

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1399 of 2023**

**In**  
**Civil Writ Jurisdiction Case No.10625 of 2023**

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1. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
  2. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
  3. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
  4. The Executive Director, North Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna, P.S.- Gandhi Maidan, Patna- 800004.
  5. The Deputy General Manager, Darbhanga Cluster, Bihar Industrial Area Development Authority (BIADA).
  6. The Area Incharge, Bihar Industrial Area Development Authority (BIADA), Industrial Area- Bela, Darbhanga.

... .. Appellant/s

Versus

1. M/s Saraswati Lakshmi Litho Printing Press through its Proprietor Mrs. Asha Devi, gender Female, aged 66 years, W/o Late Ajit Kumar Jha, Village and Post Jogiara, District-Darbhangha, Bihar-857101.
2. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna, Bihar.
3. The Additional Chief Secretary, Department of Industries, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate, Darbhanga, Collectorate, Laheriasarai, Darbhanga, Bihar.

... .. Respondent/s

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**Appearance :**

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| For the Appellant/s  | : | Mr. Avinash Kumar, Advocate<br>Mr. Kumar Priya Ranjan, (Dy. Retainer)<br>Mr. Sudarshan Bharadwaj, Advocate<br>Mr. Sandeep Kumar, Advocate |
| For the Respondent/s | : | Mr. Harsh Kaushal, Advocate<br>Mrs. Annapurna Sinha, Advocate<br>Mr. Abhishek Kumar Pandey, Advocate                                      |

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**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE PRAVEEN KUMAR**  
**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)**

5      08-01-2026                      The present *intra* court appeal has been preferred against the order dated 15.09.2023 passed in C.W.J.C. No. 10625 of 2023, whereby the learned Single Judge had set aside the order dated 03.07.2023 of the Appellate Authority passed in Appeal No. 198 of 2023 as well as the cancellation order passed by the Joint Managing Director, BIADA and had granted an opportunity to the writ petitioner to start commercial production.

2. Learned counsel for the respondent-petitioner had preferred the writ application for the following reliefs:

*“(i) For quashing the order dated 3.7.23 passed in Appeal Case No. 198/2022 communicated vide Memo No. 3984 dated 7.7.23 by the Respondent No. 2 whereby and where under the Appeal filed by the Petitioner has been dismissed in a mechanical arbitrary, whimsical, pick and choose manner, whereas the similarly situated allottees have been given the benefits as are being given by the Hon’ ble Court in C.W.J.C. No. 6883/2020. M/s. Umesh Service Station vs. The State of Bihar and Ors., and in terms of Appeal No. 76/2022.*

*(ii) For setting aside order bearing Memo No. 1029 dated 19.11.22 passed by the Respondent No.*



*7. The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA). Muzaffarpur, (hereinafter referred to as "BIADA") whereby and where under the allotment of land measuring an area of 1050 Sq. Ft. for the establishment of Industry etc. within the Industrial Area-Giddha has arbitrarily been cancelled, since the reason recorded therein is non-est, not sustainable that too being perverse and in complete violation of the principles of natural justice and against all. canons of justice.*

*(iii) For declaration and to hold that the aforesaid impugned order dated 3.7.23 passed in Appeal Case No. 198/2022 communicated vide Memo No. 3984 dated 7.7.23 is illegal and in contravention to the settled principles of law i.e. Nemo Judex in Causa Sua (No one should be made a judge on his own cause) as the impugned order vide Memo No. 1029 dated 19.11.22 has been passed by Respondent No. 7 The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur and the order dated 3.7.2023 passed in Appeal Case No. 198/2022 communicated vide Memo No. 3984 dated 7.7.23 passed by Respondent No. 2 Additional Chief Secretary, Department of Industries who is colourably holding the same post at the same time and as such liable to be quashed on this ground itself.*

*(iv) For a direction upon the Respondents to give the benefits as are being given to the similarly*



*situated allottees in C.W.J.C. No. 13558/2022, C.W.J.C. No. 12560/2022, C.W.J.C. No. 6883/2020, C.W.J.C. No. 13037/2022 and other analogous cases.*

*(v) For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.*

*(vi) For any other relief or reliefs for which the petitioner may be found entitled in the eye of law.”*

