

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12661 of 2022

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Dhananjay Kumar Sinha S/o - Indra Deo Prasad, Promoter of M/s Unique Plastic Products, Registered Office at Plot No. B- 23, Industrial Area, Buxar, Bihar, total area about 5,000 Sq. Ft. R/o - Bari Tola, Buxar, District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through Industry Commissioner, Industry Department, Patna.
2. The Secretary, Industry Department, Government of Bihar Patna.
3. The Managing Director, the Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Managing Director, The Bihar State Financial Cooperation, (BSFC), Frezer Road, Patna.
5. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
7. The DGM, Industrial Area, Patna Cluster, Bihar Industrial Area Development Authority (BIADA).
8. The Assistant Regional Manager, Bihar Industrial Area Development Authority, Industrial Area, Buxar.
9. The Area In-charge, Bihar Industrial Area Development Authority, Industrial Area, Buxar, P.S. - Buxar, (Industrial Area), District - Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajiv Ranjan Kr. Pandey, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar, SC 9
		Ms. Deepika Sharma, AC to SC 9
For the BIADA	:	Mr. Yashraj Bardhan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-09-2022

Heard learned counsel for the parties.

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



- i) For issuance of a writ or writs, order or orders, direction or directions for commanding to the respondents and issue an appropriate writ in the nature of certiorari to set aside the Impugned Notice bearing Memo no 2907/D dated 01.08.2007 & Take over report of the petitioner unit dated 08.08.2022 issued under signature of Respondent No. 6 (Executive Director), Bihar, Patna on the order of Respondent No. 5 (Joint Managing Director, BIADA) & The Assistant Regional Manager, (Respondent No-8) respectively whereby and where under

initially respondents are order to proposed to cancelled the unit and without given the opportunity he has take over the unite of the petitioner (M/s Unique Plastic Products) along with other units on 08.08.2022,

- ii) For that issue a writ in the nature of mandamus, commanding to the Respondents to compliance the lease deed agreement, accordingly petitioner paid the total dues demanded by the Respondents as per lease deed under OTS Scheme-2007,
- iii) For that direct to the Respondent No-4 to give/ handed over the possession to the petitioner as he has already given No-Objection Certificate (NOC) to the petitioner,
- iv) For that direct to the Respondents to strictly followed the principal of natural justice and compliance the mandate principles of Patna Industrial Area Development Authority, 1973 now made Bihar Industrial Area Development Authority, Bihar Industrial Policy 1986, Bihar Financial Act, 1981 etc.
- v) For that direct of the Respondents to not evict or dispossess the petitioner from peaceful physical possession over the land in question.



- vi) For that direct to the respondents to support the petitioner for smoothly functioning his Industry accordance to law.
- vii) For that stay the operation of Impugned order contained as Annexure-1 & 2 till the disposal of this writ application and further restrained to the respondents to not taken any harass action against the petitioner and his unit.

On 02.09.2022, 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 14.09.2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.”

Pursuant to our order dated 02.09.2022, petitioner has filed an undertaking on affidavit in the following terms:

3. That petitioner undertakes that he will start the commercial production of the unit within 60 days, as per his representation dated 28.04.2021 & 04.06.2022, the said representation was with regards to change the unit,



and at the time of setting up the present center, petitioner informed the Managing Director, BIADA, about the change of its trade. (Annexure-4 (Series) of the writ petition)

4. That the matter of fact is that the petitioner has filed the instant writ application to set aside the Impugned Notice bearing Memo no 2907/D dated 01.08.2007 & Take over report of the petitioner unit dated 08.08.2022 issued under signature of Respondent No. 6 (Executive Director), Bihar, Patna on the order of Respondent No. 5 (Joint Managing Director, BIADA) & The Assistant Regional Manager, (Respondent No-8) respectively whereby and where under initially respondents are order to proposed to cancelled the unit and without given the opportunity he has take over the unite of the petitioner (M/s Unique Plastic Products) along with other units on 08.08.2022.
5. That it is also stated that on account of Industrial Policy 2011 the petitioner has requested to the respondent BIADA for change the name and production of the unit.
6. That it is also important to mention it here that the said unit is properly functioned till the date and before take over the unit dozen of laborers were working.
7. That it is also important to mention here that petitioner is an old man aged about 69 years and he spent his whole life to establish this industries and the during this period petitioner invested about Rs. 50,000,00/- (Fifty Laks).
8. That in the aforesaid circumstances petitioner again undertakes that he will start the commercial production of the unit within 60 days, as per his representation dated 28.04.2021 & 04.06.2022. (Annexure-4 (Series) of the writ)
9. That the petitioner has not moved earlier before this Hon'ble Court regarding this matter.

Learned counsel for the 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 08.09.2022 (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, petitioner shall hand over vacant and peaceful possession of the allotted property to BIADA within a period of two weeks;

(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 01.08.2007 passed by respondent no.6, namely the Executive Director, Bihar Industrial Area Development Authority as well as order dated 08.08.2022



are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.09.2022
Transmission Date	

