

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17448 of 2019

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M/s Imprial Private Industrial Training Institute Jehanabad its Director Dinesh Kumar, Son of Basant lal Resident of Nasriganj, P.O. Digha P.S. Danapur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Department of Industries, Government of Bihar, Vikash Bhawan, Patna.
2. The Secretary, Department of Industries, Government of Bihar, Vikash Bhawan, Patna.
3. The Executive Director, Bihar Industrial Areas Development, Authority(BIADA), Udhog Bhawan, First Floor, Eastern Gandhi Maidan, Patna.
4. The Area Incharge, Industrial Area, B.I.A.D.A. P.S. Jehanabad, Jehanabad.
5. The Development Officer, BIADA, Patna.
6. Administrative Officer, Deptt. of Industries, Govt. of Bihar, Vikash Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Sinha Advocate
For the State	:	Mr. Kinkar Kumar (SC 9)
		Ms. Sushmita Sharma, AC to SC 9
For the BIADA	:	Mr. Gyan Shankar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 25-02-2025

1. The petitioner has filed the Writ application for the following reliefs:

“i.) For quashing of order dated 15.07.2019 passed by The Secretary, Department of Industries, Government of Bihar, Patna by which, while rejecting the memo of appeal of the petitioner refused to consider the grounds of the appeal against the order of the Executive



Director, Bihar Industrial Areas Development Authority (hereinafter shall be referred as "BIADA" for short), Patna dated 08.03.2019 contained in memo No.1960/D dated 08.03.2019 and declined to consider the case of the petitioner judiciously even the return of forfeited amount was also not considered on the ground that there is no enabling provision for the same under BIADA Act, 1974 and its allied amendments the aforesaid order was communicated by the Administrative officer of the Industries deptt. vide Letter No.3081 dated 15.07.19.

(ii) For quashing of order dated 08.03.2019 contained in memo No.1960/D dated 08.03.2019 passed by the Executive Director, Bihar Industrial Areas Development Authority (hereinafter shall be referred as "BIADA" for short), Patna whereby and where under the allotment of plot No. L1, Area 10,000 Sqft situated at Industrial Area Jahanabad has been cancelled and the entire valuation amount deposited against the aforesaid plot has been forfeited with a further direction that no claim against the aforesaid cancelled plot



shall be entertained in future.

iii.) For restoration of allotment of aforesaid plot L1 with all consequential right and interest consequent upon quashing of order dated 08.03.2019.

iv.) For refund of forfeited amount deposited against the aforesaid Plot No. L1. along with interest there upon.

v.) For any other relief/reliefs to which the Petitioner is found entitled in the facts and circumstances of the case.”

2. The brief facts culled out of the petition are that the Bihar Industrial Area Development Authority (BIADA), Patna, allotted a 10,000 sq.ft. plot (L2) to M/s Imperial Private Industrial Training Institute, represented by Dinesh Kumar, Director of the aforesaid Company and son of Sri Basant Lal, resident of Nasriganj, P.O. Digba, P.S. Danapur, Patna 800012, for the establishment of an Industrial Training Institute (ITI) on a 90-year lease, vide Letter No. 5505/D dated 23.08.2012. However, Plot No. L2 was under litigation, and the case of land dispute was sub judice & pending in the High Court. As a result, another plot (L1) of the



same area was allotted to the petitioner by the Executive Director of the Industries Department vide Office Order No. 308/D dated 15.03.2013 (Anneuxre-4) under the same terms and conditions. Upon visiting Plot No. L1 to begin construction, the petitioner discovered that a 11 KV high-tension High Voltage Wire is passing over the land. Consequently, the petitioner requested the Managing Director of BIADA to take necessary steps for removing have the High Tension Conductor over the land. Following the petitioner's request, the Managing Director adduced a letter to the Chairman of the Bihar State Power Holding Company and its Executive Engineer for removal the High Tension Conductor vide his Letters dated 12.03.2013 and 04.10.2013, respectively. Physical possession of Plot No. L1 was granted to the petitioner on 25.05.2015, vide Memo No. 22/Je. It is submitted by the petitioner that he has paid the full valuation amount for the plot to BIADA, as per their demand, which can be confirmed from the records. Eager to start construction, the petitioner submitted a building



plan for the ITI building, prepared by a registered architect, along with other relevant documents to the Executive Director of BIADA on 08.07.2015 for approval, as required under Clause 11 of the allotment Letter dated 23.08.2012 and Order No. 308/D dated 15.03.2013. It is submitted by the petitioner that the approval of the building plan was crucial, as construction without such approval would be unlawful. However, the petitioner could not proceed with the construction due to BIADA's failure to communicate approval of the map, despite the petitioner's repeated requests.

