

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3060 of 2022

=====

M/s J.G Foundry Ltd. a company registered under Companies Act having its office at Gandhi Setu Link Road, P.S.- Agamkuan, District- Patna through its Authorized representative- Girja Shankar Prasad, aged about 63 years (Male), Son of Chunnilal Kasera, Resident of Mohalla- Velvarganj, P.O.- Gulzarbagh, P.S.- Alamganj, 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

=====

Appearance :

For the Petitioner/s : Mr.Brisketu Sharan Pandey, Advocate
For the Respondent/s : Mr.Vikash Kumar, SC-11

=====

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 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 VAT/SGST paid.



ii. For issuing appropriate writ declaring that the payments to the Petitioner as per entitlement for post-production incentives as provided for in the Policy cannot be kept pending or denied and has to be timely paid to Petitioner.

iii. For issuing a writ of certiorari or any other appropriate writ for quashing the letter dated 13.10.2017 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 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.



v. 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.

vi. 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.

vii. 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).

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

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

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

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/DKS

U			
---	--	--	--

