

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15567 of 2022

M/s. Maa Kali Food Products Industrial Growth Centre, Maranga through its Proprietor Shishir Kumar Mishra, S/o Sri Hira Lal Mishra, Gender Male, aged about 46 years, R/o Khiru Chowk, Bhatta Bazar, Kabari Khana, Purnea, Bihar, Pin- 854301.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Industries, Govt. of Bihar.
2. The Principal Secretary, Department of Industries, Govt. of Bihar.
3. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. Executive Director, South, Bihar Industrial Area Development Authority (BIADA).
7. The Deputy General Manager, Purnea Cluster, Bihar Industrial Area Development Authority (BIADA).
8. The Area Incharge, Industrial Growth Centre, Maranga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Neeraj Kumar, Advocate Mr. Abhishek Kumar Pandey, Advocate Mr. Sachin Kumar, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, AAG-7 Mr. Piyush Lall, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(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.)

Date : 02-12-2022



Heard learned counsel for the parties.

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

- (i) For quashing and modifying the order dated 02.09.2022 passed in Appeal Case No. 74/2020 by the Respondent No. 2 whereby and whereunder while allowing the Appeal filed by the Petitioner, he has arbitrarily directed the Petitioner to run the unit on electricity, whereas due to dispute with electricity Department, the Petitioner is running the unit on alternative sources of energy till the electricity is restored. However, without considering the fact the Appeal has been arbitrarily, whimsically been rejected in colorable exercise of powers.
- (ii) For setting aside the Memo of Appeal against the Office Order bearing Memo No. 476 Dated 05.10.2020 passed by the Respondent No. 4, Managing Director of Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA') whereby and where under the land bearing Plot No. 17(P) admeasuring an area of 5,000 Sq. Ft. which was allotted to the Petitioner vide allotment Letter No. 56/Con/ED Cell, Patna dated 11.02.2011 for the establishment of Fryum (ready to eat) Industries within the Industrial Growth Centre, Maranga has arbitrarily been cancelled, since the reason recorded therein is non-est, not sustainable that too being perverse and in complete violation of the principles of natural justice and against all canons of justice.



- (iii) For declaration and to hold that the aforesaid impugned order dated 02.09.2022 passed in Appeal Case No. 74/2020 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. 476 Dated 05.10.2020 has been passed by Respondent No. 4 Managing Director and the order dated 02.09.2022 passed in Appeal Case No. 74/2020 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 directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.
- (v) For any other relief or reliefs for which the petitioner be found entitled in the eye of law.

On 18.11.2022, 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.

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 02.12.2022 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 18.11.2022, 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 compliance.

v. That I further undertake that in the event of failure on the part of 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 28.11.2022 (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 02.09.2022 passed by the Principal Secretary, Department of Industries, Bihar, Patna in Appeal Case No. 74/2020 (Annexure-9) and the order dated 05.10.2022 passed by respondent no.4 namely the Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna (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	06.12.2022
Transmission Date	

