

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 4800 of 2021

Forum Infrastructure Private Limited, a Company duly registered under the provisions of the Companies Act, 1956, having its registered office at 4/1, Red Cross Place, Post Office: GPO, Kolkata, Police Station: Hare Street, Town and District: Kolkata (West Bengal), through its Authorised Signatory namely, Sri Subhasis Seth, aged about 57 years, son of Late Asit Kumar Seth, resident of 18/3, 1st Floor, Madhusudan Biswas Lane, Howrah, Haora (M. Corp), Post Office: Howrah, Police Station: Howrah, Town and District Howrah, Kolkata (West Bengal). ... Petitioner

Versus

1. Jharkhand Industrial Area Development Authority, through its Secretary, having its office at Bikas Bhawan, P.O. and P.S. Adityapur, District- Seraikella, Kharsawan, Jharkhand.
 2. Managing Director, Jharkhand Industrial Area Development Authority, having its office at Bikas Bhawan, P.O. and P.S. Adityapur, District- Seraikella, Kharsawan, Jharkhand.
 3. Regional Director, Jharkhand Industrial Area Development Authority, having its office at Bikas Bhawan, P.O. and P.S. Adityapur, District- Seraikella, Kharsawan, Jharkhand.
- ... Respondents

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Indrajit Sinha, Advocate
Mr. Arpan Mishra, Advocate
For the Resp.-JIADA : Mr. V. P. Singh, Sr. Advocate
Mr. C. A. Bardhan, Advocate

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CAV On: 02.04.2026

Pronounced On: 01/07/2026

1. Heard Mr. Indrajit Sinha, learned counsel appearing for the petitioner; and Mr. V. P. Singh, learned Senior Counsel appearing for the respondent-JIADA.
2. The instant writ application has been preferred by the petitioner-Company, inter alia, seeking the following reliefs:—

“(i) For issuance of an appropriate writ, order or direction quashing/setting aside the Office Order No. 9 of 2021

contained in Memo No. 268 dated 14.05.2021 (Annexure-25) issued under the signature of Respondent No.2 whereby and whereunder the power of the Managing Director, Jharkhand Industrial Area Development Authority, to cancel the allotment of land has been delegated to the Regional Director of the respective regions; AND

(ii) For issuance of an appropriate writ, order or direction particularly a writ of certiorari for quashing the show-cause notices contained in Letter No. 938 dated 09.08.2019 (Annexure-9), the show cause notice as contained in Letter No. 1224 dated 23.10.2019 (Annexure-12) and Letter No. 315 dated 22.02.2020 (Annexure-17), all issued under the signature of Respondent No.3 and all its consequent proceedings, including the order contained in Memo No. 54/C/AR dated 27.10.2021 (Annexure-30) issued under the signature of Respondent No.3, whereby and whereunder the Respondent No.3 has cancelled the allotment order No. 772/ADA dated 26.03.2007 (Annexure-2), terminated the lease deed dated 02.06.2008 (Annexure-3) and forfeited the lease premium and the amount deposited by the petitioner with immediate effect and further the petitioner is directed to remove its material, if any, in the premises and handover vacant physical possession of the plot in question of Jharkhand Industrial Area Development Authority, Adityapur, within one month from the date of the receipt of this order, failing which the petitioner shall be liable to pay penalty @ Rs.15.00 per square feet per month until it hands over vacant possession of the plot to the authority or the authority takes possession by invoking the provisions of the Public Premises (Eviction and the Unauthorised Occupants) Act, 1971 as provided under Regulation 22(vi) Jharkhand Industrial Area Development Authority Regulation 2016;

(iii) A further issuance of an appropriate writ, order or direction commanding upon the Respondents to cooperate with the Petitioner in grant of various permissions, including sanction/permission of building plan/clearance/approval in respect of the project to be developed on the land in question; and

(iv) A further writ, order of direction declaring the lease in favour of the petitioner subsisting and that the petitioner is entitled to commence construction after grant of sanction/permission/clearance of the building plan and all-time deadlines under the deed to be computed from the date of grant of sanction to the building plan as agreed the Respondents; AND/OR

(v) Any other appropriate writ(s), order(s) or direction(s) as may be deemed fit and proper for doing conscionable justice to the Petitioner.”

