

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7850 of 2019

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M/s Durga Glass Industries a Proprietorship Firm, having its place of business at Industrial Area, Hajipur Vaishali, P.O. Hajipur, District Vaishali, through its Proprietor, Jitendra Kumar Sinha Male aged 43 years, male son of Nathuni Singh, resident of Bramhasthan, Habibnagar, P.O.-Habibnagar, District-Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Vikas Bhawan, Patna
2. The Principal Secretary Department of Industries, Government of Bihar, Vikas Bhawan, Patna
3. Bihar Industrial Area Development Authority Udyog Bhawan, East Gandhi Maidan, Patna, through its Managing Director
4. The Managing Director Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna,
5. The Executive Officer Bihar Industrial Area Development Authority, Patna,
6. The Regional Incharge Hajipur Industrial Area, Bihar Industrial Area Development Authority, Hajipur, District Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, Advocate
For the BIADA	:	Ms. Binita Singh, Advocate
	:	Mr. Pankaj Kumar Sinha, Advocate
	:	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 : 24-08-2022

Heard learned counsel for the parties.

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

“(i) For issuance of a Writ in the nature of Certiorari for quashing of the order dated 12.12.2018 passed by the respondent no. 2 in Appeal Case No. 16 of 2016, whereby and whereunder certain conditions have been imposed contrary to



the statutory provisions, as also the terms of allotment, while interfering with the order of cancellation dated 23.02.2016 passed by the respondent no. 4 and communicated to the petitioner by the respondent no. 5.

(ii) For a declaration that invocation of Section 6(2-a) of the Bihar Industrial Area Development Authority Act is wholly misconceived in the present set of facts, so far as cancellation of plot is concerned.

(iii) For a direction to the respondent authorities not to take any coercive step against the petitioner in pursuance of the order dated 12.12.2018 passed by the respondent no. 2, till final adjudication of the present writ application; and for any other relief(s) for which the petitioner may be found entitled to in the facts and circumstances of the present case”.

On 17.08.2022, we had passed the following order:-

“Learned counsel for BIADA states that as on date no 3rd party rights stand created.

Learned counsel for the petitioner states that petitioner is ready and willing to furnish an undertaking to this Court to the effect that (a) within six months, petitioner shall make the Unit fully operational and functional, for the category for which the land stood allotted; (b) also comply with all statutory provisions, including labour laws; (c) petitioner shall clear all the dues payable to BIADA as on date; (d) petitioner shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees; (e) in the event of failure on the part of the petitioner to comply with the undertaking, petitioner shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when petitioner shall loose all rights therein and (f) also, petitioner shall be liable for initiation of proceedings for contempt for having violated



the undertaking furnished to the Court.

However, BIADA has to recall the orders passed cancelling the allotment of the premises.

Let BIADA take a call on the offer made by the petitioner.

We are sure that the respondent BIADA would take a decision in the affirmative, which, in our considered view, would be in public interest as also in the interest of the State to generate economic growth as also provide employment to the people.

List on 22.08.2022 to enable the petitioner to file an undertaking.

If the undertaking is not furnished within the said period, the petition shall be deemed to be dismissed in default.”

Pursuant to our order dated 17.08.2022, petitioner has filed an undertaking on affidavit in the following terms:-

2ND SUPPLEMENTARY AFFIDAVIT ON BEHALF OF THE PETITIONER

I, Jitendra Kumar Singh, Gender - Male, aged about 46 years, Son of Nathuni Singh, Resident of Bramhasathan, Habibnagar, P.O. Habibnagar, District Siwan, do hereby solemnly affirm and state as follows:-

1. That I am the proprietor of the petitioner firm in the present writ application and as such well acquainted with the facts and circumstances of the case and competent to swear this affidavit on behalf of the petitioner.
2. That the present writ application has been filed for issuance of an appropriate writ, order or direction in the nature of certiorari for quashing the order dated 12.12.2018 passed by the respondent No. 2 in Appeal



Case No. 16 of 2016 whereby and where under certain conditions have been imposed contrary to the statutory provisions, as also the terms of the allotment, while interfering with the order of cancellation dated 23.02.2016 passed by the Respondent No. 4.

3. That the present affidavit is being filed in light of the order dated 17.08.2022 passed by this Hon'ble Court.

4. That the petitioner undertakes as follows:-

a) Within a period of six months, the Petitioner shall make the unit fully operational and functional.

b) The petitioner undertakes to comply with all statutory provisions including labour laws.

c) The Petitioner shall clear all the dues payable to BIADA as on date.

d) The petitioner shall make itself compliant with all the statutory requirements including the ones protecting interest of the employees.

e) The event of failure on the part of the petitioner to comply with this undertaking the petitioner shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party when petitioner shall lose all rights therein.

f) Petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished.

5. That the contents of the present affidavit have been explained to me in hindi which are true and correct to the best of my knowledge and belief.

6. That the annexures if any are the true/photo copies of their respective originals.



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

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.

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

(a). Undertaking of the petitioner dated 20.08.2022 (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 within a period of two weeks;

(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 12.12.2018 passed by respondent no.2, namely the Principal Secretary, Department of Industries,



Government of Bihar, Vikas Bhawan, Patna in Appeal Case No.16 of 2016 (Annexure-7/A) and the order dated 23.02.2016 passed by respondent no.4 namely the Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna (Annexure-6) and communicated by respondent no.5 namely The Executive Officer, Bihar Industrial Area Development Authority, Patna are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Satyavrat Verma, J)

Rishi/P.K.P.-

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2022
Transmission Date	

