

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10908 of 2015

=====

Nibhi Industries (P) Ltd., through its authorized signatory Mr.M.S.V.R. Reddy,
Director- Marketing, S/o Venkata Sripath Reddy, R/o- Plot No.222, Pakalai Nagar,
PS- Neelankarai, Palavakkah, Chennai-60021. Regd. Office-7 KAILASH #13 CIT
Colony, 5th Cross, Mylapore. Chennai-600004.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The Principal Secretary, Department of Industries, Govt. of Bihar.
3. The Director (Technical Development), Department of Industries, Govt. of Bihar.
4. The Managing Director of Bihar Industrial Development Authority, 1st floor
District Industries Center, East Gandhi Maidan, Patna-4.

.... Respondents

=====

Appearance :

For the Petitioner	:	Dr. Arvind Kumar, Advocate Mr. Sanjay Kumar Ghosarvey, Advocate
For the State	:	Mr. Birendra Kumar, AC to GP19
For the BIADA	:	Mr. Rajeev Ranjan Prasad, Advocate Mr. Sudhanshu Trivedi, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-11-2015

Heard learned counsel for the petitioner, learned counsel for
the State and learned counsel appearing on behalf of the BIADA.

2. The present writ petition has been filed for quashing the
order dated 15.01.2015 passed by the Principal Secretary,
Department of Industries, Government of Bihar, Patna rejecting the
claim of the petitioner for grant of subsidies as well as a direction to
the respondents to consider the case of the petitioner for grant of the
various subsidies, in all amounting to Rs. 3,84, 82,570/-, to which the
petitioner claims to be entitled under the Bihar Industrial Incentive
Policy, 2011.

3. The petitioner, an industrial unit, earlier approached this

Court in CWJC No. 16099 of 2014 for similar relief when the writ petition was disposed of with the following observations -

"This Court in order to ensure an expeditious decision for consideration of the case of the petitioner for grant of subsidy would direct the Principal Secretary of the Industries Department to take a firm decision one way or the other within a period of three months from the date of receipt of this order.

It goes without saying that if the petitioner industry is found to be entitled for release of subsidy, the amount shall also be released in the name of the petitioner as per the Government policy within this period of three months but if for any reason whatsoever the petitioner is not found entitled for grant of subsidy, the Principal Secretary will communicate the reasons thereof to the petitioner within the same period of three months."

4. Learned counsel for the petitioner submits that all the preconditions for grant of the subsidies have been fulfilled by the petitioner, such as approval of S.I.P.B., Bihar Pollution Control Board etc. Commercial production was also admittedly commenced on 17.08.2011. In short, all formalities and requirements have been fulfilled by the petitioner, but however, despite the petitioner being found eligible for grant of subsidy, the same has not been paid till date.

5. Learned counsel for the respondents submits on the basis of the counter affidavit as well as supplementary counter affidavit that the petitioner's project was required to be approved by the Chief Minister as contemplated in Clause 2.2 of the Memorandum No. 128 dated 16.01.2006 issued by the Industries Department, Government of Bihar. It is stated that the matter was placed for the Chief Minister's approval and in course of deliberations a new team from the Bihar State Pollution Control Board was directed to visit at the instance of the Minister incharge of the Industries

Department, pursuant to which no report was however received. The impugned order dated 15.01.2015 was accordingly passed rejecting the claim of the petitioner in the absence of approval received from the Chief Minister.

6. The foundational facts stated by the petitioner with regard to its claim for entitlement to the grant of subsidies in question are not in dispute. It would appear that the amount of the subsidies could not be sanctioned to the petitioner for want of final approval of the petitioner's project by the Chief Minister which appears to have remained pending in the absence of the fresh report from the new team of the Bihar State Pollution Control Board. It is therefore, not the case of the respondents that the petitioner's project has been expressly denied approval by the Chief Minister, rather it is a case of the matter for approval remaining in process and in the meantime the impugned order dated 15.01.2015 has been passed. Such order appears to have been necessitated in the backdrop of this Court's order dated 16.09.2014 passed in CWJC No. 16099 of 2014 requiring compliance within three months. There is however, subsequent development in the matter as fresh pollution clearances have been issued to the petitioner in the shape of discharge consent order and emission consent order, both dated 29.05.2015 for the period from 01.04.2015 to 31.03.2018 as contained in Annexure-7 series to the writ petition. This Court also takes note of para 22 of the supplementary counter affidavit filed by the respondents to the effect that the grievance of the petitioner would be redressed upon obtaining approval of the Chief Minister.

7. The original record of the case was directed to be produced

by order dated 05.10.2015 which has been placed before this Court. A perusal of the same discloses that after 25.03.2014 no action whatsoever has been taken which makes it apparent that the impugned order has been passed as an idle formality merely for the sake of compliance of this Court's order without effective action for consideration of the petitioner's case.

8. In the above view of the matter, the impugned order dated 15.01.2015 passed by the Principal Secretary, Department of Industries, Government of Bihar, Patna (Annexure-1) is set aside with a direction to the respondents to proceed in the matter of obtaining approval of the Chief Minister and accordingly dispose of the matter expeditiously and in any event preferably within a period of three months from the date of receipt/production of a copy of this order in the office of Principal Secretary, Department of Industries, Government of Bihar, Patna (Respondent No. 2).

9. The writ petition stands allowed.

10. The original record of the case be returned forthwith.

(Vikash Jain, J)

Chandran

U			
---	--	--	--