3. It is submitted by the petitioner that while the approval for the ITI construction map was pending with the respondents, the Bihar Industrial Investment Promotion Policy, 2016 was notified by the Government of Bihar vide Resolution No. 1822 dated 01.09.2016. When the petitioner approached the Development Officer at BIADA, for approval of the map, the Development Officer apprised that, in terms of Clause 5.2.1 and 5.2.2(b) of the Bihar Industrial Investment Promotion Policy, 2016, all



vacant lands in industrial areas shall now only be allocated for manufacturing units, not for ITIs. Consequently, the approval of the map could not be granted. It is further submitted by the petitioner that despite the petitioner's continuous efforts, no approval was provided, nor was any reasons given for the same. Meanwhile, the Directorate General of Employment and Training, New Delhi, ceased issuing affiliations for opening new ITIs until modified regulation for their establishment were notified. Subsequently, the Directorate General of Employment and Training modified the ITI affiliation norms for ITI in 2017, setting the minimum plot area requirement for an ITI at 1.07 acres (46,609 sq.ft.). The petitioner then requested, vide Letter dated 31.08.2018, that BIADA allot a plot of minimum area 1.25 acres for establishment of ITI. In response, BIADA's Development Officer, vide Letter No. 4953 dated 26.09.2018, suggested establishing a manufacturing units on the aforesaid plot, despite the fact that it had originally been sanctioned for an ITI, as per the allotment Letter



dated 23.08.2012. In reply, the petitioner submitted another application to the Development Officer on 19.11.2018, asserting that the terms and conditions of the original allotment letter dated 23.08.2012 could not be altered by the Bihar Industrial Investment Promotion Policy, 2016, as the policy applied prospectively to vacant land for manufacturing units, and not retroactively to plots already allocated for ITIs.

4. It submitted by the Learned counsel for the petitioner that Clause 3 of the Bihar Industrial Investment Promotion Policy, 2016, includes technical skill development centers as a priority sector in technical education and, accordingly, the petitioner requested approval from the respondents to open a multi-skill training center on the plot. However, the Development Officer, BIADA, Patna, reiterated that the plot should be used for manufacturing industries. The Senior Account Officer, BIADA, Patna, issued a demand for Rs. 27,207/- for Financial Year 2018-19, as per Letter No. 931 dated 09.02.2019. The petitioner



paid this amount vide Bank Draft No. 004034 on 19.02.2019, which BIADA acknowledged on 20.02.2019. It is further submitted by the Learned counsel for the petitioner that, eager to begin construction, the petitioner submitted the building map for a multi-skill development center to the Executive Director, BIADA, Patna, on 05.03.2019 for approval, in accordance with Clause 11 of the allotment letter. However, on 08.03.2019, the Executive Director, BIADA, Patna, without issuing a notice as required under Clause 6(2)(a) of the BIADA (Amendment) Act, 1991, cancelled the allotment of Plot No. L1 (10,000 square feet) at Industrial Area, Jehanabad, vide Memo No. 1960/D. The entire valuation amount paid for the plot was forfeited, and the memo directed that no claims regarding the cancelled plot would be entertained. Dissatisfied with this decision, the petitioner filed an appeal with the Principal Secretary and Appellate Authority, Department of Industries, Govt. of Bihar, on 05.04.2019. However, the Appellate Authority rejected the appeal without considering the



submissions, passing a cryptic order vide order No. 3081 dated 15.07.2019.

