

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9114 of 2022

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M/s Alsabha Education Complex @ Alsabha ITI having its Office at Alam Tola, Ward No.22, P.O. and P.S.- Forbesganj, District- Araria through its Secretary, Syeed Uz Zaman, Male, Aged about 51 years, Son of Late Atique Uz Zaman, Resident of Alam Tola, Ward No.22, P.O. and P.S.- Forbesganj, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Bihar, Patna.
2. The Principal Secretary, Department of Industries, Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA) through its Managing Director, Head Office- Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Head Office- Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Managing Director, Bihar Industrial Area Development Authority, Regional Office- Bhagalpur.
6. The Executive Director, Bihar Industrial Area Development Authority, Regional Office- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prince Kumar Mishra, Advocate
For the State	:	Mr. Yogendra Pd. Sinha, A.A.G.7
For the BIADA	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Ankur Apurv Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-11-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):

“(a) For issuance of writ in the nature of Certiorari, quashing the order dated 31.05.2022 passed by Principal Secretary, Department of Industries, Bihar, Patna whereby and whereunder,



the appeal of the petitioner has been dismissed stating inter-alia that vide order dated 06.05.2022, petitioner was asked to submit an undertaking agreeing to certain conditions and since petitioner has failed to comply the same and is not interested in pursuing the appeal, the appeal is dismissed which is absolutely incorrect, arbitrary and illegal.

(b) For issuance of writ in the nature of Certiorari, quashing the Office Order dated 23.12.2021 passed by Managing Director and communicated vide Memo No.812 dated 31.12.2021 issued by Executive Director, Bihar Industrial Area Development Authority, whereby and whereunder, the allotment of land bearing Plot No.64(P) having area of 87,120 sq ft (2 acre) in the Industrial Area, Forbesganj to the petitioner has been cancelled on the purported ground of keeping the unit non-functional and not carrying out the activity for which it was allotted.

(c) For issuance of the writ in the nature of mandamus directing and commanding upon the respondent authorities to grant minimum eleven months time to the petitioner to complete the project as petitioner has already completed the major portion of construction work and need some more time to make the institution operational.

(d) For any other relief/reliefs which this Hon'ble Court deems fit.”

On 21.07.2022, we had passed the following order:-

“Petitioner is ready and willing to furnish an undertaking, as is so furnished by similarly situated petitioners in matters pertaining to BIADA.



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, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA; (b) petitioner shall clear all the dues payable to BIADA as on date; (c) petitioner shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees; (d) 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 (e) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

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

List this case on 28th of July, 2022.”

Pursuant to our order dated 21.07.2022, petitioner has filed an undertaking on affidavit in the following terms:

“I. That petitioner hereby undertakes that within 60 days, it will start commercial production in the unit (School), should the respondents hand over possession of the premises to the petitioner, failing which petitioner shall give vacant and peaceful possession of the premise to BIADA.

II. That petitioner also undertakes that within six



months, it will make the unit fully operational and functional in terms of the order of Hon'ble Court.

III. That petitioner undertakes that it shall clear all the dues payable to BIADA as on date and make itself compliant with all the statutory requirement, including the ones protecting interest of the employees.

IV. That petitioner further undertakes that it shall comply with the provisions of the labour law and other statutory compliances.

V. That petitioner also undertakes that in the event of failure on its part, it shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to third party.

VI. That petitioner further undertakes that in the event of default, it shall be liable for being prosecuted for having committed contempt of this Hon'ble Court.”

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 18.10.2022 (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 31.05.2022 (Annexure-P/11) passed by the Principal Secretary, Department of Industries, Bihar, Patna and Office Order dated 23.12.2021 passed by Managing Director vide Memo No.812 dated 31.12.2021 (Annexure-P/7) 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)

(Partha Sarthy, J)

Saurabh/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	03.11.2022
Transmission Date	

