

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.969 of 2018

1. M/s Mithila Coal Industries Pvt. Ltd. a company incorporated under the Indian Companies Act, 1956, having its factory at Bela Industrial Area, Bela, Muzaffarpur, through one of its Director Sri Rabindra Singh, son of Late D. Singh, resident of JF-15, Arya Kumar Road, Rajendra Nagar, Patna-16.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Govt of Bihar, Patna.
3. The Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna through its Managing Director.
4. The Managing Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Raj Kishore Prasad, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha -AAG 7 Mr. Kumar Priya Ranjan, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-12-2022

Petitioner has prayed for following relief (s) : -

“i) To issue an appropriate writ(s)/order(s)/ direction(s) in the nature of writ of Certiorari for quashing the order dated 24.06.2016 passed by the respondent Principal Secretary in Appeal No. 43 of 2014 (as contained in Annexure-9), whereby and whereunder the order passed by the respondent no.5



vide his Memo No. 1955 dated 22.09.2014 has been affirmed and the appeal preferred by the petitioner against the said order dated 22.09.2014 has been rejected.

ii) To issue an appropriate writ(s)/order(s)/ direction(s) in the nature of writ of Certiorari for quashing the order passed by the respondent Executive Director vide his Memo No. 1955 dated 22.09.2014 (as contained in Annexure-8), by which he has cancelled the allotment land-cum-lease deed of the petitioner and has also forfeited the entire amount deposited by the petitioner towards the value/rent of the land allotted to the petitioner.

iii) To issue an appropriate writ(s)/order(s)/ direction(s) in the nature of Mandamus directing the respondents not to disturb the business of the petitioner as the petitioner has invested a huge amount in the establishment of its factory and further to direct the respondents not to take any coercive steps against the petitioner for non-payment of the dues amount as the petitioner is ready to pay the balance amount, as and when the unit of the petitioner is started, as it is closed only account of a criminal case instituted by the Central Bureau of Investigation (in short 'CBI) against the company and its' Directors and even coal supply of the petitioner's company has been stopped by the Coal Company i.e. BCCL.

iv) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

Pursuant to our previous order dated 30.11.2022, petitioner has now filed a supplementary affidavit furnishing the undertaking in the following terms:

“(a) Within sixty/ninety days, the petitioner is



ready to start the unit within sixty/ninety days petitioner will start commercial production with BIADA handing over possession of the premises to the petitioner/recall of the order of cancellation and within that period at least 80% for the product sanctioned will be started by the petitioner

(b) Within six/nine/12 months, petitioner shall make the Unit fully operational and functional at least to the capacity of 80% for the product sanctioned and allowed to be manufactured as per the original terms of allotment.

(c) Petitioner shall clear all up to date dues payable to BIADA. This shall be done within four weeks from the date of handing over possession/recall of order of cancellation;

(d) Petitioner shall make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees; Petitioner shall clear all other statutory dues including G.S.T./electricity charges etc.

(e) In the event of failure on the part of the petitioner to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises from the petitioner with liberty for further allotment to 3rd party, with the petitioner losing all rights therein and

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

Petitioner shall abide by the aforesaid undertaking furnished before this Hon'ble Court.”

It stands clarified that the time-line for making the Unit fully functional and operational to the capacity of 80% is nine months and not twelve months. However, along with the supplementary affidavit dated 12.12.2022, petitioner has placed



on record the No Dues Certificate/communication dated 09.05.2019 (Annexure-14) which is extracted hereunder:

पत्रांक-573

दिनांक 09/5/19

प्रेषक-

कार्यकारी निदेशक (प्र०). बियाडा, मुजफ्फरपुर।

सेवा में,

M/s Mithila Coal Industries Pvt. Ltd. (Cancelled)

Sri Arvind Kumar,

Industrial Estate, Muzaffarpur

विषय:- बकाया रहित प्रमाण-पत्र निर्गत करने के संबंध में।

महाशय,

उपरोक्त विषय के संबंध में सूचित करना है कि आपकी इकाई M/s Mithila Coal Industries Pvt. Ltd. को आवंटित भूमि रकबा 87120 वर्गफीट भूखण्ड संख्या- A-26(P), 27, A-28(P) के विरुद्ध देय संधारण शुल्क, भु-लगान एवं सभी किस्त की राशि आपके द्वारा OTSs-2019 के तहत जमा की गई है। रखीकरण की तिथि तक आपके विरुद्ध कोई बकाया नहीं है।

यदि भविष्य में अंकेक्षण के दौरान गणना में कोई त्रुटि पायी जाती है तो शेष राशि आपके द्वारा देय होगी।

विश्वासभाजन

ह०/

कार्यकारी निदेशक (प्र०)

Obviously, as on date of issuance of the certificate, nothing was payable by the petitioner.

Learned counsel for 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 12.12.2022 (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;

(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 24.06.2016 passed by respondent no. 2, namely The Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No.43 of 2014 (Annexure-9) and the order dated 22.09.2014, under Memo No.1955, passed by respondent no. 5, namely The Executive Director, BIADA, Regional Office, Muzaffarpur (Annexure-8)



are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

K.C.Jha/chn

AFR/NAFR	
CAV DATE	
Uploading Date	20.12.2022
Transmission Date	

