

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12034 of 2022

1. M/s Ujjawal Chemicals Private Limited, M/S Ujjwal Chemicals Pvt. Ltd. a Company registered Under the Companies Act having its registered Office at Village Chandauli, PO and PS Ujjiyarpur, District-Samastipur through its authorized Signatory Gautam Kumar (Male) aged about 40 Years S/o Hare Ram Choudhary, Resident of Village Chandauli, PO and PS Ujjiyarpur, District-Samastipur.
2. M/s Shama Industries, a Proprietorship Concern having its Office at Village-Sadatpur, Post-Kolhua Paigambaspur, P.S.-Kathi, District-Muzaffarpur through its Proprietor, Shahjad Hashmi (Male), Son of Noorudin Hashmi aged about 32 Years, Resident of Village-Sadatpur, Post-Kolhua Paigambaspur, P.S.-Kathi, District-Muzaffarpur.
3. M/s Vindhvasini Industries, a Partnership firm, having its Office at Plot No. 15(P), 17(P), Harpur Aloth, Industrial Area, Samastipur through its Partner Ravi Dwitiya, (Male) aged about 43 Years, Son of Parshuram Singh Resident of Ward No.4, Amirganj P.S.-District-Samastipur.

... .. Petitioner/s

Versus

1. Bihar Industrial Area Development Authority (BIADA), Patna, Bihar through its Chairman
2. Chairman, Bihar Industrial Area Development Authority (BIADA),-Cum-Principal Secretary, Department of Industries, Patna, Bihar
3. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Darbhanga, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Brisketu Sharan Pandey, Adv Mr. Abhishek Kumar, Adv
For the Respondent/s	:	Mr.Devesh Shankaran, Adv Mr. Pankaj Kumar Sinha, Adv

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-09-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-



- A. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 05.07.2022 (Annexure-P/1) by the Respondent No.2 whereby and whereunder the appeal preferred by the petitioner against order dated 30.06.2020 (issued on 15.07.2020) passed by the Respondent No. 4 has been rejected.
- B. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the order bearing Memo no 523 dated 30.06.2020 (issued on 15.07.2020) passed by the Respondent No. 4 (Executive Director, BIADA), Bihar whereby and whereunder the allotment of land made to the Petitioner was cancelled and deposit money was forfeited.
- C. For issuing a writ of mandamus granting consequential relief to the petitioner by issuing direction to Respondent No.3 and 4 for restoring the allotment towards the plot of land bearing Plot No. 22 to 32, measuring 43560 sq.ft. at Industrial Estate, Samaspur in favour of petitioner no 2 and 3 which was illegally cancelled by the Respondent No.4.
- D. For issuing a writ of mandamus or any other appropriate writ directing the Respondents consider and decide the applications dated 02.02.2019 (Annexure P/5 Series) filed by the Petitioners for the transfer of the land in favor of Petitioner no 2 and 3.
- E. For issuing appropriate order (a) staying all further proceedings and consequential actions pursuant to the Appeal Order dated 05.07.2022 (Annexure-P/1), and allowing the petitioner to continue with the possession and production on the concerned plot of the land until the pendency of the present writ application.
- F. For allowing the petitioner 2 and 3 to operate the manufacturing unit on the land allotted to the petitioner during the pendency of this case.



- G. Alternately, for remanding the case back to the Respondent No. 2 for reconsideration on ground that the appeal was dismissed without considering the application filed by the Petitioners for transfer of the land in favor of Petitioner No. 2 and 3.
- H. For passing such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.

On **01.09.2022**, we had passed the following order:-

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

Statement accepted and taken on record.

As agreed, 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/recall the order of cancellation, 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.

Petitioner is ready and willing to furnish such an undertaking within next seven working days, failing which the petition shall stand dismissed for default.

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.

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.

List on 12.09.2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.”

Petitioners have filed an undertaking being part of supplementary affidavit dated 08.09.2022 in the following terms:-

6. That it is submitted that the Petitioners are willing to pay the required transfer fees, for the transfer of the land in favor of Petitioner No. 2 and 3.

7. That it is submitted that the Petitioner No. 1,2 and 3 are undertaking, in terms of orders passed in CWJC No.6881/2020 (Umesh Service Station Vs. The State of Bihar, and other analogous cases) and also the order dated 01.09.2022 passed in the connected case in order to show their bonafide intention to run the unit in the aforesaid land, The Petitioners, therefore undertakes that:

(a) within 60 days, petitioner no 2 and 3 will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA;

(b) within six months, petitioner no 2 and 3 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) petitioners shall clear all the dues payable to BIADA as on date;

(d) petitioners 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 understands that it shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

In view of the aforesaid, petitioners 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 the possession of the
property for allotment to a third party in accordance with law.

Present petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

