

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16344 of 2022

=====

M/s. Shivam Automobiles through its proprietor Mantosh Kumar, male, aged about- 34 years, S/o Shri Gopal Sharma, R/o Naya Tola, East of Railway Line, P.O. and P.S.- Jehanabad, Bihar- 804408.

... .. 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. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna 800001, through its Managing Director.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna, 800001.
5. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA).
6. The Executive Director, South, Bihar Industrial Area Development Authority (BIADA).
7. The Deputy General Manager, Gaya Cluster, Bihar Industrial Area Development Authority (BIADA).
8. The Area Incharge, Industrial Area- Jehanabad, Bihar Industrial Area Development Authority, (BIADA).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Viveka Nand, Advocate
For the Respondent/s	:	Mr.Subhash Pd. Singh (GA 3)
For the Respondent BIADA :		Mr. Girjish Kumar, Advocate

=====

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 07.10.2022 passed in Appeal Case No. 157/2022 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 against Memo No. 2838 dated 01.07.2022 issued by the Respondent No. 3, Joint Managing Director whereby and where under the allotment of shed No. C-1 and C-2 admeasuring 5,000 square feet of land allotted for servicing and repairing of automobile industry has been cancelled on the ground which is completely illegal, arbitrary, contrary to natural justice.

(iii) For declaration and to hold that the aforesaid impugned order dated 07.10.2022 passed in Appeal Case No. 157/2022 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. 2838 dated 01.07.2022 has been passed in garb of Respondent No. 4, Managing Director, BIADA by Respondent No. 3, Joint Managing Director and the order dated 07.10.2022 passed in Appeal Case No. 157/2022 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 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, 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 07.10.2022 passed by respondent no.2, namely The Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No. 157 of 2022 and the order dated 28.06.2022 passed by respondent no.3 namely The Joint Managing Director, BIADA, communicated vide Memo. No. 2838/D dated 01.07.2022 by respondent No. 7,



namely The Deputy General Manager, Gaya 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	