Factual Matrix

3. The factual matrix giving rise to the present *lis*, in brief, is as under. The Adityapur Industrial Area Development Authority (“AIADA”), the predecessor-in-interest of the answering respondent (JIADA, Adityapur Region), invited a tender-cum-bid on 04.09.2006 through a Request for Proposal for development of a “City Centre” in the Adityapur Industrial Area, comprising a star hotel, club, medical centre/hospital, multiplex, retail/shopping mall, etc., the avowed object being to provide facilities to the industrial entrepreneurs, the employees of the industrial establishments and the public at large.

4. A consortium of three private companies submitted its bid on 14.10.2006, which came to be accepted on 14.12.2006 with a direction to incorporate a Special Purpose Company for execution of the lease. The petitioner-Company was accordingly incorporated on 24.01.2007 and the allotment order No. 772/ADA dated 26.03.2007 came to be issued in its favour for an area admeasuring 21.698 acres on a 90-year lease-hold basis.

5. The physical possession of the demised plot was delivered to the petitioner on 14.11.2007 and a registered Indenture of Lease was executed on 02.06.2008. Under Clauses 4(a), 4(b) and 4(d) of the lease deed, the petitioner had undertaken (i) to apply for all necessary statutory permits within 120 days of taking possession, (ii) to commence development and construction within 180 days from the date of possession, and (iii) to complete construction and commission the essential components within 36 months from the date of possession. The petitioner had also furnished an undertaking in Appendix-A to the lease deed to the same effect.

6. Indisputably, the petitioner did not complete even a single essential component of the project during the said 36-month

window. Beyond raising a boundary wall, no construction whatsoever was undertaken on the demised plot. The respondent-AIADA, after issuance of Notice No. 912/ADA dated 27.11.2013 and a personal hearing on 04.01.2014, cancelled the allotment and terminated the lease vide Memo No. 35/ADA dated 15.01.2014, also directing forfeiture of the amounts deposited.

7. The said order dated 15.01.2014 was assailed by the petitioner in *W.P.(C) No. 690 of 2014*. This Court, vide order dated 26.09.2014, quashed the order dated 15.01.2014 and granted the petitioner a fresh construction-completion period of 36 months, subject to deposit of 15% of the lease premium. Being aggrieved, the answering respondent preferred *L.P.A. No. 450 of 2014*, in which the Division Bench, by its judgment dated 15.04.2015, while affirming the substratum of the learned Single Judge's order, enhanced the lease premium from 15% to 25% and, in unmistakable terms, directed that the 36-month construction-completion period would reckon only from the date of grant of NOC by AIADA. The Special Leave Petition preferred by the petitioner against the said order, being *SLP(C) No. 29589 of 2015*, was dismissed by the Hon'ble Supreme Court on 16.11.2015.

8. In purported compliance with the said directions, the petitioner deposited the enhanced premium of Rs. 2,78,00,000/- on 21.11.2015. Thereafter, however, the petitioner conspicuously failed to make any proper application for NOC; instead, it claimed to have approached various unrelated departments such as the Circle Office, the Office of the Deputy Commissioner, etc., and kept the matter dragging.

9. In view of the purported inaction of the petitioner, the respondent – Regional Deputy Director, JIADA, Adityapur Division, issued show-cause notice dated 09.08.2019 (Annexure-9), followed by show-cause notice dated 23.10.2019 (Letter No. 1224) (Annexure-12) and the final notice dated 22.02.2020

(Annexure-17), inviting the petitioner's response and granting it personal hearings. The petitioner filed its response to the above show cause notices vide its letters dated 21.08.2019 and 30.10.2019.

