

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3551 of 2016

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Ashok Aditya, son of Late Vebekanand Singh, Secretary M/S Mobile Theatre Cultural Society, A/6 Suvidha Lok, Naya Tola, Kumhrar, Police Station-Agamkuan, P.O.- Bhootnath Road, Patna- 800026.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Managing Director, Bihar Industrial Area Development Authority, Bihar, Udhyog Bhawan, East Gand
3. The Executive Director, BIADA, Regional Office, Industrial Area, Barari, Bhagalpur.
4. The Development Officer, Regional Office, Barari, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prakash Sahay, Advocate
For the Respondent/s : Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-08-2022

Heard learned counsel for the parties.

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

“for issuance of appropriate writ/writs, order/orders, direction/directions towards quashing the order dated 05.01.2015 and subsequent to its order dated 30.12.2015 passed by the learned Principal Secretary, Industries Department, Bihar in Appeal No. 17/2014 (M/S Mobile Theatre, Munger V/s The Managing Director, (BIADA), Bihar whereby the notice regarding cancellation of the allotted land. The allotment was made on 13.04.2007 and possession was given on



26.12.2007. The petitioner submitted complete papers of the Project Report for grant of another project on the same allotted land. Instead of giving permission the land was cancelled on the ground that papers of fresh Project Report was not submitted this is contrary to the fact. The petitioner is doing business and is having possession on the land. The work has been appreciated by society which has been published in various News papers of the State and has also been appreciated by Ex President of India His Excellency Mr. Abdul Kalam Azad. The petitioner thrice wanted to change the business for which application was filed before the authorities but the same was refused on whimsical ground. On application of change of project instead of giving due consideration the allotment was rejected when the unit is running smoothly. The order passed without application of mind and is against the industry development of the state. The order dated 5.1.2015 and subsequent to its order dated 30.12.2015 is fit to be set aside. Further for relief/reliefs for which the petitioner is entitle under the facts and circumstances of the case may be placed at the time of hearing. The petitioner was asked to withdraw the writ petition filed earlier vide no. CWJC No. 4176 of 2015, so that review can be made I.D.C. but the same now been rejected on the ground that IDC do not have power to review and thus the present writ is again being filed.”

On 22.08.2022, 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 31.08.2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.”

Petitioner has filed an undertaking being part of affidavit dated 06.06.2022 in the following terms:

“1. That I hereby give the undertaking that my Allotment was for film colourisation of which there is no market in Bihar accordingly I applied for Mall & Hotel project which was not accepted earlier in spite of my eligibility.

As per honourable Patna high court order in CWJC No. 3551 of 2016 kindly give me permission for the project which I shall make it operative as per schedule in the project report.

2. That I also undertake that I will clear all the dues payable to BIADA as on date within 15 days.

3. That I further undertake that in the event of failure or default I shall handover the vacant and peaceful



possession of the premise to BIADA and I shall loose all rights therein. I will not recourse to any further litigation.”

In view of the aforesaid, petitioner’s 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.

However, insofar as in the change of user is concerned, this Court does not express any opinion. Petitioner shall approach appropriate authorities for change of user of undertaking in terms of Bihar Industrial Investment Promotion Policy, 2016.

The authority shall positively, within a period of



four weeks from receipt of such request, take a decision thereupon.

Present petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, stands disposed of accordingly.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	03.09.2022
Transmission Date	

