

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16169 of 2022

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M/s. Upendra Chuda Mill through its representatives Sri Gaurav Kumar, male, aged about 37 years S/o Late Upendranath Sah, R/o- Gami Tola, Katihar, Amdabad, PO- Katihar, PS- Katihar Town, Bihar- 854105.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Industry, Govt. of Bihar.
2. The Principal Secretary, Bihar Industrial Area Development Authority (BIADA).
3. Bihar Industrial Area Development Authority (BIADA), 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 (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, North, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
7. The Deputy General Manager, Purnea Cluster, Bihar Industrial Area Development Authority (BIADA).
8. The Area Incharge, Industrial Area- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Viveka Nand,Advocate
For the Respondent/s	:	Mr.Yogendra Pd. Sinha (AAG7)
For BIADA		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 : 15-12-2022

Petitioner has prayed for following relief (s) : -

“(i) For quashing the order dated 15.10.2022 passed in Appeal Case No. 189/2022 by the Respondent No. 2 whereby and where under 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. 28 dated 16.08.2022 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 0.25 acres for the establishment of Flour and Chura Udyog, within the Industrial Area - Katihar 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 15.10.2022 passed in Appeal Case No. 189/2022 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. 28 dated 16.08.2022 has been passed by Respondent No. 4 Managing Director and the order dated 15.10.2022 passed in Appeal Case No. 189/2022 has been passed by respondent no. 2 Principal Secretary, Department of Industries who is colorably holding 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 25.11.2022, petitioner has now filed a supplementary affidavit furnishing the undertaking inter alia 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 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 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 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 01.12.2022 (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, BIADA will take over vacant and peaceful possession of the allotted property from the petitioner;

(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 15.10.2022 passed by respondent no.2, namely The Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No. 189 of 2022 and the order dated 11.08.2022 passed by respondent no.3 namely The Joint Managing Director, BIADA, communicated



vide Memo. No. 28 dated 16.08.2022 by respondent No. 7,
namely The Deputy General Manager, Purnea Cluster, BIADA
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)

K.C.Jha/chn

AFR/NAFR	
CAV DATE	
Uploading Date	20.12.2022
Transmission Date	

