

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12916 of 2022

Mrs. Soni Bala Daughter of Shankar Prasad, resident of Flat No. 303, Maha Saraswati Towers, Ranjan Path Bailey Road, Danapur, Near Indane Gas Agency, PS- Danapur, also at D-6, Industrial Area, Fatuha, P.O. and P.S. - Fatuha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Industries, Government of Bihar, new Secretariat, Patna.
2. The Director Department of Industries, Government of Bihar, New Secretariat, Patna.
3. Bihar Industrial Area Development Authority through its Managing Director, First Floor Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority, First Floor Udyog Bhawan, East Gandhi Maidan, Patna.
5. Regional Incharge, Bihar Industrial Area Development Authority, First Floor Udyog Bhawan, East Gandhi Maidan, Patna.
6. Development Officer, Bihar Industrial Area Development Authority, Branch Office- Fatuha (Regional Office-Patna).
7. The Area In-Charge, Bihar Industrial Area Development Authority, Branch Office- Fatuha.
8. Bihar State Financial Corporation through its Managing Director, Frazer Road, Patna.
9. The Managing Director, Bihar State Financial Corporation, Frazer Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Manini Jaiswal, Advocate Mr. Sanjeev Kumar Mishra, Advocate Ms. Ankita Kumari, Advocate
For the Respondent/s	:	Mr. Abbas Haider, SC-6 Mr. Kumar Priya Ranjan, Advocate Mr. Ankur Apurv Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-09-2022



Heard learned counsel for the parties.

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

- (i) For issuance of an appropriate writ in the nature of mandamus for commanding the appropriate authorities to allow the petitioner to run the factory smoothly without any hindrance being created by BIADA.
- (ii) For restraining the respondent Bihar Industrial Area Development Authority to give effect the letter dated 18.08.2021 whereby and where under threat of dispossession has been given to the petitioner.
- (iii) For direction upon the respondent authorities to provide the due chart to the petitioner for payment of dues towards rent so that the payment may be made to the petitioner at the earliest.
- (iv) For direction upon the respondent corporation to grant No Objection certificate with regard to the payment of OTS Scheme to the petitioner.
- (v) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case be granted to the petitioner.

On 09.09.2022, we had passed the following order:-

“Learned counsel for BIADA states that as on date no 3 rd 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 21st of 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 I.A.No. 2 of 2022 in the following terms:

2. That the petitioner is ready to abide by the conditions laid down by this Hon’ble Court, in order dated 09.09.2022, as follows:-

(a) The petitioner will start commercial productions in his unit within 60 days.

(b) 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 allotment.

(c) The petitioner shall clear the dues payable to BIADA as on date.

(d) The petitioner shall make itself compliant with all the statutory requirements including the once protecting interest of the employees.”

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.

I.A. No. 2 of 2022 stands disposed of accordingly.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/Anjani

AFR/NAFR	
CAV DATE	
Uploading Date	28.09.2022
Transmission Date	

