

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13818 of 2022

M/s Savitri Enterprises through its Proprietor - Mrs. Savitri Devi, female, aged about 40 years Wife of Badri Narayan Sharma resident of ward no. 13 Nagar Panchayat, Post Office and Police Station - Jhanjharpur, District - Madhubani, Bihar Pin Code - 847404.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
2. The Secretary Dept. of Industries cum Chairman, Bihar Industrial Area Development Authority (BIADA) Udyog Vibhag, Patna.
3. The Managing Director Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority (BIADA) Regional Office, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Blitz Kumar Sudhanshu, Advocate Mr. Shivnandan Bharti, Advocate Ms. Kalyani Singh, Advocate Mr. Dhiresk Kumar Dhiraj, Advocate
For the Respondent/s	:	Mr. Lalit Kishore, AG Mr. Gyan Shankar, Advocate

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

Date : 12-10-2022

Heard learned counsel for the parties.

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

1. For issuance of a writ in the nature of certiorari for quashing of the appellate order dated 07.06.2022 passed in Appeal Case No. 46 of 2022 by the principal Secretary of the Department of Industries whereby they affirming the cancellation order in respect of the petitioners' allotted unit passed through an Office Order contained in Memo No.



857 Dated 23.12.2021 passed by the Respondent No. 3, Managing Director of Bihar Industrial Area Development Authority whereby and where under the land measuring an area of 0.15 acre and 0.10 acre bearing plot no. 44P, total 0.25 acres which was transferred to the Petitioner vide Transfer Letter No. 1683 dated 26.11.2005 and Letter No. 1668 dated 07.12.2005 for the establishment of Rice Mill Industry within Industrial Area, Jhanjharpur, Madhubani has arbitrarily been cancelled.

- II. For issuance of any other relief or reliefs for which the petitioner is found entitled to.

On 26.09.2022, 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 11th of October, 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 dated 11.10.2022 in the following terms:

“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 even 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.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.10.2022
Transmission Date	

