

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17273 of 2021

=====

M/s Kunwar Enterprises, a Proprietorship Firm having its Office at Industrial Estate, Muzaffarpur, through its Proprietor Mr. ranjan Kumar (M), aged about 43 Years, Son of Shri Anand Kishor Tiwari, R/o Village and P.O.-Dahila P.S.-Gayghat Via Bochanan, District-Muzaffarpur-843103... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Industries Department-Cum-Chairman, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar.
2. The Additional Chief Secretary, Industries Department-Cum-Chairman, Bihar Industrial Area Development Authority (BIADA), Patna. Bihar.
3. The Deputy Secretary, Department of Industries, Government of Bihar, Patna.
4. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director,
5. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Brisketu Sharan Pandey, Advocate
For the Respondent/s : Mr.Subash Prasad Singh (GA3)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(A). For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 30.07.2021 (Annexure – P/1) communicated through letter dated 12.08.2020 bearing Memo No. 2847 passed in Appeal No.26/2016 passed by the Additional Chief Secretary, Industries

Department-Cum-Chairman, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar (respondent no.2) whereby and whereunder the appeal preferred by the petitioner against order dated 20.03.2019 has been rejected on non est ground in most illegal and arbitrary manner without application of mind and without appreciating the records of the case.

B. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the order dated 20.03.2019 issued vide memo no.440 by the Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur (Respondent No.6) whereby and whereunder the aforesaid Respondent No.6 at the behest and in compliance of direction of Respondent No.5 has passed ex-parte order regarding cancellation of the plot of land bearing Plot No.V-5 admeasuring 3371 sq. ft. at Industrial Estate / Area, Muzaffarpur allotted in favour of the petitioner and has also forfeited the earnest deposits made by the petitioner for such allotment.

C. For issuing a writ of mandamus granting consequential relief to the petitioner by issuing direction to respondent No.5, 6 for restoring the allotment towards the plot of land

bearing Plot No. V-5 admeasuring 3371 sq. ft. at Industrial Area, Muzaffarpur in favour of petitioner which was illegally cancelled by the Respondent No.6.

D. For issuing a writ of mandamus granting consequential relief to the petitioner by issuing direction to Respondent No.5, 6 for treating the forfeited amount to be earnest money deposited by the petitioner as it was prior to the issuance of the impugned order dated 20.03.2019 (Annexure – P/2).

E. For issuing a writ in the nature of mandamus or any other appropriate writ directing the respondents No.2 to 4 to restructure the payment of outstanding dues in such manner that is convenient and beneficial to both the parties and allow the petitioner to run the manufacturing unit at the land allotted to the petitioner vide letter no.1972/D dated 29.11.2012.

F. For issuing a writ in the nature of mandamus or any other appropriate writ staying all further proceedings and consequential actions pursuant to the Appellate Order dated 30.07.2021 (Annexure – P/1 series) (communicated through letter dated 12.08.2020 bearing Memo No.2847 passed in Appeal No.26/2016) passed by the Additional Chief Secretary, Industries Department-cum-

Chairman, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar.

G. For issuing a writ in the nature of mandamus or any other appropriate writ directing the respondent No.2 to 6 allow the petitioner to run the manufacturing Unit on the land allotted to the petitioner vide letter no.1972/D dated 29.11.2012 as it is his only source of income for his and his family during the pendency of this case and thereafter.

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.”

Pursuant to our previous order, petitioner has given an undertaking by way of filing a supplementary affidavit. Relevant paragraphs whereof are reproduced as under:-

I, Ranjan Kumar, aged about 43 years (M), Son of Shri Anand Kishor Tiwari, Resident of Village and, P.O - Duhila, PS - Gayghat via Dochanan, District- Muzaffargarh do hereby solemnly affirm and state as follows:-

1. That, I am the sole proprietor of the Petitioner concern in this case and as such well acquainted with the facts and

circumstances of the case and I am as such competent to swear the present affidavit.

2. That, the Hon'ble Court vide order dated 22.01.2022 had directed to Petitioner to deposit the entire dues of BIADA and to furnish an undertaking regarding commencing production within a time bound period failing which not only the money would be forfeited but also possession of the land would be handed over to BIADA.

3. That the Petitioner has filed a supplementary affidavit in the present case on 08.03.2022/09.03.2022 bringing on record the details of payment made to the BIADA. The petitioner also undertook to keep the manufacturing unit in production. Inadvertently the Petitioner could not mention in the Supplementary affidavit the other part of undertaking that if the Petitioner fails to commence production, then the money paid to BIADA shall stand forfeited and also the possession of the land allotted shall be given to BIADA.

4. That although the petitioner has been continuing with the production (from its unit installed at land allotted at BIADA) yet with a view to furnish complete undertaking within the

meaning and spirit of order dated 21.01.2022, the present supplementary affidavit is being brought on record.

5. That, the through the present Supplementary Affidavit the Petitioner undertakes that if the Petitioner who has timely commenced i.e. in January 2022 itself has commenced the production shall continue the production, failing to continue the same would result in forfeiture of the money paid to BIADA shall and also the possession of the land allotted shall be given to BIADA.

6. That it is submitted that all the dues of BIADA have been paid on 22.02.2022 and the manufacturing unit is in production.

Learned counsel for 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 11.05.2022 (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,

petitioners shall hand over vacant and peaceful possession of the allotted property to BIADA;

(d) Liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court;

(e) Order dated 30.07.2021 passed by respondent no.2, namely, The Additional Chief Secretary, Industries Department-Cum-Chairman, Bihar Industrial Area Development Authority (BIADA), Patna. Bihar in Appeal Case No.26 of 2016 (Annexure P/1) and the order dated 20.03.2019 passed by respondent no.6, namely, The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur, (Annexure P/2) Patna are quashed and set aside;

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

Sanjay/- Ranjan

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

(S. Kumar, J)