10. The Regional Director, JIADA, Adityapur Region, thereafter passed the impugned order of cancellation dated 27.10.2021 (Memo No. 54/C/AR), cancelling the allotment order No. 772/ADA dated 26.03.2007, terminating the lease deed dated 02.06.2008, forfeiting the lease premium and the amounts deposited, and directing the petitioner to hand over vacant physical possession of the plot within one month, failing which penalty at Rs. 15/- per square foot per month would become payable.

The petitioner has assailed the said order in the instant writ petition.

11. It is also a matter of record that, during the pendency of the instant writ application, the respondent-authority, on 17.04.2023, invited fresh applications for allotment of the demised plot, and, pursuant to the online bidding held on 24.07.2023, and 38 bidders have already been declared successful.

Submissions on behalf of the petitioner:

12. Mr. Indrajit Sinha, learned counsel appearing for the petitioner, has vehemently submitted that the impugned order of cancellation dated 27.10.2021 (Annexure-30) has been passed wholly without jurisdiction, inasmuch as, the Regional Director was not vested with any power to cancel the allotment of land on the date when the said order came to be passed. It is urged that the source of such power, i.e. the JIADA Regulation, 2016, has not come into force. In this context, it was submitted that Regulation 1.1 (iv) provides that the Regulations shall come into force on such date as the State Government may specify by

notification in the official gazette and since no such date has been notified in the gazette, the Regulation of 2016 has not come into force and therefore any action thereunder is without jurisdiction.

13. It has been further submitted that the publication of the JIADA Regulation, 2016 in the Official Gazette on 29.10.2021, does not satisfy the requirement of notifying. The date of coming into force of the regulation as mandated by regulation 1.1 (iv). Even otherwise, the publication of the JIADA Regulations, 2016 in the official gazette dated 29.10.2021, will also not make the impugned order *intra vires* for two reasons; the first being, that the date of publication in the official gazette is two days after the impugned order of cancellation on 27.10.2021 and hence cannot cure the defect of jurisdiction and secondly; the JIADA regulations cannot be brought into force, retrospectively.

14. In support of the aforesaid contention, learned counsel for the petitioner has placed strong and emphatic reliance upon the recent pronouncement of the Hon'ble Supreme Court in ***Viraj Impex Pvt. Ltd. v. Union of India & Anr., 2026 SCC OnLine SC 101***, wherein it has been held that a Notification issued under Section 3 of the *Foreign Trade (Development and Regulation) Act, 1992* acquires the force of law only upon its publication in the Official Gazette, and that the expression "*date of this Notification*" must necessarily be construed to mean the date of its publication in the Gazette, and not the date on which it was signed or uploaded on a website.

It has been held therein that the requirement of publication in the Official Gazette is not "*an empty formality*" but a dual-purpose constitutional requirement, and that until such publication, a Notification is a mere "intention" which has not crossed the threshold to become a legal "obligation". Applying the said ratio, it is submitted that Resolution No. 3025 dated 16.08.2017, which conferred power upon Respondent No.3, i.e.

the Regional Authority, AIADA Region, having been published in the Official Gazette only on 29.10.2021, was non-est and inoperative on 27.10.2021, with the result that the Regional Director stood denuded of any power to pass the impugned order.

15. It has further been submitted that the primary legislation that is the Bihar Industrial Area Development Authority Act, 1974 and the Bihar Industrial Area Development Authority Rules, 1981 have conferred on the Managing Director of the Authority, the power to cancel the allotment of plots and therefore, by virtue of the Regulations, such power cannot be further delegated by the Managing Director of the Authority to the Regional Directors. It has further been submitted that the power sought to be conferred on the Managing Director of the Authority to further delegate the power to the Regional Director, if the Authority that is the Board of Directors so approve, by the amendment to the resolution dated 16th May, 2016, by the resolution dated 16th August, 2017 are unenforceable as the same is ex facie contrary to the primary legislation as also the Rules made thereunder.

Moreover, such Resolutions have been issued by the State Government and therefore cannot have the effect of amending the JIADA Regulation, 2016, which has been framed by the JIADA in terms of section 1 of the Regulations. It is thus submitted that the Office Order No. 09 of 2021 contained in Memo No. 268 dated 14.05.2021, whereby and whereunder the power of cancellation of allotment has purportedly been delegated by the Managing Director, JIADA, to the Regional Directors of the respective regions, is ultra vires, bad in law and not tenable in the eye of law and is liable to be quashed.

16. Further in this context, the Ld. Counsel by inviting the attention of the Court to Section 15 of the BIADA Act, 1974 (as adopted in the State of Jharkhand), contends that the Authority

is empowered to frame Regulations only by a Resolution published in the Official Gazette, and that the mandate of gazette publication is a condition precedent for any such Resolution to acquire the force of law.

17. It is further submitted that a subordinate/delegated legislation can neither be amended; nor superseded, by an executive or administrative order, and that an office order cannot supplant, or whittle down, the power conferred by the Rules/Regulations framed under the authority of law.

18. On the merits, it has been strenuously urged that the delay in implementation of the project was neither wilful nor deliberate, nor in any manner attributable to the petitioner. It is submitted that, although the lease was restored by this Court vide order dated 26.09.2014 (as modified in L.P.A. No. 450 of 2014), the matter attained finality only upon dismissal of the Special Leave Petition by the Hon'ble Supreme Court on 16.11.2015, and that within six days thereof, on 21.11.2015, the petitioner deposited the enhanced lease premium of Rs. 2,78,00,000/-, thereby demonstrating its bona fides.

19. It is further submitted that the project required a mandatory Environmental Clearance as a precondition to commencement of construction and approval of the building plan; that, despite continuous and diligent follow-up, such clearance came to be granted only on 26.10.2019, the process having consumed nearly 1411 days; and that the petitioner cannot be faulted for delays occurring within the governmental approval mechanism.

20. It is contended that a meeting held on 05.09.2019 culminated in an understanding prescribing timelines reckoned from approval of the building plan, and yet the show-cause notices were not withdrawn but were instead followed by successive notices generating uncertainty. In this context, it was

also submitted that the judgement of a court cannot be read in a manner to nullify the express provision of a legislation, which in this case is the provisions related to the grant of clearances such as the environmental clearances and Allied consents.

It was further submitted that the judgement of a court cannot be read in a manner which would compel performance of an act, which is otherwise illegal and unlawful. Therefore, it is submitted that the failure to meet the deadlines set out by the Division Bench of this Court would not so ipso facto result in termination of the allotment/lease.

21. It is also submitted that the COVID-19 pandemic and the consequent nationwide lockdown from March, 2020 severely affected the functioning of the governmental machinery; that technical glitch arose in the JIADA portal, in that the petitioner's name did not appear in the drop-down menu; and that, acting upon the advice of the officials of JIADA, the petitioner submitted fresh building plans in hard copy on 07.01.2021. Despite the same, the lease came to be cancelled on 30.01.2021, which order, upon challenge in *W.P.(C) No. 1015 of 2021*, was set aside by the Managing Director, JIADA himself and the matter remanded, whereafter the present cancellation order dated 27.10.2021 came to be passed.

22. It is, therefore, urged that the impugned cancellation is arbitrary, disproportionate and unsustainable in law, that the principles of natural justice stand violated, and that the lease in favour of the petitioner remains valid and subsisting.

Submissions on behalf of the respondent-JIADA:

23. *Per contra*, Mr. V. P. Singh, Ld. Sr. Counsel appearing for the respondent-JIADA, while refuting the contentions of the petitioner, has urged that under the scheme of the BIADA Act, 1974, the power to set up one or more authority's vests with the State Government by way of a notification, and such authority

shall be a body corporate having perpetual succession and a common seal. Further, under Section 14 of the said Act, the rule-making power to carry out the purposes of the Act is to be exercised by the State Government, by notification in the Official Gazette. Learned Senior Counsel further states that the power to make Regulations to carry out the purposes of the Act also vests with the Authority, with the prior approval of the State Government and by way of a Resolution published in the Official Gazette.

