

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10937 of 2022

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M/s Mother India Construction Private Limited, A Company Registered under the Companies Act 1956/2013, having its Registered Office at Bikram, District- Patna, through its Authorized representative Raj Kishore Male, Aged about 47 Years, Son of ram Shankar Singh, Resident of Pesu Staff Quarter No.4, Manglesh Road, New Secreat, Gate No.3, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Bihar, Patna.
2. The Principal Secretary, Department of Industries, Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA) Through its Managing Director, Head Office- Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Head Office- Udyog bhawan, East Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office- Patna.
6. The Development Officer, Bihar Industrial Area Development Authority (BAIDA), Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Prince Kumar Mishra, Advocate
For the BIADA	:	Mr. Pankaj Kumar Sinha, Advocate Mr. Devesh Shankaran, Advocate
For the State	:	Mr. Rajeev Kumar Sinha, AC to AAG-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY



ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-11-2022

Heard learned counsel for the parties.

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

- “a) For issuance of writ in the mandamus, directing and commanding upon the respondent authorities to grant consent for changing the object of project from PVC/Garden/Hose Pipe to Warehouse with Cleaning and Drying Facilities at transferred land bearing Plot No.-MUP-IV (P) admeasuring 63,900 ft² – which is in the priority list of the Bihar Industrial Incentive Policy -2016.
- b) For any relief/reliefs which this Hon’ble Court deems fit.”

On 12.8.2022, 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 16th 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.”

Pursuant to our order dated 12.8.2022, petitioner has filed an undertaking on affidavit, relevant portion whereof is quoted hereinunder:-

“I. That Petitioner hereby undertakes that within 60 days, it 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 premise to BIADA.

II. That petitioner also undertakes that within six month, it will make the unit fully operational and functional in terms of the order of Hon'ble Court.

III. That petitioner undertakes that it shall clear all the dues payable to BIADA as on date & make itself compliant with all the statutory requirement, including the ones protecting interest of the employees;

IV. That petitioner further undertakes that it shall comply with the provisions of the labour law and other statutory compliances;

V. That petitioner also undertakes that in the event of failure on its part, it shall hand over the vacant and peaceful possession of the premises



to BIADA with liberty for further allotment to third-party.

VI. That petitioner further undertakes that in the event of default, it shall be liable for being prosecuted for committed contempt of this Hon'ble Court.”

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 03.11.2022 (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) Petitioner shall pursue the matter for change of user in terms of the current policy.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Spd/-PKP

AFR/NAFR	
CAV DATE	
Uploading Date	13.11.2022
Transmission Date	

