

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3491 of 2024

Shiv Shakti Plastic Pvt. Ltd. having its office at Industrial Area, Hajipur through it's Director Shri Rahul Kumar Bothra (Male aged about 34 years) son of Late Hanuman Mal Bothra resident of Kala Bhawan, Beni Babu's Garden, Rajendra Path, Lalji Tola, Near CDA Building, Patna, Bihar - 800001.

... .. Petitioner/s

Versus

1. State of Bihar through the Principal Secretary, Department of Industries, Bihar, Patna.
2. Addl. Chief Secretary, Department of Industries, Bihar, Patna.
3. Bihar Industrial Area Development Authority, through its Managing Director, Udyog Bhawan, east of Gandhi Maidan, Patna.
4. Joint Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East of Gandhi Maidan, Patna.
5. Executive Director (North), Bihar Industrial Area Development Authority, Udyog Bhawan, East of Gandhi Maidan, Patna.
6. Dy. General Manager, Hajipur Cluster, Industrial Area, Hajipur.
7. Area Manager cum Area Incharge, Industrial Area, Hajipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. D.V.Pathy
For the Respondent/s : Mr. Standing Counsel 09

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

Date : 20-01-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following
reliefs:-

“i) the order dated 10.01.2024 (as contained in Annexure-14 passed by the respondent no. 2 cancelling the allotment of plot numbers 33 and 34 admeasuring .50 acres and 5244 ft² of land equivalent to 27,024 ft² by the Bihar Industrial Area Development Authority without consideration of the petition seeking extension of time and also the report filed by the respondent no. 6 being contrary to the principle of natural justice be set aside and quashed.

ii) for granting any other relief(s) to which the petitioner is otherwise found entitled to.”



3. It is the case of the petitioner that he was initially allotted Plot No. 33 & 34 admeasuring 0.50 acres & 5244 sq. ft. total admeasuring 27,024 sq. ft. That the authority vide order dated 29.11.2022 has cancelled the allotment made to the petitioner. Thereafter, aggrieved by the order of cancellation, the petitioner has approached the appellate authority however, the appellate authority without adverting to the facts of the case or the factual position has dismissed the appeal filed by the petitioner in a pedantic manner.

4. Learned counsel for the petitioner has stated that the authority was under the impression that the petitioner has not started the unit but as a matter of fact, the petitioner has been conducting the industrial activity right from the date of allotment and the inspection report dated 09.10.2023 (Annexure-11) clearly establishes the fact that the petitioner has been running the unit by constructing the factory over an area of 13500 sq. ft. and for the balance area of 10000 odd sq. ft., the petitioner has made an appeal to the appellate authority that he would be starting industrial activity in the vacant land and to that effect a project report along with the proposed investment in the project and the timeline was sought for and the appellate authority vide order dated 17.10.2023 has recorded the same, however, the petitioner



could not appear before the appellate authority on the subsequent dates due to ill health and the impugned order came to be passed. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned order dated 10.01.2024.

5. *Per contra*, the learned counsel for the respondent-BIADA has vehemently opposed the very maintainability of the present writ petition and stated that though the petitioner has been given ample opportunity to start the industry, he has not done so and the petitioner has failed to utilize the entire land which has been given to him. Further, it is stated that the petitioner was not doing the commercial production, the authority left with no other option had to cancel the allotment made to the petitioner. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. A perusal of the documents and also the averments made by the parties show that the petitioner was allotted an area of approximately 27,024 sq. ft. way back in the year 2006 and, thereafter, the petitioner has set up the unit for the production of PVC pipes and other related items. The fact that the petitioner has established the factory can be called out from the inspection report dated 09.10.2023, wherein it is clearly stated that the petitioner has



established a factory over an area of 13500 sq. ft. and where finished PVC pipes were present at the site besides raw material. However, the appellate authority without adverting to the said report has given a contrary finding that the petitioner has failed to establish the industry over the allotted land. Further, it is to be seen that on the request made by the petitioner, the authority vide order dated 17.10.2023 has given time to the petitioner to file his detailed project report along with the investment to be made and the timeline for starting the industry in the vacant land. Though the petitioner has given a letter seeking adjournment of the case on 03.01.2024, the authority did not consider the same and passed the impugned order on 10.01.2024. The site report dated 09.10.2023 clearly establishes the fact that the petitioner has established the unit and the same was in production. That insofar as the 10000 sq. ft. which is vacant on ground is concerned, the authority cannot cancel the entire area of 27,024 sq. ft. Further, the finding given by the appellate authority is contrary to the record and the inspection report dated 09.10.2023.

7. Having regard to the above mentioned facts and circumstances, the impugned order passed by the appellate authority dated 10.01.2024 as well as the primary authority dated 29.11.2022 are set aside. The petitioner is directed to file an



undertaking to establish the unit on the vacant area of 10000 sq. ft. giving the timeline for the same and also for starting the commercial production in the said area of 10000 sq. ft. The petitioner along with the undertaking shall also furnish a bank guarantee of Rs. 2,00,000/- to the respondent-BIADA, the undertaking and the bank guarantee shall be furnished to the respondent-BIADA within a period of four weeks from the date of receipt of a copy of this order. The authority shall consider the undertaking given by the petitioner and give him ample time to start the unit. Even after the expiry of the time given by the authority if the petitioner fails to utilize the 10000 sq. ft. vacant land then the authority can take necessary action for cancellation of 10000 sq. ft. strictly in accordance with the procedure established by law.

8. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2025.
Transmission Date	NA

