

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4536 of 2020

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M/S Sree Masala Udyog Industrial Area, Purnea through its Proprietor
Kundan Kumar Gupta, Son of Sri Kalika Nand Gupta, C/o Amar Deep
Dresses, 131/KH, Bhatta Bazar, P.S. Purnea,.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industry,
Vikash Bhawan, Bailey Road, Bihar, Patna.
2. Bihar Industrial Area Development Authority through its Managing Director,
Udyog Bhawan, Gandhi Maidan, Patna.
3. The Managing Director, BIADA, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, BIADA, Regional Office, Bhagalpur.
5. The Development Officer, Regional Office, Bhagalpur.
6. Area In Charge, Industrial Area, Purnea City, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anish Kumar, Adv
For the Respondent/s : Mr.Subash Prasad Singh (GA3)

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

Date : 21-07-2022

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
- (a) for issuance of writ/writs in the nature of certiorari quashing Letter contained in Memo No. 463/D, dated 01.07.2016 cancelling the allotment of petitioner unit on the ground that no industrial activity was seen at the land;
 - (b) for setting aside the order dt. 17.12.2018 passed in Appeal Case No. 43 of 2016 by learned Appellate Authority, the Principal Secretary, Department of Industries, Govt. of Bihar so communicated by Letter No. 5795, dt. 17.12.2018 whereby he has been pleased to restore the plot with various conditions mentioned therein, i.e., to clear the dues of BIADA, to furnish bank guarantee of Rs. 3.00 lakhs for a period of two years and if he did not approach within 15 days with such condition to BIADA, it shall be free to take possession of land as per its extant policies and that the conditions imposed are not supported by any statutory provision or the terms and conditions of allotment;
 - (c) for setting aside the order as contained in Memo No. 102/D, dt. 21.02.2019 passed by the Executive Director, Regional Office, Bhagalpur resuming the allotted land of petitioner on the ground that he did not comply the conditions of order dt. 17.12.2018 passed in Appeal Case No. 43 of 2016;
 - (d) For issuance of writ in the nature of mandamus commanding the respondents not to disturb physical possession of the land, i.e., Shed No. C- 7, area – 2970 sq. ft. at Industrial Area Purnea City and to allow him to run his industry in order to gain livelihood;
 - (e) For any other relief or reliefs to which the Hon'ble Court finds petitioner to be entitled in facts and circumstances of the case.

Pursuant to our previous order, petitioner has given an undertaking by way of filing a supplementary affidavit. Relevant paragraphs whereof are reproduced as under:-

“Supplementary Affidavit on behalf of the Petitioner

I Shri Kundan Kumar Gupta, male, S/o. Sri Kalika Nand Gupta, R/o- C/o Amar Deep Dresses, ward 131/KH, Bhatta Bazar P.O + P.S- Purnia. Purnia, Bihar- 854301, do hereby solemnly affirms and state as follows:

1. That I am authorized proprietor of M/s. Shree Masala Udyog and as such I am well acquainted to the facts and circumstances of the case.

2. That in pursuance of the order dated 19.05.2022 passed by this Hon'ble High Court in C.W.J.C. No. 4536 of 2020, I am filing this undertaking as follows:-

i. That, I, hereby undertake to do trial run of the said unit within three months from today, ensure commercial production upto 50% within six months thereafter and ensure commercial production minimum upto 75% within one year.

ii. That also undertakes that on receipt of dues amount payable by me to the BIADA, I will pay the same to the BIADA as on date.

iii. That I further undertake that in the event of my said unit not being made operational and functional by me within one year, I will hand over and the vacant and peaceful possession to BIADA.

iv. That I further undertakes that in the event of default I shall be liable for being prosecuted for having committed contempt of this Hon'ble Court.

3. That the contents of this supplementary affidavit have been read and explained over to me in Hindi which I have fully understood the same.”

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 28.06.2022 (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, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court.

(e) Order dated 17.12.2018 passed in Appeal Case No. 43 of 2016 by Appellate Authority, namely Principal Secretary, Department of Industries, Govt. of Bihar and order dated 21.02.2019 passed by respondent no. 4 namely, Executive Director, BIADA, Regional Office, Bhagalpur, are hereby quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application (s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA