

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18129 of 2018

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M/s Shree Durga Automobiles Through Its Proprietor Sri Pankaj Kumar S/o Satyanarayan Singh, resident of Flat No. 401, Purna Apartment, North S.K.Puri, Boring Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Vikash Bhawan, New Secretariat, Bailey Road, Patna-800001
2. The Industrial Development Commissioner, Government of Bihar-Cum-Chairman, Bihar Industrial Area Development Authority, Patna
3. Bihar Industrial Development Authority BIADA, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004, through its Managing Director
4. The Managing Director, Bihar Industrial Development Authority BIADA, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004
5. The Executive Director, Bihar Industrial Development Authority BIADA, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004
6. The Secretary, Bihar Industrial Development Authority BIADA, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004
7. The Development Officer, Patliputra Industrial Estate, Patna.
8. The Area Officer, Patliputra Industrial Estate.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shantanu Kumar, Advocate Mr. Satish Kumar Giri, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, AAG-7 Mr. Kumar Priya Ranjan, Advocate Mr. Piyush Lall, Advocate Mr. Vinay Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-08-2022

Heard learned counsel for the parties.

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



1. That this writ application is directed for quashing the Orders contained in Memo No. 2398/D 32/DO/BIADA/ P 19/ 07 dated 20.05.2016 passed by the Managing Director, Bihar Industrial Development Authority (herein after called as the Authority) whereby and where under the allotment of the land of the petitioner has been cancelled and amount deposited by the unit has been forfeited and as well as the order dated 21.06.2018 communicated through letter No 2813 dated 03.07.2018 whereby and where under the appeal preferred against the order has been dismissed by the Industrial Development Commissioner cum Principal Secretary, Department of Industries, Government of Bihar.

On 18.08.2022, 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.

Petitioner will file an undertaking to this Court to the effect that (a) within 60 days, petitioner will start servicing activities 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.

Petitioner is ready and willing to furnish such an undertaking within next two 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 24th of August, 2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.”

Petitioner has filed an undertaking dated 20.08.2022, more specifically averring as under:-



3. That the petitioner has filed its earlier undertaking, accepting all conditions of the order dated 18.05.2022, except condition no - (a), because the petitioner's unit expected to do service and repairing of automobile and not manufacture / produce them. So the petitioner gave following undertaking -

"I hereby give the undertaking that I will make my unit fully operational and functional, for the category for which the land was allotted, though as per the report of the Secretary, BIADA itself, it was fully operational.

The petitioner is ready to get the unit inspected at any point of time and undertakes to meet / fulfill any query of BIADA for the purpose of running its unit."

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 20.08.2022 (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 20.05.2016, as contained in Memo No. 2398/D 32/DO/BIADA/P-19/07, passed by the Managing Director, Bihar Industrial Development Authority (Annexure-1) and the order dated 21.06.2018 passed in Appeal No. 28/2016 (Annexure R-3/H), communicated through letter No. 2813 dated 03.07.2018 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)

(Satyavrat Verma, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2022
Transmission Date	

