

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10332 of 2022

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Kamendra Kumar @ Kamendra Singh, son of Sri Ram Pravesh Singh,
resident of Village-Hundarua, Police Station-Tarari in the district of Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industry, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industry, Government of Bihar, Patna.
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Development Officer, Bihar Industrial Area Development Authority, Dehri-on-Sone, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sunil Kumar, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar, SC-9
		Ms. Deepika Sharma, AC to SC-9
For BIADA	:	Mr. Gyan Shankar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-11-2022

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s:-

“ I. To quash the order dated 17.6.2022 passed by respondent no.2 by which the Appeal No. 77 of 2020 filed on behalf of the petitioner against the order of cancellation of the land allotted to the petitioner in Industrial Area, Vikramganj



contained in Memo No. 1534/B dated 30.5.2020 has been dismissed on the ground that the appellant/petitioner was found absent on 17.6.2022. The impugned order dated 17.6.2022 has been communicated to the petitioner from the office of respondent no.2 vide letter No. 2747 dated 24.6.2022.

II. Also for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.”

On 10.08.2022, we had passed the following order:-

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

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) 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.

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.

List on 7th of September, 2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.

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. ”

Petitioner has filed an undertaking being part of supplementary affidavit dated 11.08.2022 in the following terms:

“4. That in pursuance to the order dated 10.08.2022 passed by the Hon’ble High Court in C.W.J.C. No. 10332 of 2022 I undertake as follows :-

i. That I give undertaking that I will make my Unit known as Rohtas Hume Pipe fully functional within 3 months and start the production of Hume Pipe.

ii. That I further undertakes that on receipt of dues amount, if any, payable by me to the BIADA , I Will pay the same immediately to the BIADA.

Iii. That I further undertakes that if I will not fully functional of my Unit within 3 months then I will hand over the peaceful possession of the premises to the BIADA.

iv. That I further undertakes that in event of default I



will be liable for being prosecuted for having committed contempt of this Hon'ble Court.”

In view of the aforesaid, petitioner's 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.

Petitioner's undertaking that he would revive the unit within six months and make it fully operational and functional, is accepted and taken on record. However, the petitioner shall approach the respondents seeking change of the user of activity which is permissible in law.

Needless to add such decision shall be taken within a period of two weeks from the date of receipt of such proposal.

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
accordingly.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini/S. Pd.

AFR/NAFR	
CAV DATE	
Uploading Date	4/11/2022
Transmission Date	

