

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3026 of 2022

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Poddar Consolidated Limited, A company incorporated under the Companies Act having its office at Baijnath Bhawan, Kabaiya Road, Naya Bazar, Lakhisarai - 811311 through its Director Umapati Poddar, aged about 69 years (Male), son of Late Baijnath Poddar, resident of Kabaiya Road, Baijnath Bhawan, Ward no. 25, Naya Bazar, P.S. Kabaiya, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar, Through the Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. The Principal Secreary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna - 800015.
3. The State Investment Promotion Board, Through its Chairman - cum-Principal Secretary, Department of Industries, Government of Bihar, Bihar.
4. The Director, Technical Development, Department of Industries Bihar, Patna.
5. The General Manager, District Industries Centre, Lakhisarai.
6. The Commissioner, Commercial Taxes Department, Bihar, Patna.
7. The Deputy Commissioner, Commercial Taxes Department, Bihar Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Avinash Shekhar, Advocate
For the Respondent/s : Mr.Kinkar Kumar (SC 9)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 20-04-2022 Petitioner has prayed for following relief(s) : -

“i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing of memo no.3152 dated 13.10.2017 (Annexure 12), issued by the Respondent Director of Industries, insofar as the claim of petitioner for grant of capital subsidy under the Bihar Industrial Incentive Policy, 2011 has been rejected at Sl no. 80, on the grounds that the same is completely arbitrary,



unreasonable and contrary to the Bihar Industrial Incentive Policy, 2011.

ii) To issue an appropriate writ, order or direction in the nature of mandamus commanding the respondents to sanction and disburse capital subsidy, DG Set Subsidy and VAT and ENTRY Tax reimbursement for which the petitioner is entitled to, in view of the promise made by the State Government under the Bihar Industrial Incentive Policy, 2011.

iii) This Hon'ble Court may adjudicate and hold that the petitioner is entitled to receive capital subsidy, DG Set subsidy and VAT /ENTRY Tax reimbursement and in accordance with Bihar Industrial Incentive Policy, 2011.

iv) This Hon'ble Court may adjudicate and hold that Bihar Industrial Incentive Policy, 2011, having been issued by the State Government after approval by the cabinet, cannot be diluted by any of the Departments of the State, to deny any incentive promised therein.

v) This Hon'ble Court may adjudicate and hold that apart from the approval granted by the State Investment Promotion Board there is no requirement of any further approval from any other authority, considering the fact that the term 'Competent Authority' has not been defined under the Industrial Policy, 2011', and the approval granted by the State Investment Promotion Board has been accepted.

vi) This Hon'ble Court may adjudicate and hold that rejection of the claim of the petitioner for grant of capital subsidy, DG Set Subsidy is hit by the principle of promissory estoppel and legitimate expectation.

vii) This Hon'ble Court may award the cost of litigation on account of the illegal and arbitrary actions of the Respondent Authorities.

viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”

It is brought to our notice that the decision rendered by a co-ordinate Bench of this Court in CWJC No.12104 of 2018, titled as M/s Sunny Stars Hotels Private Limited Vs. The



State of Bihar & Ors., has attained finality, inasmuch as, the Special Leave Petition preferred by the State stands dismissed by Hon'ble the Apex Court vide order dated 17.01.2020, passed in SLP(Civil) No. 43744 of 2021.

Parties agree that the petition can be disposed of.

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/chn

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