

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1675 of 2019

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M/s Balaji Rice Mill Industrial Growth Center, Maranga, District- Purnea, and being represented through its Proprietor Gurudev Prasad Gupta Male- 63 years S/O Late Ganesh Lal Sah, Resident of Ward No.1, Rajendra Nagar, Madhubani, Police Station- K. Hat, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna
3. The Development Officer, Regional Office, Purnea
4. The Area In-Charge, Industrial Growth Center, Marange, Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Shekhar, Adv Mr. Sanjeev Kumar, Adv
For the State	:	Mr. Rajiv Kumar Sinha AC to AAG-7
For BIADA	:	Mr. Kumar Abhimanyu Pratap, Adv

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

Date : 19-09-2022

Heard learned counsel for the parties.

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

“(i) For issuance of appropriate writ/writs, direction/directions in the nature of Certiorari for setting aside the order dated 13.12.2018 passed by the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No. 12 of 2015 communicated vide letter no. 5778 dated 17.12.2018 whereby and where under the Appeal preferred against the order of cancellation of allotment of additional land of 20,000/- sq.ft. in the name of petitioner dated 07.01.2015 passed by Managing Director, Bihar Industrial Area Development Authority (herein after called as BIADA) has been dismissed on perverse finding and contrary to material available on record with a direction to the Managing Director to take the possession of land in question with immediate effect and in



consequence thereof to set-aside the order cancellation of allotment dated 30.12.2014 passed by Managing Director, BIADA without jurisdiction and communicated vide order contained in memo no. 25/D dated 07.01.2015 issued under the signature of Executive Director.

(ii) For any other relief/reliefs which the Hon'ble Court may grant in general interest that may be deemed appropriate and necessary in this case and further to stay the impugned order of cancellation during pendency of the present writ application.”

On 22.08.2022, we had passed the following order:-

“Learned counsel for BIADA states that as on date no 3rd party right stands created.

Statement accepted and taken on record.

As agreed, petitioner will file an undertaking to this Court to the effect that (a) within 60 days, petitioner will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA; (b) within six months, petitioner shall make the Unit fully operational and functional in terms of the product sanctioned and allowed to be manufactured as per the original terms of allotment; (c) petitioner shall clear all the dues payable to BIADA as on date; (d) petitioner shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees; (e) in the event of failure on the part of the petitioner to comply with the undertaking, petitioner shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when petitioner shall lose all rights therein and (f) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

Petitioner is ready and willing to furnish such an undertaking within next seven working days, failing which the petition shall stand dismissed for default.

Copy of the undertaking be supplied to learned counsel for the respondents.

However, BIADA has to recall the orders passed cancelling the allotment of the premises.

Let BIADA take a call on the offer made by the petitioner.

We are sure that the respondent BIADA would



take a decision in the affirmative, which, in our considered view, would be in public interest as also in the interest of the State to generate economic growth as also provide employment to the people.

List on 31.08.2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.”

Petitioner has filed an undertaking being part of supplementary affidavit dated 09.06.2022 in the following terms:

5. That the petitioner is ready to abide by the following conditions :-
 - (a) Petitioner is ready to do trial run of his Unit within three months and would ensure commercial production up to 30% within six months thereafter and ensure commercial production minimum upto 75% within one year from the date of the order;
 - (b) Petitioner is ready to pay the outstanding dues, if any, in terms of the direction of this Hon'ble Court;
 - (c) Petitioner is ready to comply with all Labour Laws;
 - (d) If there would be any change of user from one category to another permissible category, as per list of BIADA, the petitioner will approach the BIADA and the officers of BIADA shall allow the same property, with permissible riders;
 - (e) If, however, the activity falls outside the permissible category, petitioner will approach BIADA for a meaningful dialogue and decision.
6. That in compliance of the aforesaid order dated 18.05.2022/19.05.2022, the petitioner has filed his undertaking before the BIADA vide letter dated 09.06.2022.

In view of the aforesaid, petitioner's undertaking is



accepted and taken on record.

BIADA has no objection to the order being passed, as is so being passed in similarly situated cases to augment the industrial growth within the State of Bihar.

Petitioner's undertaking that he would revive the unit within six months and make it fully operational and functional, is accepted and taken on record.

Consequence of breach thereof stands explained through the learned counsel.

This Court would not hesitate to not only initiate proceedings of contempt for violating such an undertaking, but also direct the BIADA to take over the possession of the property for allotment to a third party in accordance with law.

Present petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

