

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15895 of 2022

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M/s. Jankinandan Foods Pvt. Ltd. through its authorized proprietor Brajesh Kumar Sharma, Gender- Male, aged about 65 years, S/o Yugul Kishor Sharma, R/o- Kauma, Kaunwan, Kauam, Sheohar, Bihar- 843325.

... .. 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, New Secretariat, Patna, 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, Udyog Bhawan (BIADA), Patna, Bihar.
6. The Executive Director, North, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur.
7. The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA).
8. The Area Incharge, Industrial Area- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Viveka Nand
For the Respondent/s : Mr.Yogendra Pd. Sinha (Aag7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-12-2022

Heard learned counsel for the parties.

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

“(i) For quashing the order dated 13.10.2022
passed in Appeal Case No. 182/2022 by the
Respondent No. 2 whereby and whereunder



the appeal filed by the petitioner has been dismissed in a mechanical arbitrary, whimsical, pick and choose manner, whereas the similarly situated allottees have been given the benefits as are being by the Hon'ble Court in C.W.J.C. No. 6883/2020, M/s. Umesh Service Station vs. The State of Bihar and Ors, and in terms of Appeal No. 76/2022.

(ii) For setting aside order bearing Memo No. 1211 dated 6.08.2022 passed by the Respondent No. 3 Joint Managing Director of Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA') whereby and whereunder the allotment of land measuring an area of 5445 Sq. Ft. bearing Plot No. D-47 for the establishment of Auto Mobile Servicing and Mechanical Industry within the Industrial Area-Aurangabad 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 13.10.2022 passed in Appeal Case No. 182/2022 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 impugned order vide Memo No. 1211 dated 6.08.2022 has been passed by Respondent No. 4 Managing Director and the order dated 13.10.2022 passed in Appeal Case No. 182/2022 has been passed by respondent no. 2 Principal Secretary, Department of Industries who is the same post at same time and as such liable to be quashed on this ground itself.

(iv) For a direction upon the Respondents to give the benefits as are being given to the similarly situated allottees in C.W.J.C. No. 13558/2022, C.W.J.C. No. 12560/2022, C.W.J.C. No. 6883/2020, C.W.J.C. No. 13037/2022 and other analogous cases.

(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.”

Pursuant to our previous order dated 24.11.2022, petitioner has now filed yet another affidavit furnishing his undertaking 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 BIADA shall takeover possession and the premises.

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 compliance 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 petitioner BIADA take over vacant and peaceful possession of the premises 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 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 5.12.2022 (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;

(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 13.10.2022 passed by respondent no. 2, namely The Principal Secretary, Department of Industries, Govt. of Bihar, New Secretariat, Patna, Bihar in Appeal Case No. 182/2022 (Annexure-7) and the order dated 6.8.2022 passed by respondent no. 5, namely the The Joint Managing Director, Bihar Industrial Area Development Authority, Udyog



Bhawan (BIADA), Patna, Bihar (Annexure-6) are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Spd/-Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	06.12.2022
Transmission Date	

