IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16692 of 2021

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M/s. Shree Maruti Agro Food Products a Partnership firm having its office at C/o Sri Pawansut Traders, Haldi Patti, Marufganj, P.S. Malsalami, Patna City, District Patna and its production unit at Plot No. 431, Mohammadpur, Raksha Bandh, P.S. Deedarganj, Patna City, District Patna, through one of its Partners, namely, Shalekh Banka, aged about 38 years, Male, son of Sri Sitaram Banka, Resident of Jhauganj Ghat, P.S. Chowk, Patna City, District Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary-cum- Commissioner, Commercial Taxes Department (now known as Commercial Taxes (State)), Government of Bihar, Vikas Bhawan, New Secretariat, Patna.
3. The Principal Secretary Department of Industry, Vikas Bhavan, Bailey Road, Patna.
4. The South Bihar Power Distribution Company Limited through its Managing Director, Vidhyut Bhawan, Baily Road, Patna.
5. The Managing Director, South Bihar Power Distribution Company Limited, Vidhyut Bhawan, Baily Road, Patna.
6. The Director of Industries, Government of Bihar, Vikas Bhavan, Bailey Road, Patna.
7. The Deputy Commissioner of Commercial Taxes now known as Joint Commissioner of State Taxes, Patna City East Circle, Patna.
8. The Director (Technical), Department of Industries, Bihar, Patna.
9. The General Manager, District Industry Centre, Patna.
10. The Executive Director, South Bihar Power Distribution Company Limited, Fathua.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. D. Sanjay, Sr. Advocate
Mr. Mohit Agarwal, Advocate

For the Respondent/s	:	Mr.Vikash Kumar (SC11)
For Res. No. 4 & 5	:	Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Vijay Kumar Verma, Advocate
		Mr. Akhileshwar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 08-03-2022

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s :-

i] For a direction upon the Respondents, Commissioner of State Taxes as also the Joint Commissioner of State Taxes, Patna City East Circle, Patna to disburse and reimburse 80% of the amount of admitted VAT deposited by the petitioner firm for the period 15.01.2016 to 3006.2017 in terms of the clause 3(i) of the Industrial Incentive Policy, 2011 as the same has been denied and the benefit has not been extended to the Petitioner for disbursement of the same despite issuance of eligibility certificate bearing Memo No. 1073 dated 30.08.2016 and issuance of Pass Book dated 29.08.2016 issued under the signature of the Respondent General Manager, District Industry Centre, Patna;

ii] For a declaration that the respondents cannot withhold and deny the reimbursement of 80% of the amount of admitted VAT deposited by the petitioner in view of the solemn promise made by the Respondent State in clause 3(i) of the Industrial Incentive Policy, 2011 after issuance of eligibility certificate bearing Memo No. 1073 dated 30.08.2016 and issuance of Pass Book dated 29.08.2016 issued under the signature of the Respondent General Manager, District Industry Centre, Patna after finding the petitioner entitled and eligible in terms of the Industrial Incentive Policy, 2011;

iii] For a direction upon the respondent Department of Industry, Government of Bihar for grant of Capital Subsidy to the petitioner firm in terms of Clause 2(vii)(d) read with Integrated Development of Food Processing Sector Scheme, 2008 as promised and committed by the

Respondent State of Bihar under the Industrial Incentive Policy, 2011;

iv] For the declaration that the Petitioner firm is entitled for grant of Capital subsidy as promised under Food Processing Policy, 2008 in terms of clause 2(vii)(d) of the Industrial Incentive Policy, 2011 as the said unit fulfils the eligibility conditions as required under the Industrial Incentive Policy, 2011 and for a further direction to the Respondent State Government to disburse the amount of subsidy in favor of the Petitioner at the earliest as promised by the Respondent;

v] For a direction upon the Respondents to grant of 100% reimbursement of electricity duty for seven years as promised under Clause 3 (ii) of the Industrial Incentive Policy, 2011 to the petitioner which has been denied despite fulfilling all eligibility conditions provided in the Industrial Incentive Policy, 2011;

vi] For a direction upon the Respondents to grant of incentive on investment on DG Set as promised under Clause 2 (V) of the Industrial Incentive Policy, 2011 to the petitioner which has been denied despite fulfilling all eligibility conditions provided in the Industrial Incentive Policy, 2011;

vii] For a direction upon the Respondents to grant of reimbursement of Stamp duty and Registration Fees on the land purchased by the Petitioner Firm as the same was not availed pre production as promised under Clause 1 (c) of the Industrial Incentive Policy, 2011 to the petitioner which has been denied despite fulfilling all eligibility conditions provided in the Industrial Incentive Policy, 2011;

viii] For a direction upon the respondent to grant all other incentives to which the petitioner firm is entitled in terms of the promise and commitment made by the Respondent State of Bihar under Industrial Incentive

Policy, 2011 as the petitioner firm has established its unit in view of the benefits of in terms of incentives promised by the Respondent State;

ix] For a direction to the respondents to grant the incentives at the earliest to save the petitioner firm as it is suffering due to non-reimbursement of amount of VAT deposited by the petitioner firm and also for non grant of amount of Capital Subsidy in terms of clause 2(vii)(d) read with Integrated Development of Food Processing Sector Scheme, 2009 and other incentives promised under the Industrial Incentive Policy, 2011; and/or for any other relief[s] for which the Petitioner may be found entitled to in the facts & circumstances of the present case.

It is submitted by learned senior counsel for the petitioner that the DPR (Detailed Project Report) of M/s. Shri Maruti Agro Food Products, Haldi Patti, Marufganj, Malsalami, Patna City, Patna, was placed before the State Investment Promotion Board (hereinafter referred to as the "Board") headed by the Development Commissioner. Thereafter, his DPR has been recommended by the said Board for granting benefit under

Industrial Incentive Policy-2011 and the same was to be placed before the Project Approval and Monitoring Committee (hereinafter referred to as the "Committee"). However, same has not been placed before the said Committee only on the ground that the said DPR was received after 31.03.2016.

It is contended that in terms of Annexure-17 (as contained in rejoinder affidavit filed on behalf of the petitioner), the outer time of 31.03.2016 has been extended by the Government by a cabinet decision on basis of which said notification has been issued.

Said submission is being controverted by the counsel for the State according to whom petitioner is not entitled and cannot be granted benefit under Industrial Incentive Policy, 2011, as Food Processing Scheme Policy, 2009 is different from the Industrial Incentive Policy, 2011.

After having heard learned counsel for the parties, this writ petition is disposed of with a direction to the respondent authorities to place the DPR (Detailed Project Report) of the petitioner before the Project Approval and Monitoring Committee within one month from the date of receipt/production of a copy of order passed by this Court.

Needless to add that the petitioner shall be given opportunity to place his case before the Committee and it shall be open for the Committee to take appropriate decision on the claim of the petitioner.

It is made clear that this Court has not expressed any opinion on the merit of claim of petitioner and it is for the Committee to take the final decision. All issues of law and fact are left open.

With the said observation and liberty, the writ petition is disposed of.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.03.2022
Transmission Date	NA