

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2797 of 2022

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M/s ACE Infra and Security Pvt. Ltd. a company registered under Companies Act having its office at Ranjan Path, R.P.S. More, West Bailey Road, Danapur, District - Patna, through its authorized representative - Anirudh Priya, aged about 42 years (Male), Son of Ashok Kumar Gupta, Resident of Ranjan Path, Opposite R.P.S. More, Danapur, District - Patna.

... .. 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, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Brisketu Sharan Pandey, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP 7)

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

Date : 10-03-2022

Petitioner has prayed for the following relief(s):

“i. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to implement the Bihar Industrial Incentive Policy, 2011 (hereinafter refer to as ‘Policy’) and thereby pay the reimbursement and



subsidy amount as per the entitlement of the petitioner under the head of Capital Subsidy of Plant and Machinery, under the head of Subsidy on investment in Plants and Machinery, Reimbursement for Registration and Stamp Duty of Land, Reimbursement against Exemption from Monthly Minimum Charges/Minimum Base Energy/Demand/Billing Demand.

ii. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to bring on record order(s) or letter(s) through which the claims of the petitioner for Subsidy on investment in Plants and Machinery, Reimbursement for Registration and Stamp Duty of Land, Reimbursement against Exemption from Monthly Minimum Charges/Minimum Base Energy/Demand/Billing Demand.

iii. For issuing a writ of certiorari or any other appropriate writ for quashing the letter dated 23.11.2017 wherein the Petitioner's claim for subsidy/reimbursement was denied by the Respondents on the ground that the petitioner's proposal does not have approval from the Competent Authority and the same was not reconsidered ignoring the fact that the law has been settled in this regard by the Hon'ble Division Bench of this High Court (and has been confirmed by Hon'ble Supreme Court) that there is no need of any further approval when the proposal has been given



approval by the State Industrial Promotion Board (SIPB).

iv. For issuing appropriate writ declaring that the payments to the Petitioner as per entitlement for post-production incentives such as Reimbursement for GST paid, VAT paid/Electricity Duty paid, from Monthly Minimum Charges/ Minimum Base Energy/ Demand/ Billing Demand paid cannot be kept pending or denied and has to be timely paid to Petitioner.

v. For holding that Respondents erred in not releasing the subsidy/reimbursement on the ground that the proposal of the 'Competent Authority' given the fact that the proposal already has approval from SIPB (State Investment Promotion Board) and the law has been settled in this regard by the Hon'ble Division Bench of this High Court and has been confirmed by the Hon'ble Supreme Court that once the proposal has been approved by the SIPB, no other approval is required.

vi. For holding that the Respondents cannot withhold/discontinue to subsidize and/or reimbursement the entitlements accorded to the Petitioner under the Bihar Industrial Incentive Policy, 2011.

vii. For holding that once the proposal of the investment has been accepted and petitioner is declared entitled under the Policy then the Respondents cannot interfere



with the disbursal of the reimbursement/subsidy amount to the Petitioner.

viii. For holding that the Respondents erred by not releasing full Reimbursements and subsidies amount given the fact that they hold no authority to refuse/stop/interfere, once proposal of investment has been accepted by the State Investment Promotion Board (SIPB).

ix. For holding that it is the duty of the respondents to timely release the payments for reimbursement under the head of VAT/GST every time the petitioner submits an application for the same and the petitioner need not go through the unnecessary technicalities and procedures again.

x. For holding that the Respondents cannot make the petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.

xi. For any reliefs, direction/directions for which the petitioner is entitled may be given.”

Shri Brishketu Sharan Pandey, learned counsel for the petitioner, states that certain amount in terms of the Bihar Industrial Incentive Policy, 2011 already stands paid to the petitioner. As such, petitioner shall be content if the petition is disposed of with liberty granted to the petitioner to approach



the authority concerned by filing a representation within a period of four weeks, with a direction to the authority concerned to consider and decide the same within a period of four weeks from the date of its presentation.

Prayer allowed.

Without expressing any opinion on merits of the claim, petition is disposed of with the liberty aforesaid. All issues on facts and law are left open.

Needless to say that while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

If aggrieved by the said order, the petitioner shall have liberty to approach this Court by way of separate petition(s), if so required and desired.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

The petition stands disposed of in the aforesaid



terms.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-DKS

AFR/NAFR	
CAV DATE	
Uploading Date	11.03.2022
Transmission Date	

