

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8491 of 2021

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M/s Balaji Food and Beverages, having its office at Jethuli Fatwah, Patna 803201, through its Proprietor-Aman Kasera, Male, aged about 30 years, S/o Pramod Kumar Kasera, R/o Kalisthan Dasmesh Colony, Patna City Chowk, Patna City, P.O. Jhaugang, P.S. Chowk Thana, District Patna.

... .. Petitioner

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.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar
For the Respondent/s : Mr. Lalit Kishore (Ag)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 03-01-2022 Heard learned counsel for the parties.

The 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 pay the total outstanding amount of Rs. 44.25902 lacs to the petitioner under the head of VAT Reimbursement and subsidy for Plants and Machinery under Bihar Industrial Incentive Policy-2011.

(ii) For issuing a writ of mandamus or any other appropriate writ directing the respondents to produce letter(s) order(s) through which the payment to the petitioner under the head of VAT Reimbursement and subsidy for Plants and Machinery has been withheld/ discontinued.

(iii) For issuing a writ of certiorari or any other appropriate writ for quashing letter(s) order(s) through which the Reimbursement amount to the petitioner was withheld/discontinued.

(iv) For holding that respondents cannot withhold/discontinue to subsidize and/or reimbursement the entitlements accorded to the petitioner under the Bihar Industrial Policy, 2011.

(v) 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.

(vi) For holding that the respondents erred by not releasing full reimbursement and subsidy amount given the fact that they hold no authority to withheld it once proposal of investment has been accepted by the State Investment Promotion Board (SIPB).

(vii) For holding that the 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.

(viii) For holding that the respondents cannot

make the petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.

It is brought to our notice that the decision rendered by a coordinate Bench of this Court in CWJC No. 12104 of 2018, titled M/s Sunny Stars Hotels Private Limited 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.

Shri Abhishek Kumar, 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.

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 stand disposed of.

(Sanjay Karol, CJ)

(Sanjeev Prakash Sharma, J)

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