

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10761 of 2024

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Sarvshree Sugandh, Industrial Area Bettiah Proprietor Sanjay Kumar (male)
aged about 47 years, son of Sri Hari Shankar Prasad, Resident of Shivpuri
Colony, Ward No. 22, Bettiah, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industries, Bihar, Patna.
2. The Managing Director, BIADA, Udhog Bhawan, Gandhi Maidan, Patna.
3. The Executive Director, Regional Office, BIADA, Bela, Muzaffarpur.
4. The Assistant Development Officer, Muzaffarpur.
5. The Area Incharge of Industrial Area, BIADA, Bettiah.
6. The Deputy Secretary, Industry Department, BIADA, Patna.
7. The Deputy General Manager, Motipur Colustral, BIADA, Muzaffarpur.
8. Raj Prakash son of Rajendra Prasad Kanaujiya, resident of Banu Chhapar, Near Railway out Spiral, Ward No. 25, P.S.-Mufsail, Bettiah, District-West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Advocate.
For the Respondent/s	:	Mr. Standing Counsel (11) with Mr. Rewti Raman, AC to SC-11.
For the BIADA	:	Mr. Ravi Kumar, Advocate.
For the Resp. No. 8	:	Mr. Uday Pratap Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 21-03-2025

Re. I.A. No. 01 of 2024

The Interlocutory Application has been filed seeking a
direction from this Court to direct the Respondent authority to
unlock the business premises of the petitioner situated on the
land allotted to petitioner.



2. For the reasons mentioned in the I.A. No. 01 of 2024, the same is allowed.

3. The Respondent authority is directed to unlock the business premises of the petitioner situated on the land which was allotted to petitioner.

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4. Heard learned counsel for the parties.

5. The present Writ Petition has been filed for the following reliefs:-

“(i) For issuance of writ of certiorari for quashing of the order dated 09.07.2024 passed by Appellant authority, Additional Chief Secretary, Department of Industries, Government of Bihar whereby and whereunder th Appellate Authorities has dismissed the appeal of the petitioner and upheld the order dated 03.05.2024 of the Deputy General Manager by which he has cancelled the agreement allotment of land bearing Plot No. C-2 measuring 10890 Sq. feet of the petitioner.

(ii) For issuance of writ of the certiorari of quashing of order dated 03.05.2024 passed by Deputy General Manager whereby & Whereunder the Plot No. C-2 of 10890 Sq Ft. of land allotted in favour of the petitioner in the year 2007 has been cancelled and the amount which has been deposited by the petitioner for the land is forfeited.

(iii) For direction the respondents to transfer the land in question in view of the order daed 13.08.2021 passed by the



*Appellant Authority as well as Amnesty Policy
2020 to Respondent No. 8.”*

6. It is the case of the petitioner that pursuant to the amnesty policy dated 10.09.2020 floated by the State of Bihar, the petitioner as well as the Respondent No. 8 have applied seeking transfer of the subject property from the petitioner to the Respondent No. 8. Learned counsel for the petitioner has stated that the petitioner has filed an application on 31.03.2021 thereafter, the petitioner has filed another application on 02.09.2021 (Annexure 4) reiterating the application made by the petitioner on 31.03.2021 and further stating that the said application is filed after withdrawal of the appeal which was pending before the authority for which permission has been granted by the Deputy Secretary Industry Department, BIADA, Patna on 13.08.2021. Learned counsel has stated that the authority has passed the impugned order solely on the ground that the application made by the petitioner on 02.09.2021 is beyond the period of 15 days granted by the appellate authority. However, the authority has failed to take into consideration the fact that the petitioner has already filed his application on 31.03.2021 and the same was pending consideration before the authority. That without passing any order in the application dated 31.03.2021, the authority has passed the order impugned



only in the application dated 02.09.2021 on an erroneous ground. Further, it is pointed out by the learned counsel that the amnesty policy has been floated by the Government of Bihar on 10.09.2020 and the subsistence of the said policy is for a period of one year. Further, it is stated that in case the orders are not passed within 30 days from the receipt of an application under the amnesty policy, the application is deemed to have been accepted. Therefore, the order dated 09.07.2024 and the order dated 03.05.2024 which are impugned in the present writ petition suffers from illegality, perversity and bad in law and therefore liable to be set aside.

7. Per contra, the learned counsel appearing on behalf of the Respondent-BIADA has vehemently opposed the very maintainability of the present writ petition. Learned counsel for the Respondent-BIADA has stated that the authority has rightly passed the order impugned in the present writ petition. Learned counsel has stated that the authority duly taking into consideration the fact that the petitioner has withdrawn the appeal and the orders permitting him to withdraw the appeal was passed on 13.08.2021 directing the petitioner to file his application under the amnesty policy within a period of 15 days has failed to do so and he has only filed the application on



02.09.2021 which is beyond the period of 15 days granted by the appellate authority. Therefore, the authority has passed the order rejecting the application of the petitioner under the amnesty policy as it is filed beyond the period of 15 days time granted by the appellate authority. That the order does not suffer from any illegality or perversity and therefore, there does not warrant any interference by this Hon'ble Court and prayed for dismissal of the present writ petition.

8. Admittedly, in the present case, the amnesty policy has been floated by the Government of Bihar on 10.09.2020 for the purpose of granting an option to the existing industrialists who have been allotted the land by BIADA and who are unable to run the industry to exit and transfer the said industry in favour of another person who is willing to run the industry. The said policy has been named as one time amnesty policy, the period of the said amnesty policy is one year. Further, it is to be noted that the petitioner has filed his application seeking transfer of the industry from the Respondent No. 8 to himself on 31.03.2021. That as per the terms and conditions of the amnesty policy the permission is deemed to have been given for transfer if within 30 days, the authority has not passed any order rejecting the said application. It is to be noted that though the petitioner has made



his application on 02.09.2021 referring to the application made by him on 31.03.2021, the authority has failed to take note of the same and passed the order solely on the ground the petitioner has not filed his application within the time of 15 days granted by the appellate authority. The appellate authority while permitting the petitioner to withdraw the appeal on 13.08.2021 has granted 15 days' time to the petitioner, therefore the reason given by the authority is not proper when the amnesty policy speaks of the policy been active for a period of one year from 10.09.2020. Further, it is to be noted that the petitioner has filed his application on 31.03.2021 i.e. during the subsistence of the said policy. The authority cannot pass the order impugned solely on the ground that the application made by the petitioner is not filed within the time, only referring to the application dated 02.09.2021 and not the application dated 31.03.2021.

9. Having regard to the above mentioned facts and circumstances, this Court is of the opinion that the ends of justice would be met if the impugned order dated 09.07.2024 and the order dated 03.05.2024 are both set aside and the matter remanded back to the authority concerned for passing order afresh duly taking into consideration the application made by the petitioner on 31.03.2021 and also the fact that the amnesty



policy speaks of deemed permission if no order is passed within 30 days. The authority shall also take into consideration the fact that the Respondent No 8 is running the industry now and invested a huge amounts for the said purpose. It is needless to observe that before passing any order both the petitioner as well as the Respondent No. 8 shall be given an opportunity of hearing. The entire exercise shall be 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.

10. With the above observation, the present Writ Petition stands disposed of.

(A. Abhishek Reddy, J)

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

