

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.37 of 2025

In
Letters Patent Appeal No.1418 of 2023

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1. The Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna through its Managing Director.
 2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
 3. The Joint Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
 4. General Manager, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
 5. The Deputy General Manager, Darbhanga Cluster.

... .. Petitioner/s

Versus

1. I.G. Foods and Beverage Pvt. Ltd., through its Director Amresh Kumar Mishra (male), aged about 44 years, S/o Late Kulanand Mishra, R/o Sohray, Lakshmipur, P.S.- Sakri, P.O.-Pandaul, District- Madhubani (Plot No.-13 Pandaul Industrial Area, P.S.- Pandaul, District- Madhubani).
2. The State of Bihar, through the Secretary, Department of Industries, Government of Bihar, New Secretariat, Bailey Road, Patna.
3. The Secretary, Department of Industries, Government of Bihar, New Secretariat, Bailey Road, Patna.
4. The Additional Chief Secretary, Department of Industries, Government of Bihar, New Secretariat, Bailey Road, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Lalit Kishore, Sr. Advocate Mr. Sanchay Srivastava, Advocate Mr. Sushant Srivastava, Advocate Mr. Kanishka Shankar, Advocate Mr. Ashish Kumar Palit, Advocate
For the Opposite Party/s :		Mr. Alok Ranjan, Advocate
For the State	:	Mr. Amish Kumar, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 29-04-2025

Heard Mr. Lalit Kishore, learned Senior Advocate



for the petitioner/Bihar Industrial Area Development Authority, Mr. Alok Ranjan, learned counsel for the Opposite Party No.1/writ petitioner and Mr. Amish Kumar, learned Advocate for the State.

2. A review of the judgment dated 08.01.2025 passed by a Bench of this Court in L.P.A. No. 1418 of 2023 arising out of C.W.J.C. No. 8521 of 2023 has been sought for by the Bihar Industrial Area Development Authority ('BIADA' in short).

3. By the aforementioned judgment, the decision of the Managing Director was questioned on the ground of he not having the authority to cancel the allotment in favour of the writ petitioner, as such power was vested only in the authority which comprise the Chairman; Managing Director and other Officials of the Authority.

4. It appears that the judgment was delivered on the basis of the ratio of ***Deepak Paints (P) Ltd. & Ors. vs. The State of Bihar & Ors. [2008 (2) PLJR 293]*** wherein it was held that the order of cancellation of



allotment by the Managing Director of the Authority would be null and void as that power is vested in the Authority, which is a body comprising the Chairman, Managing Director and other Officials.

5. This aforementioned decision in ***Deepak Paints*** (supra) was based on a plain reading of Section 6 of the BIADA Act, 1974 (the 'Act of 1974' in short) as it then stood wherein, sub-Section (2) of Section 6 clearly provided that the Authority shall be responsible for planning, development and maintenance of the industrial area and amenities thereto and allotment of the land or factory shed or building or parts of buildings, execution of lease, modification and cancellation of such allotment of lease, realization of fees, rent charges and matters connected thereto. (emphasis supplied)

6. It has been submitted on behalf of the BIADA that later, by the Amendment Act of 2017, the Act of 1974 underwent a change and sub-Section (4a) was added to Section 3 of Chapter 2 which provided that the



Authority may, by general or special order in writing, delegate to any officer of the Authority subject to such condition, if any, as may be specified in the order, such of its powers and functions under the Act as it may be deemed necessary.

7. The question whether the provisions of sub-Section (4a) inserted by the Amendment Act of 2017, controls the provisions contained in Section 6 of the Act of 1974.

8. Section 6 of the Act of 1974 falls in Chapter 3 of the Act of 1974, providing for the general duties and powers of the Authority. The intendment of the provisions contained in Section 6 of the Act of 1974 is clear that any order with respect to the cancellation of allotment of lease amongst other functions and duties of the Authority shall be passed by the Authority only.

9. The amendment by insertion of such Section (4a) in Section 3 also refers to the powers of the Authority to delegate, by a general or special order, its



power to any officer of the Authority subject to the terms and conditions which the Authority deems appropriate, to carry out or pass orders concerning such of the powers and functions of the Authority under the Act.

10. Mr. Kishore, therefore, has submitted that sub-Section (4a), in such circumstances, cannot be read *ejusdem generis* with Section 3(4) which specifies the functions which can be carried out or discharged by the Managing Director alone, who is the Chief Executive Officer of the Authority. Those functions and duties include (a) receiving all money on behalf of the Authority, issuing receipt and maintaining proper account for the same; (b) drawing money from the fund of the Authority for disbursement of salaries, allowances and meeting of the expenses of the Authority; (c) to authenticate any order of the Authority and; (d) to perform any order only that may be assigned to him by the Authority or the State Government from time to time. Sub-clause (d) of Section 3(4) clearly specifies that a Managing Director could also



perform any other duty which is assigned to him by the Authority or the State Government.

11. Such delegation by the authority could be on Managing Director or any other officer of the authority but subject the terms and conditions which the authority may fix.

12. The controlling provision in Section 3 (4), namely, that the Managing Director shall perform, amongst others duties specified under (a), (b), (c) and (d) are only illustrative and the power would include beyond such duties specified which will include the cancellation of the lease. There is no caveat in the section to limit the operation of the section only to the powers and duties enumerated under (a), (b), (c) and (d).

13. On this logic and reason, Mr. Kishore has argued that sub-Section 4(a) of Section 3 inserted by the Amendment Act of 2017 permits the authority to delegate its duties, powers and functions to Managing Director or any other officer including Joint Managing



Director and such delegation would not be limited to the duties listed under (a), (b), (c) and (d) but the duties and powers provided in Section 6 of the Act of 1974 falling in Chapter -3. This would include the power to cancel the lease.

14. We find force in the submission of Mr. Kishore.

15. The judgment, therefore, stands modified to the extent that the Managing Director/Joint Managing Director could pass an order as the delegatee of the Authority, pertaining to cancellation of lease deed, provided he is authorized by the Authority by a general or special order and that there would be no application of the ratio of the judgment in ***Deepak Paints (P) Ltd.*** (*supra*) as at that time, the Act of 1974 had not been amended [when the judgment in Deepak Paints (P) Ltd. (*supra*) was delivered].

16. After having said that, we further clarify that the authority or its delegatee, namely, Managing



Director or Joint Managing Director would be entitled to consider the issue of cancellation of plot only after affording an opportunity to the respondent, who shall file an objection, if already not filed, and the issue shall be considered on the basis of inspection reports as also the objection. The authority or its delegatee may conduct a further inspection if necessary and also consider the request of the respondent to allow and permit some time for it to establish the industry. The order so passed would be a speaking order.

17. The review petition stands dispose off.

(Ashutosh Kumar, ACJ)

Avinash/Sunil

(Partha Sarthy, J)

AFR/NAFR	
CAV DATE	N/A
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