

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10159 of 2021**

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M/s Lumbini Beverages Private Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its office at H-2, E.P.I.P., Industrial Area, Hajipur, District- Vaishali, through its Director, Manoj Khilani, aged about 57 years (Male), Son of Shri Lakshmi Khilani, resident of P-214, C.I.T. Scheme, VI-M, P.s.- Phulbagan, Kolkata, West Bengal-700054

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna
2. The Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, vikas Bhawan, Bailey Road, Patna-800015
3. The State Investment Promotion Board, through its Chairman-cum-Principal Secretary, Department of Industries, Government of Bihar, Patna
4. The Director, Technical Development , Department of Industries, Bihar, Patna
5. The Executive Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Suraj Samdarshi  
For the Respondent/s : Mr.Lalit Kishore ( AG )

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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.

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

“(i) To issue an appropriate writ, order or direction in the nature of Certiorari for quashing of merno no, 519 dated 28.3.2018 (Annexure-4), issued by the respondent no. 4, in so far as the claim of petitioner for grant of capital subsidy under the Bihar Industrial Policy, 2011 has been

rejected, on the ground that the additional Investment made by the petitioner, in its existing Unit-I is not approved by the competent authority.

ii) To issue an appropriate writ, order or direction in the nature of Mandamus commanding the respondents to sanction and disburse capital subsidy for which the petitioner is entitled to, in view of the promise made by the State Government under the Bihar Industrial Incentive Policy, 2011.

iii) This Hon'ble Court may adjudicate and hold that the petitioner is entitled to receive capital subsidy in accordance with Bihar Industrial Incentive Policy, 2011.

iv) This Hon'ble Court may adjudicate and hold that Bihar Industrial Incentive Policy, 2011, having been issued by the State Government after approval by the Cabinet, cannot be diluted by any of the departments of the State, to deny any incentive promised therein.

v) This Hon'ble Court may adjudicate and hold that apart from the approval granted by the State Investment Promotion Board there is no requirement of any further approval from any other authority, considering the fact that the term 'Competent Authority' has not been defined under the 'Industrial Policy, 2011', and the approval granted by the State Investment Promotion Board has been accepted.

vi) This Hon'ble Court may adjudicate and hold that rejection of the claim of the petitioner for

grant of capital subsidy is hit by the principle of promissory estoppel and legitimate expectation.

vii) This Hon'ble Court may award the cost of litigation on account of the illegal and arbitrary actions of the Respondent Authorities.

viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”

It is brought to our notice that the decision rendered by a coordinate Bench of this Court in CWJC No. 12104 of 2018, titled as M/s Sunny Star 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 on the following terms:-

Shri Suraj Samdarshi, 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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