

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20983 of 2014

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1. M/s Durga Chemical Industries, Son of Late Shashi Nath Thakur, Permanent Resident of Village P.O.-Sajhuar, P.S.-Bahera, District-Darbhangha.
 2. Shailendra Kr. Thakur proprietor M/s Durga Chemical Industrial, Permanent Resident of Village P.O.-Sajhuar, P.S.-Bahera, District-Darbhangha.

... .. Petitioner/s

Versus

1. Bihar Industrial Area Development Authority
2. The Managing Director, Bihar Industrial Area Development Authority, Patna.
3. The Working Director, BIADA, Darbhanga.
4. The Chief Administrative Officer, BIADA, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gaurav Govind, Advocate
For the Respondent/s	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Girish Nandan Abhishek, Advocate
		Mr. Ankur Apurv Singh, Advocate
		Mr. Vinay Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-08-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following

relief(s):-

“(i) For issuance of a writ the nature of
Certiorari quashing the letter dated 17.09.14 issued



under the signature of the Working Director, BIADA.

(ii) For issuance of a writ in the nature of mandamus commanding the respondents to co-operate with the petitioner so that he can run his unit smoothly.

(iii) For issuance of any other writ/writ/writs, order/orders to which the petitioner may be found entitled to.”,

On 22.08.2022, we had passed the following order:-

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

Statement accepted and taken on record.

As agreed, petitioner will file an undertaking to this Court to the effect that (a) within 60 days, petitioner will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA; (b) within six months, petitioner shall make the Unit fully operational and functional in terms of the product sanctioned and allowed to be manufactured as per the original terms of allotment; (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 lose all rights therein and (f) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

Petitioner is ready and willing to furnish such an undertaking within next seven working days, failing which the petition shall stand dismissed for default.

Copy of the undertaking be supplied to learned counsel for the respondents.

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 31.08.2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.”

Petitioners have filed an undertaking being part of supplementary affidavit dated 30.08.2022 in the following terms:

3. That the petitioner undertakes that within 60 days he will start commercial production in the unit,



should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA, (b) within six months, the petitioner shall make the unit fully operational and functional in terms of the production sanctioned and allowed to be manufactured as per the original terms of allotment, (c) the 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 the 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) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Hon'ble Court.

In view of the aforesaid, petitioners' 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.

Petitioners' undertaking that they 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)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	01.09.2022
Transmission Date	

