

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15981 of 2021

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M/s. Neelam Ampoules (P) Ltd. Industrial Area, Donar, Darbhanga represented through its authorized Director, Shri Tapeswar Roy, Gender-Male, aged about 73 years, S/o Late Surat Roy, R/o Benta Chowk, P.S. Laheriasarai, District- Darbhanga, Bihar- 846004.

... .. 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, Darbhanga.
6. The Executive Director, (BIADA), Patna, 1st Floor, Udyog Bhawan, Gandhi Maidan.
7. The Executive Director, (BIADA), Regional Office, Darbhanga.
8. The Area Incharge, Industrial Area, Donar, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr.Yogendra Pd. Sinha, AAG 7
		Mr. Pankaj Kumar Sinha, Advocate
		Mr. Devesh Shankaran, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 14-02-2022

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



- i. For setting aside the order contained in Memo No. 2071 dated 31.08.2007 passed by Respondent No. 4 (The Managing Director, BIADA) wherein the land measuring an area of 2 Acres has been cancelled and for setting aside the order dated 28.07.2021 passed by respondent no. 2 (Additional Chief Secretary, Department of Industries) in Appeal Case No. 18 of 2020 affirming the aforesaid order, with a further prayer to grant permission for change of product, since both the impugned orders are in complete violation of mandate of law as well as 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.) and 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 similarly situated 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 declaration and to hold that the aforesaid impugned order dated 28.07.2021 passed in Appeal Case No. 18/2021 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. 2071 dated 31.08.2007 has been passed by respondent no. 4 Managing Director and the order dated 28.07.2021 passed in Appeal Case No. 18/2020 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.

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

On 21.01.2022, we have passed the following order:-

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

Learned counsel for the petitioner states that petitioner is ready and willing to furnish an undertaking to this Court to the effect that (a) 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; (b) petitioner shall clear all the dues payable to BIADA as on date; (c) petitioner shall make itself compliant with all the statutory requirements, including the ones protecting



interest of the employees.

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 11th February, 2022.

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.”

Today, petitioner has placed on record supplementary affidavit, whereby an undertaking to this Court stands furnished in the following terms:-

2. That in pursuance of the order dated 21.01.2022 passed by this Hon'ble High Court in C.W.J.C. No. 15981 of 2021, I am filing this undertaking as follows: -

1. That, I hereby give the undertaking that I will make my unit fully operational and functional within 6 (six) months and start Masala, Sattu, Besan, Sewai, Kurkure manufacturing plant or such other products as approved under the Bihar Industrial Investment Promotion Policy, 2016.
- 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 6 (six) months, 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.



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.

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 possession of the property for allotment to a third party in accordance with law.

Present petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.02.2022
Transmission Date	

