

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3975 of 2019

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M/S Pipoplast Pvt. Ltd. B-10 and B-11, Bela, Industrial Estate, Muzaffarpur Bihar through its Proprieter Praveen Chandra Kishore, aged about -Years, residing at-c/o Sri N.K.P, C.T Marg, Gannipur, Muzaffarpur, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Dept. of industry, Vikas Bhawan, Bailey Road, Patna, Bihar
2. The Bihar industrial Area Development Authority (BIADA) through its Secretary, Udhog Bhawan, Gandhi Maidan, Patna
3. The Managing Director, BIADA, Udhog Bhawan, Gandhi Maidan, Patna Bihar
4. The Executive Director, BIADA, Regional Office, Muzaffarpur Bihar
5. The Development Officer, Regional Office, Muzaffarpur Bihar
6. The Area In Charge, Industrial Area, Muzaffarpur Bihar
7. The Bihar State Finance Corporation (B.S.F.C), through its Branch Manager, B.F.S.C Sahay Compound, Naya Tola, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Devashish, Advocate Mr. Anirudh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Piyush Lall, Advocate Mr. Shailendra Kumar Singh, Advocate Mr. Kumar Abhimanyu Pratap, Advocate Mr. Raj Nandan Prasad, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-08-2022

Heard learned counsel for the parties.

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



1. That the petitioner beseeches indulgence of this Hon'ble court to issue a writ in nature of certiorari quashing the dt. 03.12.2018 passed by the Office of the Principal Secretary, Department of Industry communicated vide Letter No. 5491, dt. 04.12.2018 so far as it imposes a penalty of Rs. 50, 000/- and seeks a bank guarantee of Rs. 8.00 lakhs from petitioner in most mechanical and arbitrary manner ignoring the fact that petitioner's unit is in running status and it has been in production since long and the petitioner further seeks writ or writs in the nature of mandamus directing the concerned respondent authorities not to disturb the running of business and ongoing production of the petitioner unit in view of the fact that livelihood of many people including petitioner and workers dependent thereon shall be affected and the action of the authorities is completely in violation of Article 14, 19 and 21 of the Constitution of India.

Pursuant to our order dated 18.05.2022, petitioner has filed an undertaking on affidavit in the following terms:

(a) That the petitioner unit is already running since its establishment, with little interruption, and continuously since year 2007 with production of plastic, PVC pipes etc. The unit is already in commercial production with 100% capacity. The petitioner has been making this assertion continuously and the respondent Authority has also admitted it which shall be candid from pleadings.



(b) That so far as cancellation of allotment is concerned, this unit was cancelled in year 2007, however, it was not communicated till year 2010 and for the first time, it was informed by the Assistant Development Officer BIADA during inspection that the unit's land stood cancelled three years back and thereupon he was given a copy of the cancellation order, on demand, through Letter dt. 27.12.2010 and on receiving aforesaid letter dt. 27.12.2010, petitioner submitted an application before the Principal Secretary, Dept. of Industries, Govt. of Bihar on dt. 05.01.2011 praying therein to condone delay and to accept the appeal against cancellation order in the given circumstances, however, the appellant did not receive any communication to this appeal.

The petitioner had already deposited all the dues of BIADA on dt. 31.07.2007.

The petitioner was asked to stop production through letter dt. 03.03.2016 by BIADA and the petitioner was obliged to approach the Hon'ble High Court through CWJC No. 9041 of 2016 with a prayer to set aside the Letter dt. 03.03.2016 of DO, BIADA and

further for setting aside the cancellation order dt. 27.08.2007 apart from setting aside order of MD dt. 20.08.2007 and he also prayed for direction not to disturb running business and ongoing production of the appellant unit.

The Hon'ble High Court was pleased to dispose the CWJC No. 9041 of 2016 vide order dt. 23.08.2016 directing to deposit appeal fee and thereupon the Appellate Authority to ensure that the same was heard and disposed.

The petitioner filed an Appeal Case No. 49/2016, raising all the grounds and informing facts, which appeared to be based on assumptions, it was finally decided vide order dt. 03.12.2018 with conditions as enumerated at last part of the order.

The appellate court passed order with some conditions which were not in consideration of facts of the case and thus, this instant writ petition was filed with regard to condition no. (ii) and (iii) of the order dt. 03.12.2018 passed in Appeal Case No. 49/2016.



(c) The petitioner complies with the labor laws and shall ever do.
(d) That there is no change of user of land and if any, in future, petitioner shall approach BIADA.
(e) That the petitioner shall abide by the condition or conditions as given by the Hon'ble Court in order dt. 18.05.2022 and shall comply the rules and regulations.

(f) That the petitioner is always ready and willing to fulfill its obligation towards the payment of dues and the settlement amount paid by BIADA to BSFC and for which the petitioner has shown his inclination to make payment earlier also, but BIADA is bent upon stopping a running unit rather than resolving the issue.
4. That it is stated that the petitioner makes aforesaid averments and undertaking and which he shall comply.
5. That it is stated that I have read the contents of this affidavit /undertaking and the same are true to best of my knowledge and understanding.

Learned counsel for the petitioner further adds that the petitioner shall pay the amount paid by BIADA to BSFC. This he shall do within three months from today.

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 09.06.2022



(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 within a period of two weeks;

(d) Liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court.

(e) Order dated 03.12.2018 passed by the office of the Principal Secretary, Department of Industry, communicated vide Letter No. 5491 dated 4.12.2018 so far as it imposes a penalty of Rs. 50,000/- and seeks a bank guarantee of Rs. 8 lacs from the petitioner is quashed and set aside.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Satyavrat Verma, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2022
Transmission Date	