24. He contended that by exercising the power vested with the State Government, vide Resolution No. 1638 dated 16.05.2016 (published on 17.05.2016), it restructured all the Industrial Authorities of Jharkhand, namely the Ranchi Industrial Area Development Authority (RIADA), the Adityapur Industrial Area Development Authority (AIADA), the Bokaro Industrial Area Development Authority (BIADA) and the Santhal Pargana Industrial Area Development Authority (SPIADA), into one single entity, namely the Jharkhand Industrial Area Development Authority (JIADA), and each authority named above was established as a regional office of JIADA, with the Regional Directors reporting directly to the Managing Director-cum-Vice Chairman of JIADA.

25. It is further submitted that Clauses 8 and 9 of the said Resolution No. 1638 dated 16.05.2016 stipulate that the respective existing Regulations of each of the four erstwhile Authorities, namely the AIADA Regulation, 2015, the RIADA Regulation, 2015, the BIADA Regulation, 2015 and the SPIADA Regulation, 2015, being identical to each other, shall be known as the "JIADA Regulation, 2016". A bare reading of Clauses 8 and 9 of the said Resolution No. 1638 dated 16.05.2016 (published on 17.05.2016) clarifies that the JIADA Regulation, 2016 stood notified in the Official Gazette on 17.05.2016 itself.

26. Ld. Sr. Counsel further submitted that the substantive power of cancellation of allotment is conferred by Section 6(2)(a) of the BIADA Act, 1974 (as inserted by the Amendment Act of 1991), and by Rule 6(ii) of the BIADA/JIADA Rules, 1981 (re-adopted in 2001), and also by Clause 25 of the JIADA Regulation, 2016, upon the Authority and upon the CEO/Regional Director, and later upon the Managing Director after the notification of the Resolution Memo No. 3025 dated 16.08.2017.

27. Further, he submits that, as per Chapter-II, Clause 2(x) of the Regulation, 2016, the Authority/Board of Directors may, from time to time, for the purposes of carrying out its duties and responsibilities under the Act or the Rules made thereunder, constitute a Committee or Committees consisting of its own members and, if need be, experts from outside, and refer to them such matters as the Authority/Board of Directors considers necessary; the acceptance and implementation of the recommendations of such Committees being subject to approval by the Authority/Board of Directors. Similarly, as per Chapter-III, Clause 3(ii)(c) of the Regulation, 2016, dealing with the Powers and Duties of the Chairman and Managing Director. The Managing Director is to *“perform all duties and responsibilities and exercise all powers vested under the Act and Rules made thereunder and also that may be specifically entrusted by the Authority/Board of Directors from time to time.”*

28. Learned Senior Counsel has strenuously argued that the Board of Directors, vide its 3rd Board meeting held on 31.10.2017 (Annexure-D to the counter-affidavit) under the Chairmanship of the then Chief Minister-cum-Chairman, JIADA, Ranchi — at which (1) Mr. Amit Khare, Additional Chief Secretary, Planning-cum-Finance Department-cum-Director, JIADA, (2) Mr. Sunil Barnwal, Secretary, Department of Industries, Mines and Geology-cum-Director, JIADA, (3) Mr. K. K. Son, Secretary,

Department of Revenue, Registration & Land Reforms-cum-Director, JIADA, (4) Mr. K. Ravi Kumar, Director of Industries, Industry Directorate-cum-Director, JIADA, and (5) Mr. K. Srinivasan, Managing Director, JIADA, were present — considered and approved the proposal for vesting/delegation of power with regard to allotment of land by the Managing Director, JIADA, to all the Regional Directors of the Authority, with the result that all the respective Regional Directors of the Authorities are now empowered with all works related to the allotment of land.