3. The brief facts of the present case are that Plot No. C-13, admeasuring 0.025 acre (approximately 1,050 sq. ft.), was allotted to the respondent-petitioner by the Bihar Industrial Area Development Authority (for brevity “BIADA”), and possession was handed over vide Memo No. 3288 dated 19.11.1979. Lease deeds were executed in 1979 and 1984, and a Certificate of Registration dated 05.03.1983 was granted for establishment of a printing press. The unit functioned up to the year 1997, however, no material evidence has been produced to establish its operation thereafter. On inspection, the premises were found to be used for residential purposes, leading to issuance of notice dated 07.08.2007 and cancellation of allotment vide Memo No. 2030 dated 29.08.2007. The said cancellation was set aside in appeal vide order dated 27.08.2009, restoring the allotment subject to revival of the unit within six months. Subsequently, notices dated 30.07.2016 and 10.12.2016 were issued on



account of continued residential use. Further notices were issued in 2019 and 2022 alleging unregistered non-industrial use. Inspections conducted on 26.07.2022 and 28.07.2022 revealed no industrial activity, leading to cancellation of allotment vide Memo No. 1029 dated 19.11.2022. The said order was affirmed in Appeal No. 198 of 2023 by order dated 03.07.2023, considering the prolonged absence of any industrial activity on the allotted plot.

4. The learned Single Judge took following facts in consideration for deciding the issue raised in the writ application:

*5. Learned counsel for the petitioner has stated that the petitioner has also filed an undertaking before this Court which reads as under:-*

*“i) That I, hereby undertake that within sixty/ninety days, petitioner will start commercial production with BIADA handing over possession of the premises to the petitioner/recall of the order of cancellation. With the petitioner failing to do, BIADA shall take over vacant and peaceful possession of the premises from the petitioner.*

*ii) That I also undertakes that within six/nine months, petitioner shall make the unit fully operational and functional at least to the capacity of 80% for the product sanctioned and allowed to be manufactured as per the*



*original terms of allotment.*

*iii) That also undertakes that I shall make itself compliant with all mandatory statutory requirements, including the ones protecting the Interest of the employees and I shall clear all other statutory dues including G.S.T./electricity charges etc in this period.*

*(iv) That I further undertake that I shall in the event of failure on my part to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises from the petitioner with liberty for further allotment to 3rd party, with the petitioner losing all rights therein.*

*(v) That I further undertake that I shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.”*

*6. Having regard to the above said undertakings which is reproduced above and the judgment of this Hon'ble Court passed in C.W.J.C. No. 15567 of 2022 dated 02.12.2022, wherein this Hon'ble Court duly taking into account the undertaking given by the petitioner therein has set aside the order of the appellate authority as well as the order of cancellation passed by the BIADA and granted an opportunity to the petitioner to start its commercial production.*

*7. Having regard to the above and also the submissions made by the learned counsel for the*



*BIADA, this Court is of the considered opinion that the ends of Justice would be met if, the undertaking given by the petitioner is accepted and the petitioner given an opportunity of starting commercial production. The Court makes the following orders:-*

*8(i). As it is stated that possession has been taken by the BIADA, the same shall be handed over to the petitioner immediately after the receipt of this order. The petitioner shall then furnish a bank guarantee for an amount of Rs. 50,000/- within one week from the date of handing over the possession. Thereafter, the petitioner shall clear all the outstanding dues, if any of the BIADA within a period of two weeks thereof. The petitioner shall start the commercial production within sixty/ninety days from the date of handing over the possession and start manufacturing plan as approved by the Bihar Industries Commercial Policy, 2016.*

*8(ii). Consequence of breach thereof, including initiation of proceedings for contempt for having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.*

*8.(iii) Undertaking of the petitioner dated 20.07.2023 is accepted and taken on record.*

*8.(iv) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;*

*8.(v) In the event of default of the undertaking, petitioner shall hand over vacant and peaceful*



*possession of the allotted property to BIADA within a period of two weeks;*

*8.(vi) It is made clear that, in case the petitioner fails to start the full commercial production within the stipulated time and also fails to hand over the vacant and peaceful possession of the allotted property to BIADA within a period of two weeks thereof, the authorities of the BIADA are free to take possession of the premises in question.*

*8.(vii) Consequently, the order dated 19.11.2022 passed by respondent no. 7, the Deputy General Manager, Dharbhanga Cluster, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 1029 (Annexure-P/10) and order dated 03.07.2023 passed in Appeal Case No. 198 of 2023 communicated vide Memo No. 3984 dated 07.07.2023 by Respondent No. 2, the Additional Chief Secretary-cum-the Appellate Authority, Department of Industry, Government of Bihar contained (Annexure-P/13) are accordingly quashed and set aside.”*

5. The learned counsel for the appellant submits that the premium industrial land admeasuring 1,050 sq. ft., allotted in the year 1978, remained non-functional after 1997 and was rendered redundant for industrial purposes for a prolonged period. It is further submitted that repeated inspections revealed absence of any industrial activity on the allotted plot and that the premises was being used for residential purposes as well as for storage of unregistered goods. Notices were issued from



time to time, including in the years 2007, 2016, 2019 and 2022, and despite conditional restoration of allotment in the year 2009 with a direction to revive the unit within six months, the writ petitioner failed to comply with the terms of allotment and the lease deed. It is also submitted that the undertaking furnished before the learned Single Judge does not inspire confidence and was merely an attempt to retain possession of the industrial plot at a subsidised rate without utilising it for the purpose for which it was allotted.

