

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14820 of 2022

=====

M/s. Adarsh Electric Motors Works through its Proprietor Raja Ram Singh,
Aged about- 84 years, Gender- Male S/o Dev Charan Singh, R/o- ITC Growth
Centre P.O.- Manjurahi, Aurangabad, Bihar.

... .. 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 Joint Managing Director, Bihar Industrial Area Development Authority,
1st Floor, Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, South, Bihar Industrial Area Development
Authority, 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna.
7. The Deputy General Manager, Gaya Cluster, BIADA, 1st Floor, Udyog
Bhawan, Gandhi Maidan, Patna.
8. The Area Incharge, Industrial Area- Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate
For the State	:	Mr. Abbas Haider (SC6)
For the BIADA	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Pallav, Advocate
		Mr. Ankur Apurv Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 14-11-2022

Petitioner has prayed for the following relief(s):

“(I) To hold and declare that the arbitrary, whimsical
action of the Respondent BIADA in forcefully
resuming the possession of 5,000 Sq. Ft. of land on
10.09.2022, which was being continuously utilized for



running Industry and Industrial Training Centre, as accepted in several letters of Respondent BIADA is without any adherence to the principles of natural justice i.e. Audi Alterm Partem, colorable exercise of powers and is bad in law and abridges the fundamental rights, legal rights of the petitioner. Further petitioner prays for restoration of possession of the land in question forthwith and respondents be restrained to take any coercive action against the petitioner.

(ii) For setting aside the order contained in Memo No.2817 dated 28.07.2007 passed by Respondent No.4 (The Managing Director, BIADA) whereby the land measuring an area of 5,000 Sq. Ft. bearing Plot No.A-32, has been cancelled being in complete violation of mandate of law as well as in teeth of order passed by the Hon'ble Court whereby despite of submission of requisites documents, fees the product has not been changed per contra arbitrarily, maliciously and in callous manner the allotment has been cancelled.

(iii) For declaration and to hold that the aforesaid impugned orders are illegal and in violation of fundamental rights, legal rights as despite of submission of the requisite documents, fees the product i.e. Industrial Training Institute ('ITI') has not been changed and on erroneous, illegal considerations the allotment has been cancelled.

(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 03.11.2022, 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 handover 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 handover 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 14th 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 03.11.2022, 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 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 10.11.2022 (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 contained in Memo No. 2817/D dated 28.07.2007 passed by respondent no.4 (The Managing Director, BIADA)(Annexure-5 series) is 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)

Saurabh/K.C.Jha

U			
---	--	--	--

