

(2020) 01 PAT CK 0250

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 13496 Of 2019

M/S Universal Refineries Ltd And Anr

APPELLANT

Vs

Bihar Industrial Area Development Authority First Floor And
Ors

RESPONDENT

Date of Decision : 16-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0250

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Vedsen, Subhash Chandra Bose, Kumar Priya Ranjan

Final Decision : Disposed Of

Judgement

Heard Mr. Vedsen, learned counsel for the petitioners and Mr. Kumar Priya Ranjan, learned Advocate for the BIADA.

By the order impugned dated 11.12.2018 passed by the Executive Director, the allotment of three acres of land to the petitioners has been cancelled and it has been made known to the petitioners that no further claim over the aforesaid plot of land shall ever been considered by the BIADA.

Learned counsel for the petitioners has submitted that the land unit was transferred to the petitioners after cancellation of the first allotment on deposit of transfer charges as required by BIADA.

It has been submitted that for obtaining institutional finance, any lease of 33 years would not be sufficient as the lending Bank would not be interested in financing any institution which has not been allotted lease of the land for 99 years.

Considering this bottleneck in the process of setting up the unit and running the same, a request was made to the BIADA to extend the lease period from 33 years to 99 years. At the time when such request was made, 11 years were left

of the lease of 33 years. The BIADA was of the view that instead of setting up the unit, when 11 years are still left for the lease to expire, the petitioner only reflected a lackadaisical approach in setting up any unit.

It was also made known to the petitioner that he should take positive steps towards setting up of the unit and the consideration with respect to extension of the lease period would take some time and that should not be made a ground for not proceeding ahead with the setting up of the unit.

Learned counsel for the petitioners has submitted that after such letter was received by the petitioners, approximately three crores of rupees has been spent on infrastructural development but the unit has not become functional till date because of no further advances to it on the ground which has been stated above.

The impugned order reflects that several opportunities were given to the petitioners for making the unit functional but not doing so has only reflected an approach which would not be countenanced by the BIADA.

Learned counsel for the petitioners has submitted that such observation is not based on objective facts and any visit to the site could dispel such information to the BIADA that no effort has been made by the petitioners. If three crores of rupees has been spent on infrastructural development, the petitioners cannot be presumed to have shown an approach of reluctance in setting up the unit.

This aspect does not appear to have been properly dealt with by the Executive Director before cancelling the lease of the petitioners.

The order therefore deserves a re-look at the appellate level.

Should the petitioner challenge the aforesaid order before the State Government which in the present time has been notified to be the Industrial Development Commissioner (IDC), within a period of four weeks, the matter shall be entertained and looked into by him, who shall pass a reasoned within a period of four weeks thereafter and intimate to the petitioners the outcome of such proceeding forthwith.

Till such time, the petitioners shall not be evicted from the land so allotted to them.

With the aforesaid observation / direction, this petition stands disposed off.