

**(2013) 07 JH CK 0107**  
**In the Jharkhand High Court**  
**Case No : WP (C) No. 2643 of 2007**

M/s. Talcem Casting (P) Ltd

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

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**Date of Decision :** 12-07-2013

**Acts Referred:**

Jharkhand Industrial Area Development Authority Act — Section 6(2)(a), 6(2)(b)

**Citation :** (2013) 3 AJR 655 : (2013) 4 JLJR 141

**Hon'ble Judges :** Aparesh Kumar Singh, J

**Bench :** Single Bench

**Advocate :** M.S. Mittal and Shilpi John, for the Appellant; C.A. Bardhan, for the Respondent

**Final Decision :** Disposed Off

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## Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The petitioner has approached this Court against an order dated 18.4.2007 issued by the respondent no. 2, Adityapur Industrial Area Development Authority, whereby the allotment of land and lease deed were cancelled and the amount deposited by him has been forfeited in exercise of power u/s 6(2) clause (a) and (b) of Jharkhand Industrial Area Development Authority (Amendment) Act.

2. The ground of cancellation was that the petitioner had not indulged in carrying out the manufacturing activity in the premises for which the plot was allotted and had violated the lease conditions by letting out the premises.

3. When the matter was taken up earlier on 14.5.2007 an interim order was passed to the effect that the respondents shall not take any coercive measure to dispossess the petitioner. The matter remaining pending thereafter for some time. On 5th November, 2012 when the matter was taken up, the petitioner filed a supplementary affidavit making averment that the factory is being revived by use of new technology for casting purposes. It was submitted by the learned senior counsel for the petitioner that the whole purpose and object of allotment

of plot in an industrial area is to encourage the unit for industrialization. The petitioner is bona fide interested in using the premises for industrial purposes and is in the process of doing so. The respondents would not be justified in evicting him and allotting the same land to another interested unit for establishing a fresh industry.

4. Counsel for respondent-AIADA was allowed time to file response to the said affidavit and they filed a reply on the basis of inspection carried out in the premises of the petitioner's unit in question. Though an inspection report was filed on affidavit on behalf of the respondent-AIADA, but it was, however, not correct on account of certain misconception about the unit in question. Further inspection was carried out in the petitioner's unit by a team constituted by the Secretary-AIADA upon instruction of the Managing Director. The inspection report of the Member Committee filed on behalf of the AIADA by another affidavit is in the following terms:

As instructed by MD, the unit-M/s. Telcom Casting (P) Ltd. situated at plot no. - A/3, Near Industrial Estate, Industrial Area Adityapur was again inspected on 20.02.2013.

M/s. Telcom Casting (P) Ltd. was allotted the plot A-03 having a total area of 46200 sft. in two different orders. The 1st order was issued vide order no. 1197 dt. 19.04.1976 for 30000 sft. & 2nd order issued vide order no. 3228 dt. 19.10.1985 for 16200 sft.

As the unit failed to state the production & rented the premise, the plot allotted were cancelled vide MD order no. 989 dt. 18.04.2007.

The case was heard before Hon"ble High Court on 08/05.11.2012. Hon"ble Court to file an affidavit after necessary inspection on the basis of the petition statement that factory is going to start on 18.11.2012.

MD advised to get the unit inspected by a committee & to inspect the unit. Secretary AIADA approved a committee consisting of:

- (a) Sri J.K. Singh-CI
- (b) Sri Manoj Kumar Singh-IEO
- (c) Sri R.K. Sinha-TC
- (d) Sri Suresh Walter Peter Tirky-IEO

During the inspection on 20.02.2013 the unit was found running & further infrastructure have been constructed. Fabrication work was also found being done. One Electric panel of 50 KW with one no. of furnace was found in operation. Electric connection has been taken from JSEB. There is a load sanction of 70 KW & 50 KW respectively for Electric panel & furnace. There is a Generator set of 125 K.V.A. There were 10 no. of labourers found working. The casted materials were stacked in store & it was more in quantity than the last visit. Unit

was asked to give the photocopy of Tax invoice/Bills. They have given 13 nos. of Tax invoice which is from 15.12.2012 to 28.02.2012.

Submitted the report.

5. Learned senior counsel appearing on behalf of the petitioner submits that the petitioner's unit is now fully functional/operational and production is being carried out for the purposes for which the unit was originally allotted. Learned senior counsel further submits by referring to the affidavit filed on 18.9.2012 that all the outstanding dues of the petitioner in respect of AIADA have been paid, for which receipts have also been annexed as Annexure 15 series to the said affidavit and, therefore, no dues are outstanding.

6. Learned counsel for the AIADA, however, is not in a position to state as to whether the outstanding dues are finally paid or not as the same need verification by the office of the AIADA.

7. However, learned counsel for the petitioner submits that now the petitioner's unit is functional and the purpose for which the allotment of plot was made is being carried out diligently and bona fide on behalf of the petitioner. The order of cancellation of allotment and lease passed against the petitioner and impugned in the present writ petition may be set aside as it would serve no purpose now for canceling the allotment of the petitioner.

8. I have heard counsel for the parties and gone through the relevant materials on record. Though it appears that initially, when the impugned order was passed, the petitioner had not been indulging in any manufacturing activity in the plot allotted to it by AIADA leading to the passing of the impugned order canceling the allotment. The petitioner, however, remained in possession of the allotted land by virtue of the interim order passed earlier by this court. The petitioner, thereafter, tried to revive the unit by making serious efforts by using new technology for the purposes of casting iron, which was brought to the notice of the Court. The respondents were directed to verify the same on inspection in the premises of the petitioner's unit. The inspection report, on the basis of such inspection, which was carried out by a team of officials of AIADA has been brought on record by way of supplementary counter affidavit of the respondent no. 2 dated 29.4.2013. It discloses that the unit was found running and further infrastructure has been constructed, fabrication work was also found to be done, one number of furnace was found in operation, electric connection has been taken from JSEB with sanctioned load of 70 KW and 50 KW for electric panel and furnace. Besides this, the unit was having a generator set of 125 KVA and 10 number of labourers were found working. Even the casted materials were found stacked in store and the unit also furnished invoices of taxes paid by it between December, 2012 and February, 2013. The entire report has been quoted herein-above.

9. In these circumstances, therefore, it appears that the unit has revived once again and is functional as per the report given by the officials of the respondent-AIADA as found in their inspection. The unit has also made payment of dues,

however, is subject to verification by the officials of AIADA.

10. In these circumstances, therefore, it would not be proper to sustain the impugned order by which the allotment of plot and lease in favour of the petitioner was cancelled when the unit was not functional in the year 2007.

11. Therefore, in the totality of aforesaid facts and circumstances and the reasons discussed above, the impugned order dated 18.4.2007 is set aside. However, it would be open to the respondent-AIADA to monitor the progress of petitioner's unit in carrying out manufacturing activity as required under the terms and conditions of the allotment order and the lease. If any outstanding dues are still remaining against the petitioner, the petitioner would be liable to pay the same within a reasonable time.

12. This writ petition is allowed in the aforesaid terms. I.A. Nos. 3569/2012 and 3568/2012 stand disposed of.