

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15712 of 2022

M/S Osho Plastics Barauni Industrial Area, Barauni, through its proprietor namely Kamalnayan Kumar (M) aged about 65 years, son of Late Nageshwar Prasad Singh, resident of Raghuram Tola, Village and P.O. Aunta, P.S. Hathidah, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Industry Department, New Secretariat, Patna.
2. The Principal Secretary Industry Department, Govt. of Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA) through its Chairman, Gandhi Maidan, Patna.
4. The Chairman, Bihar Industrial Area Development Authority.
5. The Managing Director, BIADA, Patna.
6. The Joint Managing Director, Muzaffarpur Cluster BIADA, Patna.
7. The Deputy General Manager, BIADA, Muzaffarpur Cluster, Gandhi Maidan, Patna.
8. The Development Officer, Barauni Industrial Area, BIADA.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrityunjay Kumar, Advocate
For the State	:	Mr. Kinkar Kumar, SC 9
		Ms. Deepika Sharma, Advocate
For the BIADA	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Ankur Apurv Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-12-2022

Heard learned counsel for the parties.

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

“For quashing the office order, issued under the signature of the Deputy General Manager, BIADA, Muzaffarpur, cluster, Gandhi Maidan, Patna under Memo no. 1094 dated 29.06.2022 in compliance of the order dated 27.06.2022 passed by the Joint



Managing Director, BIADA and also the order dated 07.09.2022 passed by the Principal Secretary Industries Department, Bihar in Appeal No. 85/2022.”

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 7th of December, 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 26.11.2022, petitioner has filed an undertaking on affidavit, relevant portion whereof is quoted hereinunder:-

“2. That commercial production of the Unit will start within 60 days and it will be fully operational within 6 months as per condition (a) (b) of the order.

3. That the petitioner will clear all the dues within the period prescribed by BIADA.

4. That the petitioner will manage all the statutory requirement as per condition prescribed in the order.

5. That in even of failure to comply the order of the Hon’ble Bench the petitioner will hand over the premises peacefully in vacant condition and will liable to face contempt proceeding in violation of undertaking.

That the petitioner is ready to fulfill any other condition imposed on him.

Subsequently, on 06.12.2022, petitioner has filed I.A.No. 01 of 2022 stating that the main product of the Unit was plastic carry bag and there is ban on such production, he wants to manufacture some additional product/change in



product.

Learned counsel for the BIADA states that, should the petitioner make an application for change of user within a period of two weeks, it would be considered within a period of four weeks in accordance with the industrial policy, provided the petitioner does not take any benefit in terms thereof.

Statement accepted and taken on record.

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

(a) Undertaking of the petitioner dated 26.11.2022 (reproduced supra) is accepted and for the reasons mentioned therein, I.A.No. 01 of 2022 is allowed.

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

(c) In the event of failure on the part of the petitioner to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises from the petitioner with liberty for further allotment to 3rd party, with the petitioner losing all rights therein;

(d) Liberty reserved to BIADA to approach this Court, should the petitioner fail to abide by the undertakings



furnished before this Court;

(e) Petitioner shall pursue the matter for change of user in terms of the current industrial policy.

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	14.12.2022
Transmission Date	