6. Learned counsel appearing on behalf of the respondent-writ petitioner submits that there is no infirmity in the impugned order passed by the learned Single Judge, inasmuch as the same was delivered after due and careful consideration of the materials available on record, as well as the undertaking furnished on behalf of the writ petitioner.

7. On the last date of hearing, a specific submission was made on behalf of the respondent-writ petitioner that the industrial unit in question had continued to remain functional even after the year 1997 and was operational till the issuance of the cancellation order. Taking note of the said submission, this Hon'ble Court, was pleased to direct the respondent-writ petitioner to produce relevant tax receipts/documents to



substantiate the claim that the unit was in fact running and functional during the relevant period, vide order dated 02.12.2025, which reads as:

*“5. Learned counsel for the respondent is directed to file a counter affidavit bringing on record the income tax return, sales tax return and value added tax return of Respondent No. 1 to show that the unit in question was running till recent time.”*

8. However, upon perusal of the records, it transpires that till date no income tax return, sales tax return, value added tax return or any other documentary material has been placed on record to substantiate the claim that the industrial unit was functional during the relevant period, despite the specific direction issued by this Hon’ble Court vide order dated 02.12.2025.

9. Upon perusal of records, it is apparent that the industrial unit allotted to M/s Saraswati Laxmi Litho Printing Press, Industrial Area, Bela, under Plot No. C-13 (750 sq. ft.) along with 300 sq. ft. allotted for subsequent expansions, was not being used for the industrial purposes for which the land had originally been allotted. Despite repeated inspections and issuance of notices on several occasions, it is evident that the land was being used for residential purposes, storage of wedding-related goods, and other non-industrial activities. The



competent authority, vide office orders dated 29.04.2022 and 15.07.2022, had directed the cancellation of the allotment of 0.025 acres of additional land on the ground of non-utilization for industrial purposes. Subsequent inspections carried out on 26.07.2022, 28.07.2022, and 12.10.2022 further confirmed that industrial activity had not commenced and the premises continued to be used for residential purposes.

10. The records further disclose that the allottee was repeatedly afforded adequate opportunities to rectify the defects and resume industrial activity; however, no compliance whatsoever was made. In view of the above, the competent authority, in exercise of powers conferred under Section 6(2)(a) of the Bihar Industrial Area Development Authority Act, 1974, and following the relevant rules, cancelled the allotment of the aforementioned plots and directed that the land would revert to the possession of the competent authority, with no claim for future allotment or usage by the allottee being admissible. The Bihar Industrial Area Development Authority Act, 1974, Section 6(2)(a) is reproduced herein below:

*“2. (a) In case necessary effective steps are not taken within the fixed period to establish the industry, the authority shall in such condition, cancel the allotment of allotted plot/shed and also forfeit the amount deposited in this connection. The*



*authority shall, before cancelling the allotment allow one month time to the allottee to put up his case. the allottee on being dissatisfied with the order of the Authority may file an appeal to the State Government within one month and the State Government shall, after due consideration dispose it of within two months from the date of receipt of the appeal.”*

11. It is further observed that the learned Single Judge, while allowing the writ petition, relied upon the undertaking furnished by the writ petitioner to start commercial production. However, the undertaking, in the present facts and circumstances, cannot override the clear statutory scheme and the repeated failures of the writ petitioner to use the allotted land for industrial purposes. The allottee had been repeatedly granted opportunities by the authority to revive the industrial unit and comply with statutory obligations, but they failed to do so, and instead continued using the premises for residential and other non-industrial purposes.

12. In such circumstances the order of the learned Single Judge, allowing the writ petition and setting aside the cancellation, cannot be sustained. The cancellation of allotment vide office order dated 19.11.2022, as well as the affirmation thereof in Appeal No. 198 of 2023, was in strict compliance with the statutory provisions, including Section 6(2)(a) of the



BIADA Act, 1974, and the terms and conditions of allotment.

13. Accordingly, the present Letters Patent Appeal is allowed, and the orders of the learned Single Judge dated 15.09.2023 in C.W.J.C. No. 10625 of 2023 are set aside. The allotment of Plot No. C-13, Industrial Area, Bela, as cancelled by the competent authority, shall remain cancelled, and the writ petitioner shall have no claim over the land. The competent authority is free to take possession of the premises and deal with the land in accordance with law.

14. Pending application(s), if any, shall stand disposed of.

**(Sudhir Singh, J)**

**(Praveen Kumar, J)**

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