

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19001 of 2016

1. M/s Champaran Timber and Allied Product and Ors S/o Shri Ridh Karan Somani resident of Mohalla - Lal Bazar, P.O. P.S. - Bettiah, District - West Champaran.
2. Raj Kumar Somani S/o Shri Ridh Karan Somani resident of Mohalla - Lal Bazar, P.O. P.S. - Bettiah, District - West Champaran.
3. Ranjeet Kumar S/o Shri Ratnesh Prasad resident of Mohalla - Hari Vatika Chowk, P.O. P.S. - Bettiah, District - West Champaran.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Patna represented through its Managing Director, the Bihar Industrial Area Development Authority, Patna.
2. The Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
3. The Dy. Secretary, Department of Industries, Govt. of Bihar, Patna.
4. The Managing Director, the Bihar Industrial Area Development Authority, Patna.
5. The Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur through its Director,
6. The Director, the Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur.
7. The Officiating Director, the Bihar Industrial Area Development Authority, Regional Office, Muzaffa
8. The Area Officer, the Bihar Industrial Area Development Authority, Regional Office, Bettiah, West C
9. The State of Bihar through the Principal Secretary, Deptt. of Industries, Govt. of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shri Prakash Srivastava, Advocate
For the Respondent/s : Mr.Abbas Haider- S.C. 6

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-09-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

- I. To issue a writ in the nature of certiorari for quashing of the order dated 21.10.2016 (Annexure - 18) passed by the Respondent No. 2 in connection with Appeal No. 01 of 2016 communicated through the Respondent No. 3 by virtue of the letter dated 02.11.2016 bearing letter No. 5001, by which the Respondent No. 2 rejected the appeal of the petitioners by observing

“उभयपक्षों द्वारा लिखित अभिकथन एवं तर्कों से यह स्पष्ट है कि इकाई को बेतिया औद्योगिक क्षेत्र में वर्ष 1984 में काष्ठ उपस्कर उद्योग स्थापना हेतु कुल 1.345 एकड़ भूमि आवंटित किया गया था। इकाई द्वारा उद्योग स्थापना के लिए कभी कोई ठोस एवं सार्थक प्रयास नहीं किया गया है। वर्तमान में इकाई बन्द है और मूल लीजधारी बेतिया छोड़ अन्यत्र चले गए हैं। अपीलकर्ता को इकाई में साझादारी की स्वीकृति भी बियाड़ा द्वारा नहीं दी गई है। ऐसी स्थिति में भूखण्ड का आवंटन-सह-लीज डीड रह करते हुए इकाई द्वारा जगा राशि को जप्त कर स्वतः तत्काल प्रभार ग्रहण करने का बियाड़ा का आदेश सही है।”

- II. To issue a writ in the nature of certiorari for quashing of the order dated 14.12.2011 bearing Memo No. 2439 (Annexure - 12) issued under the signature of the Respondent No. 6, by which the Respondent No. 6 asked show cause from the petitioner No. 1 by observing that the Unit remain closed for pretty long period.
- III. To issue a writ in the nature of certiorari for quashing of the office order dated 22.09.2014 bearing Memo No. 1960 (Annexure - 13) issued under the signature of

the Respondent No. 6, by which the allotment of land-cum-lease deed was cancelled.

IV. To issue a writ in the nature of mandamus commanding the Respondents No. 4 to 6 to not interfere with the functional unit namely **M/S CHAMPARAN TIMBER & ALLIED PRODUCTS** situated within the Industrial Area, Betiah.

V. To issue a writ in the nature of mandamus commanding the Respondents No. 4 to 6 to not interfere with the functional unit namely **M/S CHAMPARAN TIMBER & ALLIED PRODUCTS** situated within the Industrial Area, Betiah, as the unit (a) thorough functional, (b) the petitioners regularly paying/depositing the entire required taxes, (c) the unit of the petitioners is running without any hindrance & (e) the petitioners use to pay sales tax, income tax and all other permissible taxes to the Govt., but the Respondent Authorities, in thorough

targeted manner adamant to disrupt and disturb the thorough functional unit of the petitioners.

- VI.** To declare the present action of the Respondents No. 4 to 6 is/are thorough against the dream concept of industrialization of the State Govt., but the correct facts remain uncontroverted that entire mechanism of the BIADA are within the garb of red tapism of the bureaucrats. That apart, the action of the Respondents No. 4 to 6 is/are nothing but a glaring example of benevolent depotism.
- VII.** To stay the operational effect of the order dated 21.10.2016 passed by the Respondent No. 2 in connection with Appeal No. 01 of 2016 (Annexure - 18) communicated through the Respondent No. 3 by virtue of the letter dated 02.11.2016 bearing letter No. 5001 and the office order dated 22.09.2014 bearing Memo No. 1960 (Annexure - 13) issued under the signature of the Respondent No. 6 till the disposal of instant writ application.
- VIII.** Any other relief or reliefs in view of the provisions of Section 6 (2) of the BIADA Act, 1974.

Pursuant to our previous order, petitioners have given an undertaking by way of filing a supplementary affidavit.

Relevant paragraphs whereof are reproduced as under:-

“3. That the petitioner make statement and furnishes undertaking in accordance with the order dated 22.08.2022 passed in the instant writ petition, as follows:-

(a) That the petitioner unit shall start commercial production unit, within 60 days, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which he shall hand over Vacant and peaceful possession of the premises to BIADA,

b) That the petitioner shall make the unit fully operational and functional within 6 months in terms of the production sanction and allowed to be manufactured as per the terms of allotment,

(c) That the petitioner unit has already paid the dues amount earlier, however, if any legal dues is communicated to him he shall make payment of the same, as on date.

(d) That the petitioner shall make compliant with all statutory requirements including that of the compliance to all applicable labor laws.

(e) That it is stated that if the petitioner fails to comply with aforesaid undertaking, he shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when the petitioner shall loose all rights therein,

(f) That the petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the court.”

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

31.08.2022 (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 21.10.2016 passed by respondent no. 2 namely, The Principal Secretary, Department of Industries, Govt. of Bihar, Patna and order dated 22.09.2014 passed by respondent no. 6 namely, The Director, The Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur, are 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)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	