

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12560 of 2022**

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M/s. Sain Manufacturing and Trading Pvt. Ltd. a company incorporated under the Companies Act, 1956, having its registered office at Kanhauli, Bawan Bigha, Road No. -4, P.O. - Ramna, P.S. - Mithanpura, District- Muzaffarpur, Bihar- 842002 through its Director, Shri Pushkar, Male, aged about 32 years, Son of Shri Ramesh Kumar Sharma, Resident of Mohalla- Bawan Bigha, Road No. - 4, P.O. -Ramna, P.S. - Mithanpura, District- Muzaffarpur - 842002.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Industries Department, Government of Bihar, Patna.
2. The Bihar Industrial Area Development Authority, having its office at Udyog Bhawan, Patna through its Managing Director.
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Patna.
4. The Joint Managing Director, Bihar Industrial Area Development Authority Udyog Bhawan, Patna.
5. The Deputy General Manager, Bihar Industrial Area Development Authority Udyog Bhawan, Patna.

... .. Respondent/s

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**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Ms.Prachi Pallavi, Adv          |
| For the State        | : | Mr.Yogendra Pd. Sinha (AAG7)    |
| For the BIADA        | : | Mr. Kumar Priya Ranjan, Adv     |
|                      |   | Mr. Girish Nandan Abhishek, Adv |
|                      |   | Mr. Ankur Apurv Singh, Adv      |

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**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.

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

- “(i) Issuance of a writ of certiorari, quashing the order dated 01.08.2022 (Annexure - 4, page-27) passed by the respondent no. 4 namely Joint General Manager BIADA, by which in purported exercise of powers conferred under Section 6(2) (a) of the Bihar Industrial Area Development Authority Act, 1974, the allotment of Plot No. C-7 & C-8 in Industrial Estate, Muzaffarpur, having an area of 4500 sq feet has been cancelled and the amount deposited against allotment of the said plot has been forfeited ;
- (ii) Restrain the respondents from creating any third party rights in the aforesaid 4500 sq.ft. plot bearing Plot No. C-7 & C-8 in Industrial Estate, Muzaffarpur during the pendency of the writ petition.”

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

“Learned counsel for BIADA states that as on date no 3<sup>rd</sup> 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 3<sup>rd</sup> 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<sup>th</sup> September, 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 supplementary affidavit dated 05.09.2022 in the following terms:

3. That the petitioner gives an undertaking to this Hon'ble Court to the effect that:

- (i) Within 60 days, petitioner will start commercial production in the unit, should the Respondent handover possession of the premises of the petitioner/ recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA;
- (ii) Within six months, the 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 the allotment;
- (iii) Petitioner shall clear all the dues payable to the BIADA as on date;
- (iv) Petitioner shall make himself compliant with all the statutory requirements, including the ones protecting interest of the employee;
- (v) In the event of failure on the part of the petitioner to comply with undertaking, the petitioner undertakes to



handover vacant and peaceful possession of the premises to BIADA with liberty for further allotment to third party, when petitioner shall lose all rights therein; and  
(vi) The petitioner shall be liable for initiation of proceeding for contempt of having violated the undertaking furnished to the Court.

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.



Present petition stands disposed of in the aforesaid terms.

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

**(Sanjay Karol, CJ)**

**(S. Kumar, J)**

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| CAV DATE          | NA   |
| Uploading Date    |      |
| Transmission Date | NA   |

