitioner on 19.05.2023 by the Deputy General Manager, BIADA, Patna Cluster, stating that during inspection, the industrial unit allotted to the petitioner was found closed on 03.04.2023 and the petitioner was asked to submit reply to the effect that as to why necessary action be not taken in accordance with law for not carrying out the production in the unit allotted to it. The petitioner submitted his reply on 03.06.2023 and soon thereafter the petitioner resubmitted reply dated 21.07.2023 along with all supporting documents



to show that the land allotted to the petitioner is being used for industrial activities and the same is not closed. However, the reply could not meet the satisfaction of the respondent - BIADA and accordingly, the allotment of the petitioner has been canceled vide order contained in memo No. 1068 dated 16.10.2023 passed by the Deputy General Manager, BIADA, Patna Cluster.

4. Learned senior counsel appearing for the petitioner submits that the petitioner has challenged the order of cancellation of allotment of the land. During pendency of the appeal, the petitioner also preferred an appeal before the appellate authority bearing Appeal No. 265 of 2023 but the same has been rejected without considering the factual aspect by two lines order on 19.12.2023 observing that since the writ petition is pending before the Hon'ble Court, the appeal has been disposed of.

5. Learned senior counsel further contends that entire documents containing 118 pages were filed along with the show cause and was also brought before the appellate authority in order to show that the petitioner's unit was operational and functioning but the respondent authorities without considering the material evidence



produced by the petitioner before the original as well as appellate authority has canceled the allotment of the petitioner and the possession thereof has been resumed by putting a lock in the factory premises.

6. Learned senior counsel, during course of the argument, produced two work orders before this Court dated 15.09.2022 and 16.11.2023 issued by the Bihar Rajya Pul Nirman Nigam Ltd, Works Division, Champaran (Motihari) and Saharsa, respectively, copies thereof have also been handed over to the learned counsel appearing for the respondent- BIADA, showing that the petitioner's industrial Unit has been granted Letter of Acceptance (LOA) for construction and fabrication/ re-setting work of new Pontoon and also construction & Re-setting/ Re-arraigning of new Pontoon Bridge. He further contends that if the lock of factory/industrial Unit of the petitioner is not opened, during pendency of the present writ petition, the petitioner shall suffer irreparable loss.

7. Mr. Ajit Kumar, learned counsel appearing for the respondent -BIADA, on the other hand, submits that the factory/industrial Unit of the petitioner was not in operation since 2015 and this fact had come to light on the basis of



various inspection/ inquiries conducted by the concerned officials of BIADA. He next submits that the appellate authority as a precautionary measure did not entertain the appeal of the petitioner during pendency of the writ application filed by the petitioner questioning the order of cancellation of allotment of the land in question as it may amount to interference in sub-judice matter.

8. Having heard learned counsel for the parties and after going through the materials on record, *prima facie*, it appears that the petitioner' industrial unit has been awarded some manufacturing and construction work by the Bihar Rajya Pul Nirman Nigam Ltd. It would be apt to mention here that Clause 1.1 of an order passed under Clause 19.3 by the **BIADA Land Allotment Policy, 2022** says that an authority shall resume possession of the land/shed under Section 6(2)(b) of the BIADA Act after one month since the date of passing of the order of cancellation of allotment of the land, if the allottee does not prefer an appeal under Section 6(2)(a) of the BIADA Act before the State Government within one month. If the allottee prefers an appeal, the possession shall not be resumed during pendency of such appeal. Here, in the case at hand,



admittedly, the petitioner had preferred an appeal within a period of 30 days but the same was disposed of on the ground of pendency of the present writ application and the petitioner has been refrained from carrying out industrial activity in the factory premises by putting a lock in the premises even though the appeal was filed within the stipulated period.

8. Taking into consideration the submission advanced by the parties and the fact that since the appeal preferred by the petitioner has not been disposed on merit, owing to pendency of present writ application, it would be appropriate to dispose the writ application with a direction to the petitioner to prefer a fresh appeal within a period of 20 days from the date of receipt/production of a copy of this order before the appellate authority raising all the points, as agitated in the present writ application and if, such appeal is filed within stipulated period, the appellate authority shall be obliged to dispose of the same in accordance with the law by passing a reasoned order.

9. During pendency of such appeal, taking note of provisions of BIADA Land Allotment Policy, 2022,



respondent No.-7 is directed to ensure lock put on the premises of the petitioner is removed, the moment appeal is filed. It is also made clear that further action by the respondent -BIADA shall be dependent upon final outcome of the appeal.

(Anil Kumar Sinha, J)

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