5. The Learned counsel for the petitioner submitted that the actions of the respondents are arbitrary, unreasonable, and a colourable exercise of power, violating the Principle of Natural Justice and Article 19(g) of the Constitution of India and as such, the petitioner has no alternative remedy and seeks redress through this Hon'ble Court by filing the present Writ application.

6. A counter affidavit was filed on behalf of the respondent Nos. 3 to 5. At the outset, the respondents denied the averments made in the Writ petition, unless specifically admitted in the counter affidavit. It is submitted by the respondents that no statements in the petition be deemed admitted due to their non-traverse. The Bihar Industrial Area Development Authority allotted a 10,000 sq.ft. Plot No. L2 to the petitioner for establishing an ITI on a 90-year lease, as per Letter No. 5505/D dated 23.08.2012. However, since Plot No. L2 was under litigation and the land dispute was pending in the



Hon'ble High Court, another Plot No. L1 of the same size was allotted to the petitioner by the Executive Director of BIADA vide Office Order No. 308/D dated 15.01.2013, under the same terms and conditions. When the petitioner visited Plot No. L1 to begin construction, it was discovered that an 11kV High Voltage Wire passed over the land. The petitioner then requested the Managing Director of BIADA to take steps for removal of the High Voltage Wire. In response, the Managing Director contacted the Chairman and Executive Engineer of Bihar State Power Holding Company to remove the said Wire, vide Letters dated 12.03.2013 and 04.10.2013.

7. It is submitted by the Learned counsel for the respondent BIADA that the physical possession order for Plot No. L1 (10,000 square feet) was issued to the petitioner on 25.05.2015, under Memo No. 22/Je. The petitioner submitted the ITI building map, prepared by a registered architect, on 08.07.2015 for approval. However, the petitioner was informed vide Letter No. 3798/36/DEV/BIADA/2012 dated 12.08.2015 that



approval of the map was not necessary to begin construction. Despite this, construction did not commence.

8. The Learned counsel for the respondents further submitted that the Government of Bihar notified the new Bihar Industrial Investment Promotion Policy, 2016 vide Resolution No. 1822 dated 01.09.2016, which restricted land allotments for service sectors and educational institutes and, accordingly, the BIADA informed the petitioner that, under Clauses 5.2.1 and 5.2.2(b) of the new policy, vacant industrial area lands could only be allotted for manufacturing units, not for ITIs or other service sectors.

9. It is further submitted by the Learned counsel of the BIADA that in addition, the Directorate General of Employment and Training (DGET), New Delhi, modified ITI affiliation norms in 2017, setting the minimum plot area required for affiliation to 1.07 acres (46,609 square feet). The demand for additional land in the industrial area cannot be granted for two reasons: first, there is no



vacant land available that meets the allottee's demand; and second, Clause 5.2.1 and 5.2.2 of the Bihar Industrial Investment Promotion Policy, 2016, restricts allotments to manufacturing sectors, not educational institutes. The forfeited amount cannot be returned as it contradicts the provisions of the BIADA Act, 1974 and its amendments.

10. It is further submitted on behalf of the respondents BIADA that in response to the application of the petitioner dated 31.08.2018, the Development Officer of BIADA informed the petitioner vide Letter No. 4953 dated 26.09.2018 that allotment could not be made for an educational institute under the new policy, and the petitioner was advised to establish a manufacturing unit on the Plot No. L1. BIADA relaxed the approval process by making map approval "not mandatory" and informed the petitioner that construction could begin without it. However, the petitioner failed to commence construction in time, which prevented them from receiving ITI affiliation before the 2017 government notification changed the affiliation



norms.

11. The Learned counsel for the BIADA submitted that the petitioner's demand for a Skill Development Centre cannot be accepted, as it falls outside the scope of ITIs and would require a change in the project, which is not permissible under the terms of the allotment. Additionally, fresh land allotments for service sectors or educational institutes are not possible under the Bihar Industrial Investment Promotion Policy, 2016, even if land were available. The Executive Director, BIADA, cancelled the allotment of Plot No. L1 (10,000 square feet) on 08.03.2019 vide memo No. 1960/D, forfeiting the entire valuation amount, and directing that no claims regarding the cancelled plot would be entertained. Thereafter, the petitioner filed an appeal bearing Appeal No. 15/2019 before the Principal Secretary, Department of Industries, Government of Bihar, which was dismissed on 15.07.2019. The appeal was rejected because the petitioner failed to start construction on time, which would have allowed them to receive affiliation



before the new norms were established.

