

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2680 of 2019

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M/S Sharma Lime Industries situated at Industrial Area, Jehanabad through its
Proprietor, Birendra Sharma, son of Late Kamta Singh, Resident of Vill.-
Rasulpur, P.O.- Karauna, Distt.-Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary, Industries
Department, Govt. of Bihar, Patna
2. The Managing Director Bihar Industrial Area Development Authority, Ist
Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004
3. The Executive Director Bihar Industrial Area Development Authority, Ist
Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Prakash, Adv
For the Respondent/s : Mr.Kinkar Kumar (SC9)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

1.That this is an application praying for issuance of a writ of certiorari or any other appropriate writ, order or directions, quashing the impugned order bearing memo no.5108/L,dated 09.10.2018 ,issued under signature of the Executive Director(H.O),Bihar Industrial Area Development Authority, respondent no.3,whereby and wherein, the respondent no.3,cancelled the allotment of Industrial plot by alleging non-compliance of the undertaking given by the petitioner before Honble Patna High court in CWJC No.19433 of 2012,on the alleged grounds that neither the petitioner settled the arrears of the land, nor the petitioner started any industrial activity, upon the industrial plot as per his undertaking, and hence vide impugned letter dated 09.10.2018,the respondent no.3,directed to resume the possession of lease hold land and also directed for fortify the amount deposited by the petitioner.

b).Further, it is prayed for issuance of direction commanding the respondents in BIADA in particular respondent no.3 to restore the possession of the land to the petitioner and also settle the dues, after giving the petitioner, statement of account of which basis of irrational amount i.e Rs 5,45,560.00 only is demanded by the respondent no.3.

Pursuant to our previous order, petitioner has given an

undertaking by way of filing a supplementary affidavit.

Relevant paragraphs whereof are reproduced as under:-

3. That the present writ petition is filed by writ petitioner praying for quashing of the impugned order bearing memo no.5108/L Dated 09.10.2018, issued under signature of Executive Director (H.O), Bihar Industrial Area Development Authorities no.3, whereby allotment of Industrial plot is cancelled for alleged non-compliance of the undertaking given by petitioner in CWJC No.19433 of 2012, on the grounds of non-settlement of dues and for not starting any industrial activity. Hence vide letter dated 09.10.2018 directed to resume the possession of lease hold land and also to fortify the amount deposited by petitioner.

4. That the petitioner challenged the impugned order in the writ petitioner on the ground that on basis of wrong entry in BIADA'S own record, BIADA demanded dues, with interest, for the allotted land on basis of 15000 sqft. when the allotted land was only 10000 sqft, as admitted vide Annexure-13 Series, Dated 09.01.2019 to the Supplementary Affidavit, wherein the respondents in BIADA admitted that 10000 sqft land is allotted to the petitioner, and vide Annexure-13 Series A & B a fresh calculation chart is provided by BIADA, wherein Instalment with interest accrued upto September 2018 for 10000 sqft land, is supplied to the petitioner on

09.01.2019, hence, the petitioner's allotment, which was cancelled on 09.10.2018 itself, on basis of admitted wrong records, hence the interest accrued is not fit to be charged by BIADA.

5. That it is relevant to mention here that in compliance of order passed by this Hon'ble High court in CWJC No.19433 of 2012 dated 19.01.2016, the petitioner conducted trial run twice, however not became successful as Lime is presently out-dated product and no skilled work force is available, this fact is evident from the Inspection report dated 26.03.2018 issued by the Regional officer, Industrial Area, Jehanabad i.e Annexure-12 to the Supplementary Affidavit, , which confirmed the petitioner's intension to initiate industrial activity on industrial plot, however petitioner's request for change of nature of industry was not considered by BIADA.

6. That I have gone through the order dated 18/19.05.2022, passed in CWJC No.6883 of 2020, Umesh Service Station vs The State of Bihar & analogous matters which includes CWJC no.2680 of 2019 also, passed by a Division bench of Hon'ble Patna High court, presiding over by Honourable the Chief Justice sitting with

Hon'ble Mr. Justice Satyavrat Verma and fully understand the same.

7. That in compliance of the order dated 18/19.05.2022, passed by Division bench of Hon'ble Patna High court presiding over by Honourable the Chief Justice sitting with Hon'ble Mr. Justice Satyavrat Verma, I am hereby swearing the Affidavit, whereby I am giving my UNDERTAKING before this Hon'ble Patna High court in the instant writ petition.

8. That the petitioner hereby submit undertaking for kind consideration of this Hon'ble High court that-

a). That the petitioner will conduct trial run of their closed unit within 3 months from date of getting approval for change of nature of Industry from the approved list of BIADA, and will ensure commercial production up to 50% within six months thereafter and ensure commercial production minimum upto 75% within one year from date of approval.

b). That the petitioner undertakes to pay all legal dues as per direction of this Hon'ble Court and since the impugned cancellation order is issued by BIADA on 09.10.2018, hence

petitioner is entitled for recall of cancellation of the order of cancellation of allotment dated 09.10.2018.

c). That the petitioner will comply all applicable Labour law.

d). That if there is change of user from one category to another permissible category, as per list of BIADA, and if the BIADA will allow the same property, with certain permissible riders, and grant immediate approval, for the same.

d). That the petitioner undertakes to apply immediately with all relevant prescribed papers and fee before BIADA for change of nature of Industry for immediate approval by BIADA

9. That the petitioner hereby submits above undertaking declaring hereby that the petitioner shall abide by the conditions as directed by this Hon'ble High court and if the petitioner failed to do so, it will amount to contempt of this Hon'ble High court.

10. That in case the petitioner violated undertaking given in compliance of Hon'ble High court's order dated 18/19.05.2022, then BIADA would be immediately entitled /eligible to take over possession of the land/unit.

Learned counsel for the BIADA states that petition can be disposed of in terms of the undertaking so furnished.

The undertaking is accepted and taken on record.

Consequence of breach thereof, including initiation of proceedings for contempt having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

As such, petition is disposed of in the following terms:-

(a) Undertaking of the petitioner dated 02.06.2022 (reproduced supra) is accepted and taken on record.

(b) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;

(c) In the event of default of the undertaking, petitioner shall hand over vacant and peaceful possession of the allotted property to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court.

(e) Order dated 09.10.2018 passed by respondent no. 3 namely the Executive Director, BIADA, is hereby quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application (s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA