

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9301 of 2017

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Om Esha Agro Product Pvt. Ltd., having registered office at 91, Ashoka Place, Exhibition Road, Patna through one of his Director, namely Sri Nitin Krishna, son of Late Krishna Prasad, resident of 91, Ashoka Place, Exhibition Road, P.S. - Gandhi Maidan, P.O. - G.P.O., District - Patna.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar, Patna.
3. The Project Approval and Monitoring Committee through its Chairman, Principal Secretary (Industries), Government of Bihar, Patna.
4. The State Level Committee through Chairman, the Industrial Development Commissioner.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Y.V. Giri, Sr. Advocate
Mr.Ashish Giri, Advocate
Mr.Rajat Kumar Tiwary, Advocate
Mr.Sumit Kumar Jha, Advocate

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 29-03-2019 Matter has been mentioned as it is pending before this Court since July 2017. No counter affidavit has been filed in the writ application, although the name of Mr. Y.P. Sinha, learned AAG-7 appears in the cause list but no one appears on behalf of the State to assist this Court.

Petitioner in the present case is seeking a writ of mandamus directing the respondent authorities to take immediate and necessary steps for granting the benefit of capital subsidy in favour of the petitioner in terms of the Industrial



Incentive Policy, read with Food Processing Scheme, 2008 and the Policy of 2011 and 2016.

It is the contention of the petitioner that the company has set up a modern rice mill in Patna with an investment of approximately Rs. 24 Crores. The Chairman of the State Investment Promotion Board (SIPB) (respondent no. 3) is said to have given consent on the proposal for the establishment of unit in its meeting held on 18.05.2015 the communication in this regard as contained in Letter No. 1017 dated 15.06.2015 (Annexure-6) has been brought on record.

It is contended that after coming into force of the Bihar Industrial Investment Promotion Policy, 2016 (hereinafter referred to as 'the Policy of 2016'), the department had given an option to those units who were yet to come under commercial production to either be governed by the incentive Policy of 2011 by expressing its desire or in default the Policy of 2016 will be applied in their case. Petitioner is said to have opted to be considered under the Industrial Policy of 2011.

It is the case of the petitioner that the petitioner's unit has come in commercial production w.e.f. 30.01.2017. In support of his statement a certificate dated 28.03.2017 as contained in Annexure-10 issued by the Industries Department,



Government of Bihar has been enclosed with the writ application. It is the specific case of the petitioner that now the Project Approval and Monitoring Committee (PAMC) is required to grant necessary sanction but the meeting of the Committee is not taking place for a long time. From the minutes of meeting dated 21.03.2013 of PAMC as contained in Annexure-11 it is shown that earlier the PAMC had taken a decision to hold its meeting twice in a month but despite such resolution no meeting has taken place which has caused immense delay and because of non-consideration of case of the petitioner by the appropriate Committee i.e. PAMC, the petitioner is deprived of the subsidy amount which according to the petitioner is Rs. 5 Crores.

It is unfortunate that despite specific notice printed on the cause list for last three months that in old cases counter affidavit be filed on behalf of the respondents without waiting for the case to be called out, the respondents have chosen not to respond.

In the circumstances, instead of keeping the writ application pending before this Court, this Court would direct the Principal Secretary, Department of Industries, Government of Bihar (respondent no. 2) who is said to be the Chairman of



the Monitoring Committee to look into the grievance of the petitioner consider *prima-facie* on its merit and if it is found that the same is to be placed before the PAMC for consideration, he being the Chairman of the Committee will convene the meeting of the PAMC within a period of two months from today and shall take appropriate decision in the case of the petitioner.

In absence of any assistance from the department, the Court is not aware of the stand of the respondents hence, it would be incumbent upon respondent no. 2 to apply his independent mind and take a decision in accordance with law. It goes without saying that any such decision either by respondent no. 2 or by respondent no. 3 must be by way of a reasoned order which should be communicated to the petitioner immediately after the decision is taken.

This writ application stands disposed off in terms stated hereinabove.

(Rajeev Ranjan Prasad, J)

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