

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.231 of 2019

In

Civil Writ Jurisdiction Case No.1135 of 2019

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Sarvashree Ashirwad Food Industries Industrial Area, Barauni through its Proprietor namely, Binay Kumar aged about 40 years, Male, Son of Late Bishundeo Prasad Sah, Resident of Sarvodaya Nagar, Begusarai, Police Station and District- Begusarai.

... .. Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Industry, Government of Bihar, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna- 4.
3. The Secretary, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna-4.
4. The Executive Director, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna- 4.
5. The Area Incharge, Barauni, Bihar Industrial Area Development Authority, Branch Office, Barauni (Regional Offices, Patna).

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ranjan Kumar Singh
For the Respondent/s : Mr.Abhimanyu Pratap, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 13-12-2019

The appellant has prayed for the following relief:

“This Letters Patent Appeal is being filed against the order/judgment dated 15.01.2019 passed in CWJC No. 1135 of 2019 by the learned single Judge by which the writ application has been disposed of in terms and conditions same as noted in the order dated 15.01.2019 passed in CWJC No. 1029 of 2019.”



The impugned order dated 15.01.2019 passed in CWJC No. 1135 of 2019 reads as under:

“In a similar matter after hearing the learned counsel for the parties a detailed order has been passed today in CWJC No. 1029 of 2019.

When this matter is called out, leaned counsel for the parties are unanimous in their approach and they submit that this writ application may also be disposed of in similar terms.

Let this writ application be also disposed of in terms of CWJC No. 1029 of 2019 to the extent the said order is practically applicable in the facts of the present case.

The petitioner shall now deposit the entire dues with interest with BIADA within a period of three weeks from the date of receipt/production of a copy of this order. The petitioner shall also submit an irrevocable bank guarantee of Rupees One Lakh in favour of the BIADA with an affidavit that the petitioner shall start commercial production in the Unit within a period of three months from the date of issuance of the order granting permission and restoration of allotment by BIADA.

The consequences of the failure of the petitioner to abide by the aforesaid terms and conditions will be the same as noted in the order dated 15.01.2019 passed in CWJC No. 1029 of 2019.”

Indisputably, CWJC No. 1029 of 2019, on the basis of which the impugned order was passed, stands modified. In LPA No. 353 of 2008, titled as **Bihar Industrial Area Development**



Authority & Ors. vs. Deepak Paints Pvt. Ltd. & Ors. along with its analogous cases, following directions were issued, which read as under:

“Under these circumstances, we dispose of the appeal by modifying the order passed by the learned single Judge to the following effect:

(A) The orders of cancellation of leases or allotment of the land to the respondents herein shall stand set aside, but they are given six months time from today either to establish the industries, wherever they are not established, or to revive the industries, if they were already established, but have become sick.

(B) If any of the respondents, i.e the writ petitioners, intend to go for diversification, any application in that behalf shall be made within two months from today. The concerned authority shall take decision in one month thereafter. If permission for diversification is granted, reasonable time shall be granted by the concerned authority, for establishment or modification.

(C) In default, i.e., if industry is not established or the closed one is not revived within the stipulated time, it shall be open to the authorities to resume the land for further allotment by inviting applications from the intending entrepreneurs, but not through individual allotments.

Such of the respondents to have either established the industries or have restarted the closed ones during the pendency of these appeals need not take any steps.



If any factors intervene for delayed commencement of production, it shall be open for the entrepreneurs to seek extension of time from the concerned authority.”

Accordingly, the impugned order dated 15.01.2019 passed in CWJC No. 1135 of 2019, titled as **Sarvashree Ashirwad Food Industries vs. The State of Bihar & Ors.**, shall stand modified in the aforesaid terms.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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