

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15496 of 2022

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M/s Abhishek Pharmaceuticals Pvt. Ltd. through its Director Kunwar Vijay Singh aged about 73 Years, S/o Sri Raj Bharat Singh, R/o Near Gautam Budh High School, Vishunganj, District-Jehanabad, Bihar, Pin-804408.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
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 (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, South, Bihar Industrial Area Development Authority (BIADA),
7. The Deputy General Manager, Patna Cluster, Bihar Industrial Area Development Authority (BIADA),
8. The Area In-Charge, Industrial Area-Jehanabad
9. The District Forest Officer, Department of Forest, Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Ranjan, Advocate Mr. Abhishek Kumar Pandey, Advocate Mr. Sachin Kumar, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar (SC-9) Ms. Deepika Sharma, A.C. to S.C. 9 Mr. Piyush Lall, Advocate Mr. Kumar Priya Ranjan, Advocate

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



Date : 28-11-2022

Heard learned counsel for the parties.

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

“i. For setting aside the order bearing Memo No. 4356/D dated 15.12.2021 passed by the Respondent No. 4, Managing Director, BIADA whereby and whereunder the land measuring an area of 15,000 Sq. Ft. bearing Plot No. C-15,16,17,18,19 & 20 in the year September, 1982 which was allotted to the petitioner has been cancelled.

ii. For modification of the order dated 17.06.2022 passed in Appeal Case No. 21/2022 by the Respondent No. 2 whereby and whereunder while allowing the appeal filed by the petitioner has imposed the conditions of Bank guarantee of Rupees 3 Lakhs which is in teeth of the which are without the sanction of law and against the provisions of BIADA Amnesty Policy, 2021 and in teeth of various orders of this Hon’ble Court whereby upon submission of undertaking an extension of time is being granted for initiating the commercial production on the unit of the petitioner.

iii. For declaration and to hold that the aforesaid impugned order dated 17.06.2000 (communicated vide Memo No. 2682 dated 22.06.2022) passed in Appeal Case No. 21/2022 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 cancellation order vide order dated 15.12.2021 has been passed by Respondent No. 4 Managing Director



and the order dated 17.06.2022 passed in Appeal Case No. 21/2022 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 the directions upon the Respondent No. 1 to 5 to help the petitioner and coordinate with the Respondent No. 9 i.e. District Forest Officer, Govt. of Bihar, Jehanabad for the removal of the green trees which have fallen over the shed of the petitioner causing damage over the same.

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 16.11.2022, 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 28.11.2022 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 16.11.2022, petitioner has filed an undertaking on affidavit dated 28.11.2022 in the following terms:

“2. That in pursuance of the order dated 16.11.2022 passed by this Hon’ble High Court in CWJC No. 15496 of 2022, I am filing this undertaking as follows:-

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 undertake 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 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 15.12.2021 passed by Respondent No. 4, namely, the Managing Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, Gandhi Maidan, Patna, and the order dated 17.06.2022 passed by the Respondent No. 2, namely, the Principal Secretary, Department of Industries, 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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	29.11.2022
Transmission Date	

