

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15394 of 2022

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M/s Om Namo Bhagwate Rice Mill Pvt. Ltd. Industrial Area-Aurangabad,
through its Director Shri Jai Mangal Singh, male, aged about 59 years, S/o
Late Kamta Singh, Village Akouna, Ward No. 33, Four Lane Gandhi Nagar,
Pipardih, Post-Pawal, P.S. and District-Aurangabad (Bihar) 842101.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Industries,
Government of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar,
Patna.
3. The Bihar Industrial Area Development Authority (BIADA), through the
Managing Director, 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority
(BIADA), 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna.
5. The Executive Director, South, Bihar Industrial Area Development
Authority, Udyog Bhawan, Patna- 800001.
6. The Deputy General Manager, Gaya Cluster, Bihar Industrial Area
Development Authority.
7. The Area Incharge, Industrial Area-Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
For the Respondent/s : Mr.Kinkar Kumar (SC- 9)

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 23-11-2022



Heard learned counsel for the parties.

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

- i. For quashing and modifying the order dated 06.05.2022 passed in Appeal Case No. 20 / 2022 by the Respondent No. 2 whereby and where under while allowing the Appeal filed by the petitioner he has arbitrarily directed to pay the decretal enhanced amount of land acquisition rather the original allotted/leased consideration amount without the sanction of law and against the provisions of various orders of this Hon'ble Court whereby upon submission of undertaking, payment of original dues an extension of time is being granted for initiating the commercial production on the unit of the petitioner.
- ii. Further, for setting aside the Office Order bearing Memo No. 4438 Dated 17.12.02021 passed by the Respondent No. 2, Managing Director of Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA') whereby and where under the land bearing Plot No. K-15 admeasuring an area of 87,120 Sq. Ft. which was allotted to the Petitioner vide allotment Letter No. 3838/D dated 18.09.2007 for the establishment of Cold Storage Industries (subsequently changed to Rice Mill Industries) within the Industrial Area, Aurangabad has arbitrarily been cancelled.



- iii. For declaration and to hold that the aforesaid impugned order dated 06.05.2022 (communicated vide Memo No. 2217 dated 25.05.2022) passed in Appeal Case No. 20/2022 is illegal and in contravention to the settled principles of law i.e. *Nemo Judex in Causa Sua* (No one should be made a judge on his own cause) as the impugned order vide Memo No. 4438 Dated 17.12.2021 has been passed by respondent no. 4 Managing Director and the order dated 6.05.2022 passed in Appeal Case No. 20/2022 has been passed by respondent no. 2 Principal Secretary, Department of Industries who is holding the same post at same time and as such liable to be quashed on this ground itself.
- iv. For a direction upon the Respondents not to compel the payment of the decretal enhanced amount of the Land Acquisition rather allow the payment of allotment/leasehold cost as fixed by Respondent BIADA.
- v. For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.
- vi. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.

On 11.11.2022, 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 23rd of November, 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.”

Pursuant to our order dated 11.11.2022, petitioner has filed an undertaking on affidavit in the following terms:

“i. That, I, hereby undertake that within 60 days, I will start the unit, should the respondents hand over possession of the premises to the petitioner, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA.

ii. That I also undertakes that within six months, I will make the Unit fully operational and functional in terms of the order of Hon'ble Court.



iii. That also undertakes that I shall clear all the dues payable to BIADA as on date and shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees.

iv. That I further undertake that I shall comply the provisions of labour law and other statutory compliances.

V. That I further undertake that in the event of failure on my part, I shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party.

vi. That I further undertake that in the event of default I shall be liable for being prosecuted for having committed contempt of this Hon'ble Court.”

Learned counsel for the BIADA states that petition can be disposed of in terms of the undertaking so furnished.

The undertaking is accepted and taken on record.

Consequence of breach thereof, including initiation of proceedings for contempt having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

As such, petition is disposed of in the following terms:-

(a). Undertaking of the petitioner dated 23.11.2022 (reproduced supra) is accepted and taken on record;

(b) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;



(c) In the event of default of the undertaking, petitioner shall hand over vacant and peaceful possession of the allotted property to BIADA within a period of two weeks;

(d) Liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court.

(e) Order dated 17.12.2021, passed by Respondent No. 4, namely, the Managing Director, Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna (Annexure-7 Page-32) and the order dated 06.05.2022 passed by Respondent No. 2, namely, the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No. 20/2022 (Annexure-8) are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	25.11.2022
Transmission Date	

