IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17849 of 2016

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Consam Industries Pvt. Ltd., a Private Limited Company incorporated under the provisions of Companies Act, 1956, having its registered office at Himalaya Agro Chemicals, Raniganj Road, Forbesganj – 854318 through its Director Samar Goel, Son of Shambhu Goel Resident of Forbesganj P.O. Forbesganj, P.S.- Forbesganj, District- Araria.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industry, Vikas Bhavan, Bailey Road, Patna
2. The Director of Industries, Government of Bihar, Vikas Bhavan, Bailey Road, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. D. Sanjay, Sr. Advocate Mr.Alok Kumar, Advocate
For the Respondent/s	:	Mr.Subhash Prasad Singh-GA-3

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

5 03-03-2021 Heard Mr. S. D. Sanjay, learned senior Advocate for the petitioner and Mr. Subhash Prasad Singh, learned GA-3 for the respondents / State.

This writ petition has been filed for a direction to the respondents for granting capital subsidy and other concessions to the petitioner which was promised under the "Integrated Development of Food Processing Sector Scheme and Industrial Incentive Policy, 2011.

There is a further prayer, *viz,* to grant other incentives promised in the Industrial Incentive Policy, 2011 like subsidy on investment on Plant and Machinery purchased for Captive Power Generation, i.e., DG Set, Project Report Incentive, Exemption from Monthly Minimum Charges / Minimum Bases Energy Charges etc.

The learned counsel for the petitioner has submitted that it is a company which has been carrying on business of milling and processing of paddy and rice respectively in the industrial area of the district of Araria.

Based upon the aforesaid promise of grant of subsidy, the petitioner made heavy investments, but because of non grant of assistance / capital subsidy, the petitioner now is not in a position to run the mill.

The learned counsel for the petitioner has submitted that with respect to the company of the petitioner, the State Investment Promotion Board had given its consent for grant of all the benefits under the Industrial Incentive Policy, 2011, but the actual implementation of the same is still hanging fire. The investment of the petitioner to the tune of Rs. 32,86,001.00 towards purchase of DG set also requires a subsidy by the Government under the Industrial Incentive Policy, 2011 to the extent of 50 %.

The petitioner had represented before the Principal Secretary, Department of Industry and had requested for taking of necessary steps for releasing the subsidy as promised under the Scheme but nothing has been done so far.

Because of the such inaction on the part of the respondents, the petitioner is unable to discharge his liability towards the bank and there is every likelihood that the account of the petitioner would be rendered NPA.

Such apathetic approach of the respondents, it has been argued, would only lead to the closure of the company of the petitioner, which apart from causing losses to the company would also be a national loss.

It has also been submitted that the investments have been made only on the assurance doled out in the aforesaid policy.

The learned counsel for the petitioner has further submitted that similar issue has been raised in a batch of cases, the lead case being C.W.J.C. No. 12104 of 2018 (M/s Sunny Stars Hotel Private Limited Versus The State of Bihar and Others), which was disposed off *vide* order dated 29.07.2019.

By the aforesaid order passed by the Division Bench, the State Government in its Industries Department and Commercial Taxes Department have been directed to ensure that every incentive to which the petitioners therein were found entitled under the Industrial Incentive Policy, 2011 be accorded to them within a maximum period of three months from the date of passing of the order without raising the technicalities of approval or on the issue of change in payment procedure as raised by the Commercial Taxes

Department.

This Court has also been intimated that the challenge to the aforesaid judgement before the Supreme Court *vide* SLP (Civil) No. 43744 of 2019 has failed and the review petition against the order of the Supreme Court dated 17.01.2020 has also been dismissed *vide* order dated 14th of July, 2020.

The learned counsel for the petitioner therefore submits that the decision of the Division Bench has attained finality and this writ petition could be disposed off in terms of the judgement delivered in C.W.J.C. No. 12104 of 2018, referred to above.

The writ petition, thus, is disposed off in terms of the order passed in the batch of cases, the lead case being C.W.J.C. No. 12104 of 2018.

The Principal Secretary, Department of Industry shall examine the case of the petitioner in terms of the direction given in the aforesaid Division Bench's judgement as also in terms of Industrial Incentive Policy, 2011 and shall act accordingly.

The decision in that regard shall be taken positively within a period of three months from the date of production/receipt of a copy of this order.

Needless to state that the Principal Secretary, Department of Industry shall examine the entire aspects, including the fact that the case of the petitioner is squarely covered by the judgement delivered by the Division Bench of Patna High Court, which has been referred to in the preceding paragraphs.

The petition stands disposed off accordingly.

(Ashutosh Kumar, J)

skm/-

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