

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9988 of 2023

Sarv Sri SCH Pharmaceuticals represented by its Proprietor Suryanshu Kumar aged about 38 years, son of Sri Ajay Kumar Jaiswal, resident of Shivpuri Mahendru, Patna-800006, at present residing at Sandalpur, Gaon Road, P.S. Ramkrishna Nagar, District-Patna, Bihar-800006.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Additional Chief Secretary, Department of Industry, New Secretariat, Patna, Bihar.
3. The Joint Managing Director, BIADA, Patna Cluster Industrial Area, Patliputra, Patna.
4. The Deputy General Manager, Bihar Industrial Area Development Authority, Patna Cluster Industrial Area, Patliputra, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dilip Kumar, Adv.
For the Respondent/s	:	Mr. Raghwanand (Ga11)
		Mr. Sanjay Kr. Tiwari, AC to GA-11
For the BIADA	:	Mr. Ajit Kumar, Adv.

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

9 18-01-2025 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

“(i) For quashing of order dated 25.05.2023 passed by Shree Sandeep Poundrik, Additional Chief Secretary Department of Industry, Govt. of Bihar, Patna in appeal no.- 170/2023 (Sarv Sri SCH Pharmaceuticals, Industrial Area, Fatuha vs BIADA & others) by which he illegally dismissed the appeal and confirmed the order dated 13/12/2022 by which allotment of Industrial plot A type shed (A-4)



area 9100 sq feet has been cancelled.

(ii) Also for quashing of impugned order dated 15/12/2022 passed by Deputy General Manager, Patna cluster by which the allotment order of plot A type shed (A-4) area 9100 sq feet of the appellant was illegally cancelled without giving any notice or without giving proper opportunity to this appellant which is against the natural justice.”

3. It is case of the petitioner that he has been allotted 9100 sq. ft. of land in Industrial Estate Fatuha, District- Patna wayback in January, 2013. That though the petitioner was put in possession of the subject property, the petitioner on verification found that the entire allotted area was encroached by the local police station people, who have dumped seized and abandoned vehicles in the subject property. Learned counsel has stated that though the petitioner has been doing the rounds of the authorities for getting the land cleared and giving him the encroachment free area, the same was not done. Thereafter, the authorities vide order dated 15.12.2022 (Annexure-10) have cancelled the allotment made to the petitioner. The petitioner aggrieved by the order of cancellation dated 15.12.2022 has preferred an appeal on 25.05.2023, however the appellate authority did not appreciate the facts of the case in a proper



prospective and confirmed the order of cancellation and dismissed the appeal. Learned counsel has stated that the petitioner cannot be blamed for the encroachments made by the police department who have dumped seized and abandoned vehicles in the subject property. Learned counsel has drawn the attention of the court to the Annexure- R/8 filed along with the counter affidavit dated 27.04.2022 to buttress his case. Learned counsel has stated that the BIADA authorities themselves have written a letter on 27.04.2022 to the local police department asking them to remove the encroachments in the subject property. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present writ petition and permit the petitioner to establish the industry by giving reasonable and sufficient time. Learned counsel has stated that the petitioner is willing to abide by any condition that may be imposed by this Hon'ble Court.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that though the petitioner was allotted the land wayback in the year 2013, he has not taken any steps either to get the encroachment removed or for establishing the industry as



envisaged under the terms and conditions of the allotment letter. Learned counsel has, therefore, has prayed this Hon'ble Court to dismiss the present writ petition.

5. Admittedly, as seen from the record, the petitioner was allotted an area of 9100 sq. ft. for the purpose of establishment of pharmaceutical industry. However, for the reasons stated above, the petitioner could not establish the industry. Even going by the letter addressed by BIADA themselves (Annexure- R/8), which clearly shows that the subject property allotted to the petitioner was encroached by the police department and only after the letter dated 27.04.2022 was written, it is stated that the land is now free of encroachment as the police have removed the old vehicles which were dumped in the subject property. When the allotment is made to any particular entrepreneur, the authorities are expected to hand over the physical possession of the subject property which is free from any litigation or any encroachment but in this particular case, as seen from the record, the land was under the encroachment of the police department who have admittedly dumped their seized vehicles in the subject property. It is only in the year 2022, the said encroachments were removed, the petitioner cannot be blamed for the said encroachment and



neither can it be said that the petitioner has deliberately not set up the industry.

6. Having regard to the above, both the impugned orders dated 15.12.2022 and 25.05.2023 are set aside. The petitioner is directed to furnish an undertaking to the BIADA authorities within a period of four weeks reiterating that he will establish the industry within a period of six months from the date of undertaking. The petitioner shall along with the undertaking submit a bank guarantee for a sum of Rs. 1 lakh. In case the petitioner fails to establish the industry within a period of six months from the date of undertaking, the authorities are free to take necessary steps for cancellation of the allotment made and forfeit the bank guarantee given.

7. With the above directions, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

Gauravkr/-

U			
---	--	--	--

