

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4139 of 2021

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M/S Shri Vishnu Mini Rice Mill Industrial Area, Nawada Proprietor Sri Ravi Shankar Prasad (Male) Aged about 44 years, son of late Kameshwar Lal, Resident of Mohalla- Purani Bazar, Post Office and Police Station- Nawada, District- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Udhg Vibhag, Department of Industries, Bihar, Patna
2. The Deputy Secretary, Department of Industry, Bihar, Patna
3. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar
4. The Executive Director, BIADA, Patna, Bihar
5. The Delopment Officer, BIADA, Patna, Bihar
6. The Senior Account Officer, BIADA, Patna, Bihar
7. The Regional-in-Charge, Industrial Area, Nawada

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. Birendra Kumar, Advocate
For the Respondent/s	:	Mr. Subhas Pd. Singh, G.A. -3.
		Mr. Devesh Shankaran, Advocate

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

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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Date : 21-01-2022

Heard learned counsel for the parties.



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

- I) For the issuance of writ/writs, direction/directions in the nature of certiorari for quashing the Order dated 24.07.2020 (Annexure-14) passed by the Secretary, Department of Industries, Bihar, Patna in Appeal Case No. 48/2019 whereby and where under confirmed the Order dated 20.11.2019 of Memo No. 6725/D passed by M.D. BIADA whereby allotment of Plot No. C-1(5000) C-2 (5000) and B-3 (P) (2500) and B-4 (7500) Sq. feet total 20,000 Sq. feet located in Industrial Area, Nawada Vide Letter No. 613/D dated 29.05.1999 has been cancelled and seized the deposited amount by Petitioner.
- II) For issuance of writ in the nature of Certiorari to also set aside the order dated 20.11.2019 (Annexure-12) passed by MD. BIADA whereby allotment of Plot No. C-1(5000 sq. feet), C-2 (5000 sq. feet) and B-3 (P) (2500 sq. feet) and B-4(7500 Sq. feet) Total 20,000 sq. Feet area located in the Industrial Area, Nawada Vide Letter No. 613/D dated 29.05.1999.
- III) For other relief/ reliefs may be granted for which the petitioner may be found entitled in the facts and circumstances of the case.



On 22nd of December, 2021, we had passed the following order:-

“After the matter was heard for some time, we are of the considered view that it would be prudent, for ensuring industrial growth within the State of Bihar, to allow the industrial establishments, another opportunity for making their units fully functional, on certain terms and conditions.

As such, the parties jointly submit for passing of an order, on the following mutually agreeable terms:-

(a) BIADA respondent No. 3, namely, Managing Director, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar, shall deseal the premises i.e. plot no. C-1(5000) C-2 (5000) and B-3(P) (2500) and B-4(7500) sq. feet, total- 20,000 sq. feet forthwith;

(b) Petitioner undertakes to make the unit fully functional and operational within a period of three months thereafter;

(c) Petitioner undertakes to clear all pending dues in terms of the previous allotment, including the dues towards transfer fee for change of users/business;

(d) 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 loose all rights therein;

(e) Also, petitioner shall be liable for initiation of proceedings for contempt for having



violated the undertaking furnished to the Court.

List this case on 04.01.2022, in the category of "Order Matters" for the petitioner to file an undertaking, before which date we expect BIADA to desale the premises."

Pursuant thereto, petitioner has filed an undertaking by way of supplementary affidavit dated 23.12.2021, *inter alia*, averring as under:-

1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That, in pursuance of order dated 22.12.2021 passed by in this Hon'ble Court in C.W.J.C. No. 4139/2021, I am filing this undertaking as follows:-
 - (i) That, I hereby gives the undertaking that I will install my Shri Vishnu Mini Rice Mill Industry, Nawada within 3 months and start production also.
 - (ii) That, I also undertakes that on receipt of dues amount payable by me to the BIADA immediately for which application dated 23.12.2021 has already given to the Executive Director, BIADA, Patna.
3. That I shall give vacant possession of the leased out area/land immediately.



4. That, not only I will give the vacant possession but shall loose all rights over the leased land and machinery etc. kept/installed therein.

5. That, in case of any negligence of failure on my part will amount to contempt of this court for the violation of given undertaking and/or other consequences in any for the violation of undertaking.

6. That the contents of this supplementary affidavit have been read and explained over to me in Hindi which I fully understood the same.

7. That the Annexure is true photo/typed copy of its original.

Shri Devesh Shankaran, learned counsel for the BIADA has no objection to the writ application being disposed of in terms of the aforesaid undertaking.

The undertaking furnished by the petitioner is accepted and taken on record.

Also, through his counsel, petitioner has been made to understand the consequences of breach thereof.

As such, we dispose of the present petition making the petitioner bound by the undertaking so furnished, and in the



event of default, liable for initiation of proceedings for contempt as also forfeiture of rights in relation to the property in question. Also, handing over the vacant and peaceful possession of the premises in question to BIADA within a period of one week, if the Unit is not made fully operational and functional, and the production commenced within a period of three months from today.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	24.01.2022
Transmission Date	

