

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20967 of 2018

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Ashok Kumar Son of Late Parmeshwar Garai Prop. M/S Maa Jagdamba Bricks Industries, resident of Village- Dharambigha, P.S.- Telhara, District- Nalanda.

... .. Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
2. The Development Commissioner, Govt. of Bihar, Patna.
3. The Director, Industry State of Bihar, Patna.
4. The General Manager, District Industry Centre Nalanda at Biharsharif, P.S. and Distt.- Nalanda.
5. The District Magistrate, Nalanda at Biharsharif, P.S. and Distt.- Nalanda.

... .. Respondents

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Appearance :

For the Petitioner/s : Dr. Anjani Pd. Singh, Adv

For the Respondent/s : Mr. Suresh Kumar AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 04-08-2022

Heard Dr. Anjani Pd. Singh, learned counsel for the petitioner and Mr. Suresh Kumar, learned AC to GP-1 for the State.

2. In the present application, the petitioner has prayed for setting aside the order dated 31.07.2018 issued vide Memo



No. 2670 by the Director Industries, Bihar, Patna by which the representation preferred by him for grant of all the benefits under the Bihar Industrial Incentive Policy, 2011 has been rejected.

3. The case of the petitioner as stated in para 5 of the writ petition is that he has attempted to start a small scale industry in the name and style of M/s Maa Jagdamba Bricks Industries at village- Dharam Bigha, P.S.- Telhara, District- Nalanda for manufacturing fly ash bricks and pavers. It is stated by the learned counsel for the petitioner that in order to take benefits of the promise made by the State of Bihar under the Industrial Incentive Policy, 2011, the petitioner applied with all relevant documents seeking permission to set up a fly ash bricks and blocks manufacturing unit which was covered under the list of industries eligible for incentive under the manufacturing category. The proposal of the petitioner for seeking approval for investment of capital in order to get incentive under the 2011 policy of the State of Bihar was approved by the District Level Single Window Clearance Committee in its meeting held on 07.01.2015. Thereafter, the petitioner purchased a 625 KVA DG Set at the cost of Rs.5,32,680/- from On Sai Bijay Power G.B. Road, Gaya. He purchased Fly Ash concrete brick hydrolic



power fully automatic electric motor of 15 HP and other articles for Rs.21,91,000/- from Shanti Industries, Asansol. He wrote a letter to the General Manager, District Industries Centre, Nalanda for subsidy on DG set but no action was taken by the respondents.

4. The petitioner has stated in para 10 of his application that he has invested several lacs in his small scale industry and he is paying interest on bank loan but he is not manufacturing the produce as per his wishes due to scarcity of fund.

5. The petitioner had approached this Court earlier by filing a writ petition being CWJC No.3352 of 2018 which was disposed of on 29.03.2018 with a direction to the respondents to consider his representation and take decision in the matter.

6. Thereafter, the petitioner filed a representation before the Director Industries Bihar, Patna who has passed the impugned order rejecting the claim of the petitioner on the ground that since the project of the petitioner was not approved by the competent authority, the benefit of Industrial Incentive Policy, 2011 cannot be extended to the manufacturing unit of the petitioner even though it had got approval of the District Level Single Window Clearance Committee.



7. Mr. Anjani Prasad Singh, learned counsel for the petitioner submitted that the impugned order passed by the Director Industries Bihar, Patna is a glaring example of executive arbitrariness and administrative high-handedness. There was no reason for the respondents to reject the claim of the petitioner as the petitioner's unit had duly been granted recommendation by the District Level Single Window Clearance Committee and, if any other approval was required, it was for the respondents to process it. If it required approval of the competent authority, it was for the respondents to place the application of the petitioner before the competent authority.

8. On the other hand, learned counsel for the State submitted that initially the claim of the petitioner was rejected by the respondents whereafter he had approached this Court by filing C.W.J.C. No. 3352 of 2018 which was disposed of with a direction to the respondents to consider the representation of the petitioner and take a decision in the matter. When the petitioner filed his representation, once again, it was placed before the State Level Committee and in its meeting dated 31.5.2018 and the Committee rejected the claim of the petitioner on the ground that the project of the petitioner had no approval of the competent authority. He contended that the Industrial Incentive



Policy, 2011 is no more in existence. Presently, the Industrial Incentive Policy, 2016 is in existence. In case, the petitioner is entitled to capital subsidy under the new policy, he is free to apply afresh under the new policy. He further contended that unless the project is approved by the competent authority, no benefit can be extended to any entrepreneur under the Industrial Incentive Policy, 2011. He further contended that nowhere it has been mentioned by the petitioner in his writ petition as to when the petitioner's unit actually commenced commercial production.

9. We have heard learned counsel for the parties and carefully perused the records.

10. It would be pertinent to note here that the State Government came out with Industrial Incentive Policy, 2011 to promote industrial development within the State on review of the Bihar Industrial Incentive Policy, 2006 and the change in global incentive scenario with the pious object of attracting domestic and foreign investment as well as for revival and expansion of business operations of the existing industrial unit. The policy was approved by the cabinet and was published in the official gazette on 10.06.2011. The case of the petitioner is that in order to take advantage of the promise made by the State



under the Industrial Incentive Unit, 2011, he applied with all relevant documents before the respondent-authorities to set up fly ash bricks and pavers. His unit altered its position by making huge investment.

11. From a perusal of the Industrial Incentive Policy, 2011, it would be manifest that the incentives under the scheme has to be given to the industrial units after commencement of commercial production. The pleadings made by the petitioner in the present application are quite vague. It has not been mentioned in any of the paragraph of the writ petition as to when the petitioner's unit commenced commercial production.

12. Moreover, the application of the petitioner has been rejected on the ground that it had no approval of the competent authority. The petitioner has not been able to show us that the unit set up by him had approval of the State Investment Promotion Board, which has been held to be the competent authority by a Division Bench of this Court in its judgment dated 29.07.2019 passed in CWJC No.12104 of 2018 and analogous cases (M/s Sunny Star Hotels Private Ltd. vs. the State of Bihar & Ors.).

13. Under such circumstances, no relief can be granted to the petitioner as no fault can be found with the impugned



order by which the representation of the petitioner has been rejected.

14. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

(Shailendra Singh, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08-08-2022
Transmission Date	NA

