

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3451 of 2022

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Bihar Maa Durga Agro Industries Pvt. Ltd. a Registered Company Having its Registrtd Office at 102, Maha Saraswati Tower, Ranjan Path, Abhiyanta Nagar, Baily Road, Patna-Bihar 801503 through its Authorised representariven namely Rajan Kumar Ray Male aged about 50 Years Son of Jay Kumar Ray resident of 102, Maha Saraswati Tower, Ranjan Path, Abhiyanta Nagger, Baily Road, Patna-Bihar 801503.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary Department of Industries, Vikas Bhawan, Bailey Road, Patna.
2. The Additional Chief Secretary, Department of Industries, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Department of Industries, Patna Bihar.
4. The Director (Technical Development), Departmetn of Incustries, Patna Bihar,
5. The General Manager, District Industries Centre, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate
For the Respondent/s : Mr.Kinkar Kumar (S.C. 9)

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

Date : 27-04-2022

Heard learned counsel for the parties.

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

- I. For holding and a declaration that the petitioner's case is squarely covered by the judgement of this honourable court dated 29.07.2019 passed by a division bench in the matter of Sunny Stars Hotels Private Limited Versus The State Of Bihar And Others which has been affirmed by the honourable Supreme Court in the order dated 17.01.2020 passed in SLP (Civil) Diary Number 43744 for of 2019 the prayer for review against which has also been rejected by the honourable Supreme Court vide order dated 14.07.2020 passed in Review Petition (C) Diary Number 1250 for of 2020 and 12495 of 2020;
- II. For issuance of a writ in the nature of certiorari for quashing of the letter bearing memo number 3152/Patna dated 13.10.2017 whereby the case of the petitioner for grant of benefits under the industrial incentive policy

2006/2011 has been rejected for want of approval of the competent authority and no other reason which is in teeth of the aforesaid judgement how of this honourable court in the matter of Sunny Stars Hotels Private Limited Versus The State Of Bihar And Others;

- III. For holding and a declaration that the respondents were obliged in law to extend the same benefit and treatment to the case of the petitioner for being para materia to that of the case of petitioner's in the matter of Sunny Stars Hotels Private Limited Versus The State Of Bihar And Others in light of the law settled by the honourable apex court in the matter of State of UP Vs Arvind Srivastava reported in 2015 - 1 - SCC - 347 (Pr - 22.2 and 22.3) and also in the matter of Reema Kumari And Others Versus The State Of Bihar And Others reported in 2011- 2 - PLJR - 267 (Pr - 11);
- IV. For that the respondents are also bound by clause 1.5 and clause 4.C (1) of the Bihar State litigation policy 2011 and accordingly obliged to recall the impugned letter bearing memo number 3152/Patna dated 13.10.2017 issued by the respondent Director, Industries, Bihar Patna;
- V. For issuance of a writ order or direction upon the respondent Department of Industries and its authorities to release all the benefits including reimbursement of the tax paid by the petitioner under Bihar value added tax act 2005 in accordance with the Bihar Industrial Incentive Policy 2011 to which the petitioner is entitled;
- VI. For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of the case;

It is brought to our notice that the decision rendered by a coordinate 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.

Mr. Gautam Kumar Kejriwal, learned counsel for the petitioner, states that certain amount 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. It is brought to our notice that the decision rendered by a coordinate 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.

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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 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 stand disposed of.

Needless to say that while considering such request, principles of natural justice shall be followed and due 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 stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	