IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14163 of 2021

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M/s Saraf Real Infra Private Limited, a company registered under Companies Act having its office at Mahuli Road, Karmali Chak, Patna City, Patna-800009 through its authorized representative - Basudeo Prasad, aged about 53 years (Male), Son of Gopi Krishna Sarraf, Resident of G3A, Exhibition Road, Pushp Vihar, Exhibition Road, P.S. - Gandhi Maidan, Patna - 800001.

... ... 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 General Manager, District Industries Centre, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Brisketu Sharan Pandey, Advocate

For the Respondent/s : Mr.Vikash Kumar (S.C.11)

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

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 13-01-2022

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

> "i. For issuing a writ of mandamus or any other appropriate writ directing the respondent authorities to implement the Bihar Industrial Incentive Policy,

2011, 2011 and thereby pay the entitlement of the petitioner, i.e. total outstanding amount of Rs. 2,59,13,725/- to the petitioner under the head of Capital Subsidy, Stamp Duty, Captive Power Generation/Gen Set, Re-imbursement for GST paid, Reimbursement for VAT paid.

ii. For issuing appropriate writ declaring that the payments to the petitioner as per entitlement for post-production incentives such as Reimbursement for GST paid and VAT paid cannot be kept pending or denied and has to be timely paid to petitioner.

iii. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to being on record order(s) or letter(s) through which the claims of the for Capital Subsidy, Stamp Duty, Captive Power Generation/ Gen Set, Re-imbursement for GST paid, Reimbursement for VAT paid and under Bihar Industrial Incentive Policy-2011 have been denied.

iv. For issuing a writ of certiorari or any other appropriate writ quashing such order(s) or letter(s) through which the claims of the petitioner for Capital Subsidy, Stamp Duty, Captive Power General/Gen Set, Re-imbursement for GST paid, Reimbursement for VAT paid paid under Bihar Industrial Incentive Policy-2011 have been denied.

v. For holding that Respondents erred in not releasing the subsidy/reimbursement on the ground that the proposal of the ‘Competent Authority’ given the fact that the proposal already has approval from SIPB (State Investment Promotion Board) and the law has been settled in this regard by the Hon’ble Division bench of this High Court and has been confirmed by the Hon'ble Suprement Court that once the proposal has been approved by the SIPB, no other approval is required.

vi. For holding that the Respondents cannot withhold/discontinue to subsidize and/or reimbursement the entitlement accorded to the petitioner under the Bihar Industrial Incentive Policy, 2011.

vii. 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.

viii. For holding that the Respondents erred by not releasing full Reimbursement and subsides 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).

ix. For holding that it is the duty of the Respondents to timely release the payments for reimbursement under the head of VAT/GST every time the petitioner submits an application for the same and the petitioner need not go through the unnecessary technicalities and procedures again.

x. For holding that the Respondents cannot make the petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.

xi. For any reliefs, direction/directions for which the petitioner is entitled may be given."

Shri Brisketu Sharan Pandey, learned counsel for the petitioner, states that certain amount in terms of the Bihar Industrial Incentive Policy, 2011 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, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-K.C.
Jha /rajiv

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	