

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15602 of 2022

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M/s Sai Industries Proprietor Shri Amit Kumar Sinha, S/o Arun Kumar Ambashtha, R/o at and P.S. Murarpur, Post Biharsharif, District Nalanda, Bihar-803101.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, The Bihar Industrial Area Development Authority (BIADA).
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.
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-Biharsarif.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr. Kinkar Kumar, SC-9
		Mr. Girijish Kumar, Advocate
		Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(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.)

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Date : 02-12-2022



Heard learned counsel for the parties.

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

- i. For setting aside the order bearing Memo No. 2518 Dated 17.06.2022 passed by the Respondent No. 3, Joint Managing Director of Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA') whereby and where under the land bearing Plot No. N.P. - 4 admeasuring an area of 1,350 Sq. Ft. which was allotted to the Petitioner vide allotment Letter No. 3006/D dated 16.05.2018 for the establishment of Sattu and Besan Industries within the Industrial Area, Biharsharif, 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 as well as ignoring the law laid down by the Hon'ble Division Bench of the High Court of the Judicature at Patna in the well celebrated case of the Deepak Paints (P) Ltd. Vs. The State of Bihar bearing L.P.A. No. 353/2008 and other analogous cases, decided by the order dated 18.03.2015 & Sarvashree Anand Engineering, Maranga Vs. The State of Bihar and Others bearing L.P.A No. 257/2019 decided by the order dated 04.03.2020 and Ram Prakash Shyam Kumar vs. State of Bihar and Others bearing C.W.J.C No. 19363/2018 decided by the order dated 25.02.2019; as such aforesaid cancellation order is not sustainable in the eye of law and is fit to be set aside by this Hon'ble Court
- ii. For quashing and the order dated 6.09.2022 passed in Appeal Case No. 78/2022 by the Respondent No. 2 whereby and where under while allowing the appeal filed by the petitioner has arbitrarily imposed Bank guarantee of Rupees 2 Lakhs and the conditions which are without the sanction of law and is also against the basic tenants of natural Justice.
- iii. For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.
- iv. 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 2nd 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 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 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 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 17.06.2022 passed by respondent no.3, namely the Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director (Annexure-3/A) and the order dated 06.09.2022 passed by the Principal Secretary, Department of Industries, Bihar, Patna in Appeal No. 78/2022 (Annexure-4) 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	

