

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6875 of 2022

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M/s Bihar Trade Towers Projects Pvt. Ltd. (erstwhile Uttam Pipes Pvt. Ltd.) a Company Registered under the Companies Act, 2013 having its office at 46, Patliputra Colony, Patna- 800013 through its authorized representative- Anand Kumar, aged about 37 years (Male), Son of Jai Nandan Prasad, Resident of Shiv Ji Mandir, Gandhi Mela Path, Tundi Road, P.S.- Govindpur, District- Dhanbad, Jharkhand.

... .. Petitioner/s

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 Bihar Industrial Area Development Authority, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Advocate Mr. Madan Kumar, Advocate Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, G.P.-7 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 : 18-05-2022

Heard learned counsel for the parties.

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



- a. For issuing a writ of certiorari or any other appropriate writ for quashing the letter dated 13.10.2017 wherein the Petitioner's claim for subsidy/reimbursement was denied by the Respondents on the ground that the petitioner's proposal does not have approval from the Competent Authority and the same was not reconsidered ignoring the fact that 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 there is no need of any further approval when the proposal has been given approval by the State Industrial Promotion Board (SIPB).
- b. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to implement the Bihar Industrial Incentive Policy, 2011 (hereinafter refer to as 'Policy') and thereby pay the reimbursement and subsidy amount as per the entitlement of the petitioner under the head of Capital Subsidy of Plant and Machinery , DG Set, Subsidy on investment on land allotted in the Industrial Area, reimbursement of ET/VAT/GST paid.
- c. For issuing appropriate writ declaring that the payments to the Petitioner as per entitlement for post-production incentives as provided for in the Policy cannot be kept pending or denied and has to be timely paid to Petitioner.
- d. For issuing a writ of mandamus directing the respondents to bring on record letter(s)/order(s) whereby and whereunder the claim of the petitioner for subsidy reimbursement under the Bihar Industrial Incentive Policy 2011 was stopped/denied.



- e. For issuing a writ of certiorari quashing the letter/orders so brought on record whereby and whereunder the claim of the petitioner for subsidy reimbursement under the Bihar Industrial Incentive Policy 2011 was stopped/denied.
- f. For holding that the Respondents cannot withhold/discontinue to subsidize and/or reimbursement the entitlements accorded to the Petitioner under the Bihar Industrial Incentive Policy, 2011.
- g. For holding that it is a mandate on the respondent to accord the subsidies and reimbursement to the petitioner in a timely manner without raising any unnecessary technical objection as mandated by Bihar Single Window Clearance Act, 2006 and also the subsequent replacing acts.
- h. 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.
- i. For holding that the Respondents erred by not releasing full Reimbursements 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).
- j. For holding that the Respondents cannot make the Petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.
- k. For any reliefs, direction/directions for which the petitioner is entitled may be given.



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 Vs. The State of Bihar & Ors.** 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.

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 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/direction aforesaid. All issues on facts and law are left open.

Needless to add, 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)

(Satyavrat Verma, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	20.05.2022
Transmission Date	

