IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5410 of 2022

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M/s Saha and Bright Polytech Private Limited, having its office at Khirodhpur, Khusrupur, Patna, Bihar 803202, through its authorized representative - Manish Kumar (male) aged about 41 S/o Binay Kumar, R/o Bharatpur Simli, Malsalami, Patna City, Nagla, Patna, Bihar 800008.

... ... Petitioner/s

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, Commercial Tax Department 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. Managing Director, Bihar Industrial Area Development Authority, Patna.
7. The General Manager, District Industries Centre, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate Mr. Madan Kumar, Advocate Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, AAG-7
For Respondent no.6	:	Mr. Devesh Shankaran, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-05-2022

Heard learned counsel for the parties.

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 implement the Bihar Industrial Incentive Policy, 2011 and thereby pay the entitlement of the Petitioner, as per the terms of the policy, to the petitioner under the head of Incentives on Electricity Duty Re-imbursement for GST paid and Re-imbursement for VAT/Entry Tax paid.

ii. For issuing appropriate writ declaring that the payments to the Petitioner as per entitlement for post-production incentives such as Reimbursement for VAT/Entry Tax/GST paid cannot be kept pending or denied and has to be timely paid to Petitioner.

iii. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to bring on record order(s) or letter(s) through which the claims of the petitioner for Incentives on Electricity Duty, Re-imbursement for GST paid and Re-imbursement for VAT/Entry Tax paid, under Bihar Industrial Incentive Policy-2011 have been denied.

iv. For issuing a writ of certiorari or any other appropriate writ quashing such order(s) or letter(s) through which the claims of the petitioner for Subsidy for Plants and Machinery, Incentives on Electricity Duty and Re-imbursement for VAT/Entry Tax paid. under Bihar Industrial Incentive Policy-2011 have been denied.

v. For holding that 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 and the law has been settled in this regard by the Hon'ble Division bench of this High Court and has been confirmed by Hon'ble Supreme Court that once the proposal has been approved by the SIPB, no other approval is required.

vi. For holding that the Respondents cannot withhold/discontinue to subsidize and/or reimbursement the entitlements accorded to the Petitioner under the Bihar Industrial Incentive Policy, 2011 especially when the petitioner's proposal have been accepted and some amount have already been paid under the head of Capital Subsidy for D G Set, some amount of VAT reimbursement and AMG, MMG.

vii. 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.

viii. For holding that the Respondents erred by not releasing full Reimbursements and subsides amount given the fact that they hold no authority to refuse/stop/interfere, once proposal of investment has been accepted by the State Investment Promotion Board (SIPB).

ix. For holding that it is the duty of the Respondents to timely release the payments for reimbursement under the head of VAT/Entry Tax/GST every time the petitioner submits an application for the same and the petitioner need not go through the unnecessary technicalities and procedures again.

x. For holding that the Respondents cannot make the Petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.

xi. For any reliefs, direction/directions for which the petitioner is entitled may be given.

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 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.

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 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/direction aforesaid. All issues on facts and law are left open.

Needless to add, 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)

(Satyavrat Verma, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	20.05.2022
Transmission Date	