IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9932 of 2021

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Jai Ambe Concrete Industries having its office at Islampur, Kowawana, Nalanda, Bihar, through its authorized representative- Ravi Ranjan (Male), aged about 34 years S/o Narendra Kumar, R/o G-71, PC Colony, Near R N Singh Nursing Home, Kankarbagh, Sampatchak, PO- Lohia Nagar, P.S.- Kankarbagh, 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, Nalanda.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr.Abhishek Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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 implement the Bihar Industrial Incentive Policy, 2011 and thereby pay the entitlement of the petitioner, i.e. total outstanding amount of Rs. 56.83 lacs (Rs. 56,83,952.80) to the petitioner under the head of subsidy towards investment in Plants and Machinery and Reimbursement 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 GST paid cannot be kept pending or denied and has to be timely paid to the 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 subsidy for plants and machinery, Reimbursement for VAT paid, reimbursement for GST paid and 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, Reimbursement for VAT paid, Reimbursement of GST paid and 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' give the fact that the proposal already has approved 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 that entitlements accorded to the petitioner under the Bihar Industrial Policy, 2011.

(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 reimbursement and subsidies 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/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.*

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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