IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14518 of 2022

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M/s Patna Iron Private Limited a company registered under Companies Act having its office at Ground Floor, Suprabhat Building, Ceat Compound, Exhibition Road, Patna, through its authorized representative- Santosh Kumar Mandholia (Male) Aged about 62 Years, S/o Mulchand Mandholia, R/o 32, Krishna Kunj Appartnmen, Sahdev mahato marg boring road, Budda Colony, Patna PS- SK Puri and District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Department of Industry, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industry, Government of Bihar, Patna.
3. Commissioner-cum-Secretary, Department of State Taxes, Government of Bihar, Patna.
4. Director, Industries, Department of Industry, Government of Bihar, Patna.
5. The Director (Technical Development) Department of Industry, Government of Bihar.
6. The Bihar Industrial Area Development Authority, Patna through its Executive Director.
7. Executive Director, Bihar Industrial Area Development Authority, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Abhishek Kumar, Advocate
For the Respondent/s : Mr.Kinkar Kumar (SC 9)

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

Date : 20-10-2022

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

" i. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to implement the Bihar Industrial Incentive Policy, 2011 and thereby pay the entitlement of the Petitioner, under the head of Re-imbursement for VAT/SGST Paid and Electricity Duty Paid.

ii. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to bring on record order(s) or letter(s) through which the claims of the petitioner for Re-imbursement for VAT/SGST Paid and Electricity Duty Paid, has been denied.

iii. For issuing a writ of certiorari or any other appropriate writ quashing such order(s) or letter(s) so produced through which the claims of the petitioner for Re-imbursement for VAT/SGST Paid and Electricity Duty Paid, has been denied.

iv. For issuing appropriate writ declaring that the payments to the Petitioner as per entitlement for post-production incentives such as Reimbursement for GST paid, VAT paid/Electricity Duty paid, AMG/MMG paid cannot be kept pending or denied and hasto be timely paid to Petitioner.

v. For holding that Respondents erred in not releasing the subsidy/reimbursement on the ground that the proposal of the 'Competent Authority' given the fact that the proposal already has approval from SIPB and the law has been settled in this regard by the Hon'ble Division bench of this High Court and has been confirmed by the Hon'ble Supreme Court that once the proposal has been approved by the SIPB, no other approval is required.

vi. For holding that the Respondents cannot withhold, discontinue to subsidize and/or reimbursement the entitlements accorded to the Petitioner under the Bihar Industrial Incentive Policy, 2011.

vii. For holding that once the proposal of the investment has been accepted and petitioner is declared entitled under the Policy then the Respondents cannot interfere with the disbursal of the reimbursement/subsidy amount to the Petitioner.

viii. For holding that the Respondents erred by not releasing full reimbursements and subsidies amount given the fact that they hold no authority to refuse/stop/interfere once proposal of investment has been accepted by the State Investment Promotion Board (SIPB).

ix. For holding that it is the duty of the Respondents to timely release the payments for reimbursement under the head of VAT/GST every time the petitioner submits an application for the same and the petitioner need not go through the unnecessary technicalities and procedures again.

x. For holding that the Respondents cannot make the Petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.

xi. For any reliefs, direction/directions for which the petitioner is entitled may be given."

It is brought to our notice that the decision rendered by a co-ordinate Bench of this Court in CWJC No.12104 of 2018, titled as M/s Sunny Stars Hotels Private Limited Vs. The State of Bihar & Ors., has attained finality, inasmuch as, the Special Leave Petition preferred by the State stands dismissed by Hon'ble the Apex Court vide order dated 17.01.2020, passed in SLP(Civil) No. 43744 of 2021.

Parties agree that the petition can be disposed of.

Learned counsel for the petitioner, states that certain amount in terms of the Bihar Industrial Incentive Policy, 2011 already stands paid to the petitioner. As such, petitioner shall be content if the petition is disposed of with liberty granted to the petitioner to approach the authority concerned by filing a representation within a period of four weeks, with a direction to the authority concerned to consider and decide the same within a period of four weeks from the date of its presentation.

Prayer allowed.

Without expressing any opinion on merits of the claim, petition is disposed of with the liberty aforesaid. All issues on facts and law are left open.

Needless to say that while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

If aggrieved by the said order, the petitioner shall have liberty to approach this Court by way of separate petition(s), if so required and desired.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

The petition stands disposed of in the aforesaid terms.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(Ashwani Kumar Singh, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.10.2022
Transmission Date	