

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4738 of 2022

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M/S Siddhi Vinayak Industries, at New Industrial Estate, Bela Darbhanga, District Darbhanga, through its Proprietor Namely Ashok Kumar Pansari Male, Aged about 67 Years, Son of Late Dulichand Pansari, Resident of Marwari High School Road, Mashraf Bazar, Lalbagh, P.S. Darbhanga. District-Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
3. The Bihar Industrial Area Development Authority, through iuts Managing Director, 1st Floor, Udyog Bhavan, East Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhavan, East Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Bela, District Darbhanga.
6. The Development Officer, Bihar Industrial Area Development Authority, Regional Office, Bela, District Darbhanga.
7. The Assistant Development Officer, Bihar Industrial Area Development Authority, Regional Office, Bela, District Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Advocate
		Mr.Mohit Agarwal, Advocate
For the Respondent/s	:	Mr.Subash Prasad Singh (GA3)
For BIADA		Mr. Devesh Shankaran, Advocate

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

Date : 01-09-2022

Petitioner has prayed for the following relief(s):

“i) For Quashing of the impugned
order dated 14.02.2022 passed in Appeal No. 29



of 2019 issued vide Memo No. 756 dated 28.02.2022 under the signature of Respondent No. 2 whereby the impugned order dated 11.04.2019 issued vide Memo No. 430 dated 25.04.2019 was held to be effective after 31.03.2022 if the petitioner fails to comply with the BIADA Amnesty Policy, 2021;

ii) For quashing of the impugned order dated 11.04.2019 issued under the signature of the Respondent No. 5 issued vide Memo NO. 430 dated 24.04.2019 whereby the Plot allotted to the petitioner firm was cancelled for alleged non-functioning of the unit of the petitioner firm;

iii) For quashing of the Letter No. 960 dated 23.10.2018 issued by the Respondent No. 7 whereby the application dated 04.09.2018 for additional activity of Packaging and Foods Storage Products Manufacturing Unit along with existing unit of Pulses Mills was rejected on the pretext that the petitioner firm is a partnership firm which is contrary to the record as the petitioner firm is a sole proprietorship firm;

iv) For holding that in the facts of the present case the petitioner firm could not have been forced to abide by the terms of the BIADA Amnesty Police, 2021 as the petitioner firm running a Pulse Milling Unit which is a reasonal unit could not have been termed as a closed unit;

v) For holding that the petitioner firm being a Pulses Mills Unit cannot be expected to be in production through out the year as the



functioning of the unit is completely dependent upon the cultivation of pulses which is seasonal in nature and therefore the petitioner unit cannot be said to be non-functional;

vi) For holding that the application dated 04.09.2018 for permission to start additional activity of Packaging and Food Storage Products Manufacturing Unit to make the existing unit functional through out the year ought to have been allowed by the Respondents which has been arbitrarily denied vide impugned Letter No. 960 dated 23.10.2018 on the pretext alleging the petitioner firm to be a partnership firm;

vii) For holding that the petitioner firm is a proprietorship firm and not a partnership firm which is evident from the lease deed for land dated 06.01.1997 issued by the Respondents; For any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case.”

Pursuant to our previous order dated 24.08.2022, petitioner has now filed an affidavit furnishing its undertaking in the following terms:

“(i) That the petitioner shall make the existing unit of pulse mill (seasonal) along with additional unit of manufacturing sleeping mattress and pillow fully operational and functional within 06 months of the date of approval of the Respondent BIADA for establishing additional unit of manufacturing sleeping mattress and



pillow along with continuation of operation of existing unit of pulse mill.

(ii) That the petitioner shall clear all dues, if any, as on date to the Respondent BIADA.

(iii) That the petitioner shall comply with all the statutory requirements including the ones protecting the interest of employees.

(iv) That the petitioner undertakes that in the event of failure on the part of the petitioner to comply with the present undertaking, the petitioner shall handover the vacant and peaceful possession of the plot in question to the Respondent BIADA with liberty for further allotment to any third party.

(v) That the petitioner undertakes that the petitioner shall be liable for initiation of proceedings for contempt for having violated the present undertaking furnished to 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 24.08.2022 (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;

(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 14.02.2022 passed by respondent no.2, namely the Additional Chief Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No.29 of 2019 (Annexure-6) and the order dated 11.04.2019 (Annexure-5) passed by respondent no.5, namely the Executive Director, BIADA, Regional Office, Darbhanga, are 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)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	05.09.2022
Transmission Date	