29. Subsequently, in the 9th Board of Directors meeting held on 26.03.2021 (Annexure-E) under the Chairmanship of the Chief Minister-cum-Chairman, JIADA, Ranchi — at which (1) Mr. L. Khiyangte, Additional Chief Secretary, Department of Revenue, Registration & Land Reforms-cum-Director, JIADA, Ranchi, (2) Mrs. Himani Pandey, Secretary, Planning-cum-Finance Department-cum-Director, JIADA, Ranchi, (3) Mrs. Pooja Singhal, Secretary, Department of Industries-cum-Director, JIADA, Ranchi, and (4) Mr. Jitendra Kumar Singh, Director of Industries, Industry Directorate-cum-Director, JIADA, Ranchi, Government of Jharkhand, were present — the proposal for vesting/delegation of power with regard to cancellation of allotment of land by the Managing Director, JIADA, to all the Regional Directors of the Authority was placed and approved by the Board of Directors, with the result that all the respective Regional Directors of the Authorities can cancel the land allotment order, as per Clause 5, Sl. No. 7 of the JIADA Resolution Memo No. 3025 dated 16.08.2017. Further, vide Office Order No. 09/2021 dated 13.04.2021 (Annexure-25 to the writ application), the Managing Director, JIADA, delegated the power to all the Regional Directors, including the Regional Director, Adityapur Region, JIADA, to cancel the allotted plots.

30. It is, thus, submitted by the Ld. Senior Counsel, by also placing heavy reliance upon the judgment of the Division Bench of this Court in ***Adityapur Industrial Area Development Authority & Anr. v. M/s. Sanderson Industries Ltd., L.P.A. No. 174 of 2011***, decided on 24.07.2012, reported in ***JCR 2013 (3) 622 : 2012 SCC OnLine Jhar 1001***, that decisions of the Authority taken under Section 3(4) for its administrative working and for the purpose of delegation of power do not require a Resolution by the State Government, by way of gazette publication, under Section 15 of the Act of 1974.

31. It has been further submitted that, even otherwise, notwithstanding the aforesaid Board meetings, till the time the subsequent publication of Resolution No. 3025 dated 16.08.2017 in the Official Gazette on 29.10.2021 was made, the power to cancel the allotted plot remained with the CEO as per the JIADA Regulation, 2016, and that the CEO and the Regional Director are one and the same post, there being merely a change in nomenclature.

32. It is also submitted that Clause 1.1(iv) of the JIADA Regulation, 2016 (forming part of Resolution No. 1638 dated 16.05.2016, published in the Official Gazette on 17.05.2016) saves all actions and deeds done under earlier orders, circulars, guidelines and resolutions of the Government/Board, and that Section 13 of the Act is a non-obstante clause.

Analysis

33. Having heard learned counsel for the respective parties and on perusal of the materials available on record, two principal issues emerge for determination by this Court: —

- (i) *Whether the Regional Director, JIADA, was vested with the power to pass the impugned order of cancellation dated 27.10.2021?*

(ii) *Whether the petitioner is, on the facts and circumstances of the case and on its own conduct, entitled to the discretionary and equitable relief under Article 226 of the Constitution of India?*

34. The first contention of the petitioner — that the impugned order of cancellation is *void ab initio* for want of jurisdiction in the Regional Director. In order to support the above contention, the petitioner has relied upon Clause 1.1(iv) of the JIADA Regulation, 2016 (Annexure-A/3 to the counter-affidavit), which reads as under:—

“These Regulations shall come into force on such date as the State Government may specify by notification in the official gazette and shall supersede all earlier Government/Board Resolutions, orders or Regulations, if any. However, actions /deeds under earlier orders / circulars / guidelines / resolutions of Government / Board shall be valid.” [emphasis supplied]

35. By an order dated 23 April 2024, this court specifically directed the counsel appearing for JIADA to place on record the notification issued in terms of the above clause 1.1 (iv) of the JIADA Regulations, but despite lapse of more than two years, the respondents have not brought any such notification and therefore it is established that the notification regarding the coming into force of the Regulations of 2016 have not been published in any official gazette.

36. The JIADA Regulations is a conditional legislation. In absence of any appointed date, the same cannot be said to have come into force only by virtue of the Regulations being published in the Official Gazette dated 29 October 2021. Therefore, in order to bring into force, the JIADA regulations, 2016, the State of Jharkhand had to specify a date by a notification published in the official gazette and mere publication of the JIADA Regulation, 2016 in the official gazette cannot be termed to be as sufficient compliance of the mandatory provision of law. Thus, there is no

cavil or doubt that the JIADA Regulations have not been brought into force by the State of Jharkhand and hence any action taken thereunder is non est and a nullity.

37. The respondent's counsel submitted that the power to cancel the allotment was already conferred upon the Chief Executive Officer (which was redesignated as the Regional Director) in the year 2016 and therefore the subsequent publication of the JIADA Regulations, 2016 in the official gazette on 29 October 2021 would not make any difference on the conferment of power or jurisdiction on the Regional Directors.

The above argument cannot be accepted in view of the findings recorded in the previous paragraph that the JIADA regulations have not been brought into force by the state government by notifying the date in the official gazette. Unless and until a legislation or a delegate legislation is given effect by bringing the same into force; any action taken under the same, would have no legal consequences and cannot be enforced by a court of law.

38. The petitioner, in the alternative, has further submitted that since the JIADA Regulations, 2016, were published in the official gazette dated 29.10.2021; neither the impugned show cause notice, nor the impugned order of termination of lease dated 27.10.2021 can be saved from the vice of lack of jurisdiction.

Reliance was rightly placed on the judgement of the Division Bench of this Court, rendered the case of *Managing Director, RIADA v. M/s Narrow Structures, 2020 SCC OnLine Jhar 1731*, wherein at paragraph 15 it was held as under:

“15. A bare perusal of the aforesaid provision reveals that the Regulations shall come into force on such date as the State Government may specify by notification in the official gazette and shall supersede all earlier Government/Board Resolutions, orders or Regulations, however, the actions/deeds under the earlier orders/circulars/guidelines/resolutions of Government/Board have been protected. Learned counsel appearing for

RIADA authorities could not produce the gazette notification to show the date specified by the State Government from which the Regulations have come into force. What has been produced before us is a copy of the Regulations which has been issued under Memo No. 1637 dated 16.05.2016. It contains a direction that a copy of the resolution should be sent for publication in the special edition of Jharkhand Gazette and also be forwarded to the Government Press, Hinoo, Ranchi for its publication in special edition of Jharkhand e-Gazette, but no copy of such gazette could be produced before us and that apart, it is not disclosed from any document produced before this Court as to what is the date chosen by the State Government from which the Regulations have become functional. In the absence thereof, it would be very difficult for us to hold that the writ petitioners would be bound by the Regulations. Apart from the above, it appears that the resolution has finally been issued under Memo No. 1637 dated 16.05.2016 and there is no clause therein making it operational with retrospective effect. As such, since the direction was given by the Debts Recovery Tribunal to RIADA for executing the lease deed in favour of the auction purchaser for the remaining period of lease by order dated. 02.03.2015 itself and the RIADA authorities sat tight over the matter and even not challenged it before the competent forum and further, since the direction was issued in terms of the earlier lease-deed itself, it would be very difficult to hold that the Regulations would act retrospectively to cover the writ petitioners. What the learned counsel for RIADA wants to say is that even though the RIADA did not challenge the order of Debts Recovery Tribunal and it sat tight over the matter over the years, now since the resolution has come, it would come to their rescue. This limb of argument is not acceptable at all in view observations made hereinabove.”

Emphasis Supplied

39. Thus, in view of the binding precedent, it cannot be but held that neither the JIADA Regulations have come into force; nor the publication of the JIADA Regulations in the official gazette would confer power on the Regional Director retrospectively.

