

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13558 of 2022

1. The Gramin Industrial Training Institute A partnership Firm having its Industrial Unit at Industrial Estate, Jehanabad, District- Jehanabad, through one of its partner namely Smt. Vidya Sinha, Aged about 61 years, Gender- Female, Wife of Late Birendra Sharma, Resident of Village- Nijamuddinpur, P.S.- Jehanabad, District- Jehanabad.
2. Smt. Vidya Sinha Wife of Late Birendra Sharma, Resident of Village- Nijamuddinpur, P.S.- Jehanabad, District Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Industry Department, New Secretariat, Government of Bihar, Patna.
2. The Principal Secretary, Industry Department, New Secretariat, Government of Bihar, Patna.
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi- Maidan, Patna.
4. The Executive Director, Bihar Industrial Area, Development Authority Regional Office, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pritish Kumar Lal, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh, GA-3
		Mr. Piyush Lall, Advocate
		Mr. Devesh Shankaran, Advocate

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.

Petitioners have prayed for the following relief(s):-



(A) An appropriate writ (s), order (s), direction (s) to quash the order dated 16-12-2021 passed by the Managing Director, Bihar Industrial Area, Development Authority (in short "BIADA"), Udyog Bhawan, Gandhi-Maidan, Patna (Annexure-) where under he has cancelled the land allotted to the petitioner at Jehanabad Industrial Estate, Jehanabad, as well as confiscated the amount of Rs. 300, 00, 0/- (Three Lacks) in deposit with the Bihar Industrial Area Development Authority, Patna, against the allotment of the land.

(B) An appropriate writ (s), order (s), direction (s) to quash the ex-parte order dated 03-08-2022 passed by the Principal Secretary, Industry Department, New Secretariat, Government of Bihar, Patna, in Appeal No. 36 of 2022 filed by the petitioner, dismissing the appeal, being Appeal No. 36 of 2022 against the order dated 16-12-2021 passed by the Managing Director, "BIADA" denying a chance to the petitioner to place their case effectively before him.



- (C) An appropriate writ (s), order (s), direction (s) restraining the respondents from interfering with the possession of the petitioner over the lands allotted to the petitioner by the "BIADA" at Jehanabad Industrial Estate, Jehanabad, in any manner.
- (D) A writ in the nature of Mandamus commanding the Respondents to act in accordance with law.
- (E) Any other order (s) which this Hon'ble Court may deem fit and proper for giving complete justice to the petitioner.

On 12.09.2022, 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.

Learned counsel for the BIADA states that should the petitioner make an application for change of user, it would be considered in accordance with the industrial policy, provided the petitioner does not take any benefit in terms thereof.

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 20th 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 an affidavit dated 26.09.2022 in the following terms:

“7. That the petitioner is ready to abide by the following conditions:-

a) Petitioner is ready to commence operation of his Unit within 60 days and further ensure functioning of it's unit at it's full capacity within six months from the date of the order;

b) Petitioner is ready to pay the outstanding dues, if any, in terms of the direction of this Hon'ble Court;

c) Petitioner is ready to comply with all Labour Laws;

d) If there would be any change of user from one category to another permissible category, as per list of BIADA, the petitioner will approach the BIADA and the officers of BIADA shall allow the same property, with permissible riders;

e) If, however, the activity falls outside the permissible category, petitioner will approach BIADA for a meaningful dialogue and decision..”

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	

