

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9554 of 2021

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M/s RSPL Limited A Company registered under Companies Act having its office at 119-121, Block P and T Fazalgunj, Kalpi Road, Kanpur 208012, through its authorized representative- Vinod Kumar Shukla, aged about 57 years S/o Bal Kishan Shukla, R/o 92/12 Juhi Lal Colony, S.O.- Kanpur Nagar, P.O.- Juhi, P.S.- Kidwai Nagar, District- Kanpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industry, Government of Bihar, Patna.
3. Commissioner-cum-Secretary, Department of State Taxes, Government of Bihar, Patna.
4. Director Industries, Department of Industry, Government of Bihar, Patna.
5. The Director (Technical Development), Department of Industry, Government of Bihar.
6. The General Manager District Industries Centre, Hajipur, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Advocate
		Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

- 3 16-12-2021 This writ application has been filed seeking direction to the authorities to pay to the petitioner his entitlements against incentives arising out of implementation of Bihar Industrial Incentive Policy, 2011 to the tune of Rs. 64,66,65,434/- under the heads of exemption in Stamp Duty and Registration Fees, Subsidy on investment in Plants and Machinery, subsidy on



investment on Plant & Machinery purchased for Captive Power Generation/DG set Re-imbursement for VAT/Entry Tax paid and Re-imbursement for GST already paid.

2. Our attention has been drawn to the decision of a Committee headed by the Additional Chief Secretary, Department of Industry, Government of Bihar, in its meeting held on 18.12.2020, whereby the claim of the petitioner for grant of benefit of the incentives under the said policy of 2011, has been rejected on the ground that the investment in respect of the unit in question was not duly approved by the Competent Authority.

3. Mr. Abhishek Kumar, learned counsel appearing on behalf of the petitioner, has relied on a Division Bench decision of this Court dated 29.07.2019 rendered in CWJC No. 12104 of 2018 (*M/s Sunny Stars Hotels Private Limited Vs. The State of Bihar*) and other analogous cases wherein this Court has held as under :-

“The exhaustive discussions that I have made above would lead to the following irresistible conclusions:

(a) The rejection of the case of the petitioners vide letter dated 13.10.2017 impugned at Annexure 19 to CWJC No.12104 of 2018, the order dated



26.06.2018/31.10.2017 impugned at Annexure 15 series to CWJC No.15496 of 2018 and 13.10.2017 impugned at Annexure R/1A to the counter affidavit in CWJC No.2981 of 2019 of the Director, Industries simply because the proposal does not have the approval of the Competent Authority in terms of the resolution dated 16.01.2006, is a whimsical decision, lacking application of mind and bereft of reasons.

(b) In absence of the term 'Competent Authority' defined under the 'Industrial Policy, 2011', the approval granted by the State Investment Promotion Board, accepted by the concerned department in terms of Clause 14 of the 'Industrial Policy, 2011' and acted thereupon, there is no requirement of further approval by any other authority.

(c) In absence of any provision present in the 'Industrial Policy, 2011', to require the eligibility proposal of any unit to be placed before the Chief Minister or the Cabinet, the explanation given by the Industries department at paragraphs 10 to 13 of the counter affidavit filed in CWJC No.12104 of 2018, to justify his illegal act, is de-hors the 'Industrial Policy, 2011'.



(d) In view of the definition of 'Competent Authority' present in the 'Act of 2006 at Annexure P/3 to CWJC No.2981 of 2019 the approval granted by the State Investment Board and acted upon by the concerned department in terms of Clause 14 for extending incentives to 2 of the 3 petitioners under the 'Industrial Policy, 2011', is a valid approval, not open to interference by any other authority on any ground, except eligibility and which is not an issue for the denial of the benefits.

(e) In absence of doubts raised against the petitioners on their eligibility to draw incentives under the 'Industrial Policy, 2011', the orders impugned in the respective writ petitions to deny them the incentives is illegal?

(f) The State having made a promise under the 'Industrial Policy, 2011' to extend the incentive benefits to the budding industrialist, that the petitioners acting on the promise have made investment and fulfilled the criteria for drawing the incentives, the respondent-State cannot deny the incentives on the principles of 'promissory estoppel' as laid down in the judgments relied upon including the one rendered in the case of M/s Suprabhat Steel Ltd. (supra).



For the reasons and discussions above and while quashing the order dated 13.10.2017 impugned at Annexure 19 to CWJC No.12104 of 2018, the order dated 26.06.2018/31.10.2017 impugned at Annexure 15 series and the order dated 13.10.2017 impugned at Annexure R/1A to the counter affidavit in CWJC No.2981 of 2019 in so far as it proceeds to reject the incentives admissible to the petitioners under the 'Industrial Policy, 2011', we hereby direct the State Government in its Industries department and the Commercial Taxes department to ensure that every incentive to which the 3 petitioners are found entitled under the 'Industrial Policy, 2011' shall be accorded to them within a maximum period of 3 months from today without either raising technicalities of approval or on the issue of change in payment procedure as raised by the Commercial Taxes department for in my opinion, the two arms of the State Government have to act within the stipulation present in 'Industrial Policy, 2011' for according benefits to these petitioners and not allow to these petitioners to either run around the corridors of the respective department or to approach this Court again specially



where their admissibility to the incentives is not in question.”

4. He submits that the said Division Bench decision of this Court has not been interfered with by the Supreme Court, which fact is not in dispute.

5. Mr. Vikash Kumar, learned Standing Counsel-11 representing the State of Bihar admits that in view of Division Bench decision in case of ***M/s Sunny Stars Hotels Private Limited*** (supra), the reason recorded in respect of the petitioner for refusing its claim to allow incentives, no more survives. He has submitted that the decision on the petitioner's claim for giving benefit on incentives under the Bihar Industrial Incentive Policy, 2011 shall be taken within three weeks from today.

6. It appears that the petitioner has made a fresh representation before the Principal Secretary, Department of Industry, Government of Bihar, seeking release of reimbursement and subsidies under the aforesaid Bihar Industrial Incentive Policy, 2011.

7. Considering the facts and circumstances of the case, this application is disposed of with a direction to the Additional Chief Secretary, Department of Industry, Government of Bihar to ensure that a final decision is taken on



the petitioner's claim within three weeks from today and
admissible benefits are paid to him within two weeks thereafter.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

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