On both counts, the jurisdiction of the Regional Director of Adityapur Industrial Area Development Authority to pass the impugned show cause notices and the impugned order cannot be upheld.

40. This, however, does not mean that the competent authority, is denuded of its power to take a decision on the issue as to whether the lease of the Petitioner should be continued or cancelled. Therefore, while setting aside the impugned show cause notices dated 09.08.2019, 23.10.2019, 22.02.2020 and the impugned order dated 27.10.2021 all issued and / or passed by the Regional Director, JIADA; the matter is remitted to the

competent authority to proceed in the matter in accordance with law.

41. Since the matter has been left open to be decided by the competent authority in accordance with law, this Court does not find it proper to deal with the impugned order on the merits; lest the same shall prejudice the case of one or the other party and therefore all contentions of the parties concerned are kept open to be raised and decided at an appropriate stage.

42. It is further observed that since as a consequence of the impugned order an auction process was conducted by the respondents; however, by virtue of the order dated 4th May, 2023 passed by this court in I.A. No. 4089 of 2023, the respondents were restrained from allocating the subject land to a 3rd party, it would be in the interest of Justice that the respondents, if the competent authority pass the order against the petitioner, must do so with expedition and try and conclude the process right from the stage of issuance of a show cause notice and complete the adjudication there on within a period of two months from today. The respondents- AIADA, may continue with the same arrangement of not allowing the subject land to any third party till they take a final decision on the matter, and in the event, the decision is in the favour of the petitioner, any amount paid by the participants of the auction process must be refunded with interest at the rate of 12% per annum and such amount of interest must be realised from the petitioner.

43. Alternatively, if the decision will be against the petitioner, the Respondent-JIADA shall proceed in the matter of allotment to the respective 38 successful bidders by completing the process.

44. In view of the above, the following order is being passed:-

(i) The JIADA Regulation, 2016 has not come into force in absence of notification of the date of coming into force of the Regulations, 2016 in the official gazette in terms of Regulation 1.1(iv) at the relevant period and the same was finally given effect by the Jharkhand Gazette Extraordinary Published by Authority dated 6th December, 2022; whereby the Regional Director was made competent authority.

(ii) The show cause notices dated 09.08.2019, 23.10.2019 and 22.02.2020, as also the impugned order dated 29.10.2021 cancelling the allotment, terminating of the lease and forfeiture of the lease premium and amount deposited by the lessee-petitioner are quashed and set aside on the ground of lack of jurisdiction of the Regional Director, AIADA. Since, JIADA regulations has not come into force, the order dated 14.05.2021 will not have any effect.

(iii) The matter is remitted to the competent authority i.e. Regional Director in view of Gazette Notification dated 6th December, 2022 to initiate the process against the petitioner after giving it a fresh show cause notice and opportunity of hearing. However, such exercise must be carried out within a period of two months from today.

(1v) The timeline is an essence of this order. This observation is necessary in the background of the factual matrix of the case.

(v) The petitioner shall fully cooperate in the proceedings and in no case shall take adjournments. It is made clear that if the petitioner will take unnecessary adjournments, the competent authority shall proceed in the matter and pass final order.

(vi) It goes without saying that the competent authority shall not be prejudice by the findings and observations made in the

impugned order dated 27.10.2021, which is quashed and set aside.

45. In the event, the decision of the competent authority is in favour of the petitioner, the amounts collected from the participants in the auction process must be refunded with interest at the rate of 12% per annum and such amount of interest must be recovered from the petitioner.

46. Likewise, if the decision of the competent authority is against the petitioner; the Respondent shall proceed in the matter of allotment to the 38 successful bidders.

47. No order as to costs. This petition stands disposed of in the above terms.

(DEEPAK ROSHAN, J.)

Dated: 01 /07/2026

Amardeep/

A.F.R

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01.07.2026