

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15532 of 2021

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M/s. Ranjeet Enterprises (Industrial Area Barauni) represented through Shambhu Kumar, Gender- Male, aged about 40 years Son of Ramdev Sharma, R/o Ward No. 4, Deona, P.O. and P.S. Tilrath, District- Begusarai, Bihar- 851122.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA), through the Managing Director, 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna.
5. District Magistrate, Begusarai.
6. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Patna.
7. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Patna.
8. The Area In Charge, Industrial Area Barauni.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
For the Respondent/s : Mr.Kinkar Kumar (SC9)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

- i. For setting aside the order dated 05.02.2021 passed by Respondent No. 2 (Additional Chief Secretary, Department of Industries) in Appeal Case No. 01

of 2020, and for setting aside the order contained in Memo No. 5406 dated 11.09.2014 passed by Respondent No. 4 (The Managing Director, BIADA) wherein the land measuring an area of 0.22 acres has been cancelled, with a further prayer to grant permission for change of product, since both the impugned orders are in complete violation of as well in teeth of the order passed by this Hon'ble Court vide order dated 04.03.2020 passed in LPA No.257/2019 (Anand Engineering Vs. the State of Bihar & Ors.), order dated 18.03.2015 passed in LPA No. 353/2008 (BIADA Vs Deepak Paints and analogous cases), Order dated 13.04.2018 passed in C.W.J.C. No. 7803/2014 (Kanti Kumar vs. The State of Bihar and Ors.), order dated 25.02.2019 passed in C.W.J.C No. 19363/2018 (Ram Prakash Shyam Kumar vs The State of Bihar and Others), Order dated 24.06.2019 passed in C.W.J.C. No. 9047/2017 (Radhe Forging vs. The State of Bihar and Ors.), Order dated 20.02.2020 passed in C.W.J.C. No. 2839/2019 (Civ Mill Industries vs. The State of Bihar and Ors), whereby other petitioners/allottees have been given opportunity for diversification of their product and further time frame of six months so as petitioner's case in this regard be also allowed.

- ii. For setting aside the order dated 05.02.2021 passed by Respondent No. 2 (Additional Chief Secretary, Department of Industries) in Appeal Case No. 01/2020 and for setting aside the order contained in Memo No. 5406 dated 11.09.2014 by Respondent No. 4 (Managing Director, BIADA) by the allotment of the land has been cancelled.
- iii. For declaration and to hold that the aforesaid impugned order dated 05.02.2021 passed by Respondent No. 2 (Additional Chief Secretary, Department of Industries) in Appeal Case No. 01/2020 is illegal and in contravention to the settled principles of law i.e. *Nemo Judex in Causa Sua* (No one should be made a judge on his own cause) as the impugned order vide Memo No. 5406 dated 11.09.2014 by Respondent No. 4 (Managing Director, BIADA) and the order dated 05.02.2021 passed in Appeal Case No. 01/2020 has been passed by respondent no. 2 Additional Chief Secretary, Department of Industries who is holding the same post at same time and as such liable to be quashed on this ground itself.
- iv. For declaration and to hold that aforementioned impugned orders are completely illegal, arbitrary, malafide and in colorable exercise of power, infringing the fundamental right of equality and equity and against all canons of justice and also

sans jurisdiction being de hors to the provisions of BIADA Act, 1974.

- v. For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.
- vi. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.

Pursuant to our previous order, petitioner has given an undertaking by way of filing a supplementary affidavit. Relevant paragraphs whereof are reproduced as under:-

“2. That, in pursuance of the order dated 19.05.2022 passed by this Hon’ble High Court in C.W.J.C. No.15532 of 2021, I am filing this undertaking as follows:-

i. That, I, hereby undertake to do trial run of the said unit within three months from today, ensure commercial production upto 50% within six months thereafter and ensure commercial production minimum upto 75% within one year.

ii. That also undertakes that on receipt of dues amount payable by me to the BIADA, I will pay the same to the BIADA as on date.

iii. That I further undertake that in the event of my said unit not being made operational and functional by me within one year, I will hand over and the vacant and peaceful possession to BIADA.

iv. That I further undertakes that in the event of default I shall be liable for being prosecuted for having committed contempt of this Hon’ble Court.”

Learned counsel for 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 24.06.2022 (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, petitioners shall hand over vacant and peaceful possession of the allotted property to BIADA;

(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 05.02.2021 passed by respondent no.2, namely, The Additional Chief Secretary, Department of

Industries, Government of Bihar, Patna in Appeal Case No.01 of 2020 (Annexure 9) and the order dated 11.09.2014 passed by respondent no.4, namely, The Managing Director, Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, Gandhi Maidan, (Annexure 8) Patna are quashed and set aside;

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/- Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA