

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13098 of 2022

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Krishna Kant Dubey S/o Dwarika Dubey, Promoter of M/S Dubey Enterprises, Registered Office at Plot No. NS-5, Industrial Area, Buxar, Bihar, total area about 7500 sq. ft., R/o-Vill-Dubauli, 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 Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Deputy General Manager (DGM), Industrial Area, Patna Cluster, Bihar Industrial Area Development Authority (BIADA).
7. The Assistant Regional Manager, Bihar Industrial Area Development Authority, Industrial Area, Buxar.
8. 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 Mr. Kritya Nand Jha, Advocate
For the Respondent/s	:	Mr. Subhash Prasad Singh, GA-3 Mr. Kumar Ravish, Advocate Ms. Siddhi Aashana, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-09-2022

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 order bearing Memo no NIL dated NIL issued by Respondent No. 6, Deputy General Manager (DGM), Industrial Area, Patna Cluster, Bihar, Patna (WEB COPY) (Annexure- '1') on the order of Respondent No. 4 (Joint Managing Director, BIADA) whereby and where under respondent is order to cancelled the allotment of the land of the petitioner upon which unit (Rice & Flour Mill) of the petitioner was established, without given the proper opportunity of hearing to the petitioner (M/s Dubey Enterprises),
 - 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 amount,
 - iii) 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.
 - iv) For that direct of the Respondents to not evict or dispossess the petitioner from peaceful physical possession over the land in question.
 - v) For that direct to the respondents to support the petitioner for smoothly functioning his Industry accordance to law.
 - vi) For that stay the operation of Impugned order contained as Annexure-'1' 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.
- 1/A. That for issuance of other writ/writs order/orders, direction/ directions for which the petitioner is found entitle.

On 16.09.2022, 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 27st of September, 2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect and till then no coercive steps be taken against the petitioner.”

Petitioner has filed an undertaking being part of affidavit dated 21.09.2022 in the following terms:

“3. That the petitioner undertakes as follows:

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, falling 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 complaint 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.”

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/Anjani

AFR/NAFR	
CAV DATE	
Uploading Date	29.09.2022
Transmission Date	