12. It is further submitted on behalf of the respondent BIADA that after cancellation, BIADA took physical possession of the land, and the cancelled unit, M/s Imperial Private Industrial Training Institute, was added to the list of vacant land as per Letter No. 179/J dated 04.04.2019 and Letter No. 214 dated 29.07.2019.

13. The Learned counsel for the respondents submitted that the actions of the authorities are justified, reasonable, and in accordance with the Principles of Natural Justice as well as Article 19(g) of the Constitution of India. It is further submitted by the Learned counsel for the respondents that the Bihar Industrial Area Development Authority, as a statutory authority established under the Bihar Industrial Area Development Authority Act, 1974, is responsible for the planned development of industrial areas and the promotion of industries in the state, including Jehanabad district, which falls under its jurisdiction. The petitioner is also required to pay any pending



dues within the stipulated time to the BIADA, as per BIADA policy.

14. It is further submitted by the Learned counsel of the BIADA that BIADA in order to develop land into industrial areas, provide infrastructure, divided plots are allotted to intending entrepreneurs under specific terms and conditions, after verifying their proposed activities and eligibility. Section 6(2)(a) and (b) of the BIADA Act, 1974, provides for the cancellation of allotment, resumption of possession, and forfeiture of deposits in case of breach of the terms of allotment. The provision also mandates that if a petitioner is aggrieved by any cancellation order, they may file a statutory appeal with the Appellate Authority in the Department of Industries within 30 days of the cancellation.

15. Heard rival contentions of the parties and perused the records.

16. On perusal of records, it is evident that physical possession of Plot No. L1 was granted to the petitioner vide Memo No. 22/Je on



25.05.2015. Following this, the petitioner submitted an ITI building map on 08.07.2015, but BIADA informed the petitioner on 12.08.2015 that map approval was unnecessary and that construction could be proceed without permission. Despite of this, the petitioner failed to begin construction by 01.09.2016. Subsequently, the Bihar Industrial Investment Promotion Policy, 2016 was implemented, restricting the use of vacant industrial lands to manufacturing units, thereby excluding ITIs and service sectors. In 2017, the Directorate General of Employment and Training modified ITI affiliation norms, requiring a minimum plot area of 1.07 acres, which prompted the petitioner to request an additional plot of 1.25 acres. BIADA denied this request, citing a lack of available land and the new Policy restrictions. The petitioner then submitted a new proposal for a multi-skill development center in March 2019, which was also rejected for failing to align with the New Policy. BIADA clarified that the approval of the map was no longer mandatory, yet the petitioner failed



to commence construction on time. Had the petitioner adhered to the timeline, they could have obtained ITI affiliation before the policy change. BIADA reiterated that the petitioner's request to establish a Skill Development Centre did not conform to the policy, as such a project fell outside ITI-related activities and the scope of manufacturing sector allotments. Furthermore, in response to the petitioner's application dated 31.08.2018, the Development Officer, BIADA, informed the petitioner vide Letter No. 4953 dated 26.09.2018 that the plot could only be used for establishing manufacturing units, in accordance with the New Policy. However, the petitioner was unwilling to start a manufacturing unit as per the new policy.

17. As a result, the Executive Director of BIADA cancelled the allotment of Plot No. L1 on 08.03.2019, forfeiting the deposited amount and barring any future claims. The petitioner's appeal was dismissed on 15.07.2019, confirming the cancellation on the grounds of delayed construction



and failure to meet the revised requirements.

18. In light of the above, the Court finds no error in the cancellation of the plot, as the petitioner did not comply with the terms and failed to commence construction within the stipulated time. Therefore, the cancellation stands upheld.

19. This Writ application is, accordingly, dismissed as devoid of merits.

20. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2025
Transmission Date	

