

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9074 of 2019

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Sarvashree Raj Food Products Industrial Area Donar, Darbhanga, through its Proprietor widow Subhadra Devi, aged about 69 Female years, wife of Late Dharam Lal Bhandari, resident of Mohalla Shivaji Nagar, (Near Dr. Ravi Prakash House), Ward No. 19, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Chairman Bihar Industrial Area Development Authority Department of Industries, Government of Bihar, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
3. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Darbhanga.
4. The Area In Charge Regional Office, Donar, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ram Bali Jha, Advocate
For the Respondent/s	:	Mr.Subash Prasad Singh (GA3)
		Mr. Indeshwar Pd. Mandal, AC to GA3
For the BIADA	:	Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-08-2022

Petitioner has prayed for the following relief(s):

“A) A writ of certiorari against the order dated 27.10.2018 in part passed by the Principal Secretary, Department of Industries passed in Appeal No. 30/2016 as well as order dated 01.01.2019 passed by the Managing Director Respondent No. 1 by which order the appellant authority has directed the petitioner;

i) Firstly, the Appellant should clear the



pending dues, if any, of BIADA with interest.

ii) The appellant is also levied a penalty of Rs.50,000/- which she should deposit immediately in BIADA's office for continuing to operate the unit even when BIADA had cancelled her plot and her own appeal was pending before the undersigned.

iii) Thereafter, the Appellant should submit Bank Guarantee of Rs. 1 Lakh for a period of two years along with an Affidavit to BIADA that the appellant will start the business within 3 months from the date of this order and shall remain in continuous operations; and should she stop her operations or violate any other condition of the allotment Letter/BiADA Act/ BIADA Rules, the above Bank Guarantee shall be encashed by BIADA.

(iv) Once the above steps are completed and the appellant submits the Bank Guarantee along with an Affidavit to BIADA, the MD shall restore the allotment to the appellant.

v) If the appellant does not approach BIADA and fulfils condition no. i and ii above within 15 days from the date of this order, BIADA shall be free to take the possession of this land and re-allot it to any other entrepreneur as per its extent polities.

Without considering the case of the petitioner without going to the merit of the case, which is illegal arbitrary unconstitutional which should be encashed out right in part.

B) A writ of Mandamus directing the respondent to restore the allotment to the petitioner without imposing any penalty order passed by the Respondent and permit the petitioner to continue his



production without any interference or without any delay or without any condition imposing as the authority has demanded Bank Guarantee of Rs. 1 Lakh for a period of two years from this petitioner.

C) A writ or Mandamus directing the respondent to do not harass the petitioner in any way.

D) A writ of Mandamus directing the respondents to pay the cost of litigation as also for mental torture and agony or to pay the compensation also direct them to adjustment for loss or Rs.50,000/- (Rs. Fifty Thousand) may be released to the petitioner which has been deposited by her as penalty.

E) Any other relief or reliefs for which the petitioner is entitled too.”

Pursuant to order dated 18.08.2022, petitioner has filed the following undertaking:

“(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.”

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.

Learned counsel for the BIADA states that the undertaking is in order.

Statement accepted and taken on record.

Learned counsel for BIADA states that petition can be disposed of in terms of the undertaking so furnished.

As such, petition is disposed of in the following terms:-

(a) Undertaking of the petitioner dated 18.05.2022 (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 27.10.2018 passed by respondent no.1, namely the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No.30 of 2016 (Annexure-15) and the order dated 20.04.2016 passed by respondent no.3 namely the Executive Director, Bihar Industrial Area Development Authority, 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	31.08.2022
Transmission Date	

