

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6186 of 2022

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M/s Ishwari Polymers through its Proprietor namely Bipin Kumar, S/o Sh. Ram Vilash Sah, R/o Mohalla-Balughat, District-Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Department of Industries, Vikash Bhawan, Bailey Road, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Vikash Bhawan, Bailey Road, Govt. of Bihar, Patna.
3. The Bihar Industrial Area Development Authority through its Managing Director, Udyog Bhawan, East of Gandhi Maidan, Patna.
4. The Executive Director (HQ), BIADA, Patna.
5. The Executive Director, Regional Office, BIADA, Muzaffarpur.
6. The Area In Charge, Industrial Area, BIADA, Raxaul, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prakash Chandra, Advocate
For the Respondent/s : Mr. Subhash Pd. Singh, GA-3

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-11-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“ IV. For that an appropriate writ or writs in the nature of certiorari may be issued for setting aside the order dated 23.07.2021 passed by the office of the Additional Chief Secretary, Department of Industry, Bihar, whereby the Appeal No. 52/2020 filed by petitioner for setting aside the cancellation order of the Executive Director, BIADA, Regional office, Muzaffarpur contained in Memo



No. 494, dated 02.06.2020 has been dismissed without considering the facts that the order of cancellation was issued devoid of material facts and without proper opportunity and compliance of statutory provisions where the last notice was given to petitioner on 08.08.2019 while the cancellation order was passed on 02.06.2020 and the 30 days' notice before the cancellation has not been complied and that facts were not considered properly and that the petitioner is having experience in running the plastic industry, and has infrastructure as well as the required raw materials and he can establish industry if he is allowed 06 months' time.

V. For that appropriate writ or writs in the nature of certiorari may be issued for setting the cancellation order of the Executive Director, BIADA, Regional office, Muzaffarpur contained in Memo No. 494, dated 02.06.2020 whereby the allotment of the open land admeasuring 3904 sq ft. has been cancelled without proper consideration of facts and also without providing proper opportunity to defend the allegation that it was non-functional

VI. For that an appropriate direction or directions may be issued to the concerned respondents to restore the allotment of the land so given by the letter No. 1227, dated 06.08.2010 on a lease of 90 years at the Industrial Area, Bela, Muzaffarpur

VII. For that any other relief or reliefs may be granted to the petitioner as Your Lordship may deem fit and proper in the facts and circumstances



of this case.”

On 20.06.2022, we had passed the following
order:-

“ Petitioner will file an undertaking to the effect that he will commence commercial production in the unit within 60 days should the respondents hand over the possession to the petitioner. Also, petitioner undertakes to clear the entire dues.

Let such an undertaking be filed.

List on 25.07.2022.”

Petitioner has filed an undertaking being part of
supplementary affidavit dated 22.07.2022 in the following
terms:

“3.(a) That the petitioner unit will make all endeavor to make trial run of the unit within a period of 2 months, however, he prays that he may be allowed to do this unit within 3 months from date of restoration of allotment and shall come into commercial production within six months.

(b) That the petitioner unit has already made payment of dues under OTS scheme, however, if any legal due still remains and it is communicated, after consideration of petitioner's averment of payment, the same shall be complied by the deponent.

(c) That the petitioner will comply with all applicable labor laws.



(d) That there is no change of user of land and if any, in future, petitioner shall approach BIADA.

(e) That the petitioner shall abide by the condition or conditions as given by the Hon'ble Court in order dt. 18.05.2022 so passed in batch case of CWJC No. 6883/2020 and others, and shall comply the rules and regulations.

(f) That the petitioner makes prayer to allow him the time limit as in the aforesaid case.”

In view of the aforesaid, petitioner's undertaking is accepted and taken on record.

BIADA has no objection to the order being passed, as is so being passed in similarly situated cases to augment the industrial growth within the State of Bihar.

Petitioner's undertaking that he would revive the unit within six months and make it fully operational and functional, is accepted and taken on record.

Consequence of breach thereof stands explained through the learned counsel.

This Court would not hesitate to not only initiate proceedings of contempt for violating such an undertaking, but also direct the BIADA to take over the possession of the property for allotment to a third party in accordance with law.



Present petition stands disposed of in the
aforesaid terms.

Interlocutory application, if any, stands disposed
of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.11.2022
Transmission Date	

