

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4590 of 2022

=====

M/s. Vishwanath Industries, Plot No. 11, Industrial Estate, Katihar, District-Katihar (Bihar) through its proprietor Subhash Kumar Tambakuwala, aged about 54 years, S/o Late Bishwanath Tambakuwala, Resident of Mohalla-Manga Bazar, P.O. and P.S.-Powerhouse Road, Binodpur, Katihar, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. The Secretary, Department of Industries, Government of Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA), through the Managing Director, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. District Magistrate, Katihar, District Collectorate, Katihar.
6. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Bhagalpur.
7. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Regional Office, Barari, Bhagalpur.
8. The Area Incharge, Industrial Estate-Katihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan, Advocate
For the Respondent/s : Mr. Subhash Prasad Singh (GA 3)

=====

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 following reliefs:-

- i. To issue an appropriate writ, order or direction in the nature of *certiorari* for quashing the order dated 01.07.2020 passed in Appeal Case No. 22 of 2019 by the Respondent No. 2 (Secretary, Department of Industries) whereby and where under the statutory appeal filed by the petitioner has been arbitrarily dismissed and the order of Respondent No. 5 Executive Director purportedly under the order of respondent no. 4 Managing Director, BIADA has been affirmed and also to quash Memo No. 176 dated 14.03.2019 issued by the respondent Executive Director, Regional Office, Bhagalpur purportedly under the order of respondent Managing Director, BIADA whereby and whereunder the allotment of Plot No. 11 having an area of 10890 square feet in Industrial Estate, Katihar made in favour of the petitioner have been cancelled and that the same is completely illegal, arbitrary in nature and sans jurisdiction being de hors to the provisions of BIADA Act, 1974.
- ii. To issue an appropriate writ in the nature of mandamus commanding the respondents to refrain from taking possession of Plot No. – 11 having an area of 10890 Sq. ft. in Industrial Estate, Katihar allotted to the Petitioner.

- iii. The Hon'ble Court may further adjudicate and hold that the impugned order contained in Memo No. 176 dated 14.03.2019 is in gross violation of BIADA Act, 1974 in terms of which the petitioner ought to have been given an opportunity of 30 days to put up his case before cancellation of the allotment.
- iv. This Hon'ble Court may further adjudicate and hold that the Petitioner cannot be dispossessed from the land allotment to him on the basis of the order dated 01.07.2020 passed in Appeal Case No. 22 of 2019 issued by the respondent Secretary, Department of Industries and impugned order contained in Memo No. 176 dated 14.03.2019 issued by the Respondent Executive Director.
- v. For a direction or issuance of appropriate writ in the nature of Mandamus commanding the respondents to allow and consider the case of the petitioner for diversification of proposal and restoration of allotment in terms of order dated 18.03.2015 passed in LPA No. 353 of 2008 BIADA vs Deepak Paints and analogous cases, order dated 04.03.2020 in L.P.A No. 257/2019, Sarvashree Anand Engineering, Maranga vs The State of Bihar and Others, order dated 25.02.2019 passed in C.W.J.C No. 19363/2018, Ram Prakash Shyam Kumar vs

The State of Bihar and Others, Order dated 24.06.2019 passed in C.W.J.C. No. 9047/2017, Radhe Forging vs. The State of Bihar and Ors. and Order dated 13.04.2018 passed in C.W.J.C. No. 7803/2014, Kanti Kumar vs. The State of Bihar and Ors. and to further move on with the project in the industrial interest of the state of Bihar.

- vi. For issuance of appropriate writ in the nature of mandamus commanding the respondents to treat the petitioner equitably with the similarly situated other allottee whose appeal has been allowed and opportunity for diversification has been given by Respondent No. 2.
- vii. The Hon'ble Court may award the cost of litigation and suitable compensation to the petitioner for the loss and damages on the account of the illegal and arbitrary actions of the respondent BIADA.
- viii. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.

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

I Shri Subhash Kumar Tambakuwala, male, aged about 54years, S/o. Late Bishwanath Tambakuwala, R/o.-Mohalla Mangal Bazar, P.O + P.S- Powerhouse Road, Binodpur, Katihar, Bihar- 854105, do hereby solemnly affirms and state as follows:-

1. That I am authorized proprietor of M/s. Vishwanath Industries 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. 4590 of 2022, 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.

Learned counsel for 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 24.06.2022 (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, petitioners shall hand over vacant and peaceful possession of the allotted property to BIADA;

(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 01.07.2020 passed by respondent no.2, namely, The Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No.22 of 2019 (Annexure 9) and the order dated 14.03.2019 passed by respondent no.6, namely, The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Bhagalpur, (Annexure 8) Patna are quashed and set aside;

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

Sanjay/-Ranjan

(S. Kumar, J)

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