

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16542 of 2022

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Rajesh Kumar Sinha Son of Late Mahindra Prasad Singh, Resident of Dallu Chak, P.O. and P.S. Khagaul, District Patna, Managing Director M/S Mahindra Beveragages and Foods Pvt. Ltd, Fatuha Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Industrial Area Development Authority, Patna.
2. The Principal Secretary, Bihar Industrial Area Development Authority, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority, Patna.
4. The Deputy Managing Director, Bihar Industrial Area Development Authority, Patna.
5. The Development Officer, Bihar Industrial Area Development Authority, Udyog Bhawan, gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amarendra Narayan, Advocate
For the Respondent/s	:	Mr.Subhash Prasad Singh (GA 3)
For the BIADA	:	Mr.Devesh Shankaran, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-12-2022

Petitioner has prayed for following relief (s) : -

“That this writ petition is being filed for issuance of writ of certiorari or any other appropriate writ petition setting aside orders dt. 7.10.2022 passed by the respdt no. 2 (The Principal Secretary, Bihar Industrial Area Development Authority, Govt. of Bihar, Patna in Appeal No. 73/ 2022, (communicated through memo no. 4445 dt. 11.10.2022) dismissing appeal filed the petitioner against directed against the office order contained in memo no. 2596 dated 22.06.22 issued under the signature of the respondent no. 3 (The Joint Director, Bihar Industrial Area Development Authority, Patna) communicating cancellation of



allotment of the plot no. O-5, having an area of 7500 Sq. feet allotted to the petitioner M/s Mahindra Beverages and Foods Pvt. Ltd, Fatuha Patna.

The petitioner also memo no. 2596 dated 22.06.22 issued under the signature of the respondent no. 3 (The Joint Director, Bihar Industrial Area Development Authority, Patna) communicating cancellation of allotment of the plot no. 0-5, having an area of 7500 Sq. feet allotted to the petitioner M/s Mahindra Beverages and Foods Pvt. Ltd, Fatuha Patna allotted to it under lease deed dated 28.03.08.

The petitioner also prays for a direction to open seal on the gate of the premises of M/s Mahindra Beverages and Foods Pvt. Ltd, Fatuha Patna.

The petitioner also prays for an interim order directing the respondents forthwith not to take any coercive steps against the allotment of petitioner or his possession till disposal of this writ application.”

On 02.12.2022, we had passed the following order:-

“ Learned counsel for the petitioner states that as on date possession of the unit/plot has not been taken over, which fact is seriously disputed by the learned counsel for the respondent BIADA. However, it is not in dispute that, as on date, no third party right stands created.

Statement accepted and taken on record.

As agreed, petitioner will file an undertaking before this Court to the effect that (a) within sixty/ninety days, petitioner will start commercial production with BIADA handing over possession of the premises to the petitioner/recall of the order of cancellation. With the petitioner failing to do, BIADA shall take over vacant and peaceful possession of the premises from the petitioner; (b) within six/nine months, petitioner shall make the Unit fully operational and functional at least to the capacity of 80% for the product sanctioned and



allowed to be manufactured as per the original terms of allotment; (c) petitioner shall clear all upto date dues payable to BIADA. This shall be done within four weeks from the date of handing over possession/recall of order of cancellation; (d) petitioner shall make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees; Petitioner shall clear all other statutory dues including G.S.T./electricity charges etc.; (e) 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 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 be deemed to have been 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.

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

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 19.12.2022 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 02.12.2022, petitioner has filed an undertaking on affidavit dated 14.12.2022, in the following terms:

“2. That the petitioner is ready to start commercial production within 6 months and give undertaking to this effect.

3. That the petitioner undertakes:

“(a) within sixty/ninety days, petitioner will start commercial production with BIADA handing over possession of the premises to the petitioner/recall of the order of cancellation. With the petitioner failing to do, BIADA shall take over vacant and peaceful possession of the premises from the petitioner;

(b) within six/nine months, petitioner shall make the Unit fully operational and functional at least to the capacity of 80% for the product sanctioned and allowed to be manufactured as per the original terms of allotment;

(c) petitioner shall clear all upto date dues payable to BIADA. This shall be done within four weeks from the date of handing over possession/recall of order of cancellation;

(d) petitioner shall make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees; Petitioner shall clear all other statutory dues including G.S.T./electricity charges etc.;

(e) 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 and



(f) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the 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 14.12.2022 (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 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 and petitioner shall be liable for



initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

(d) Also, 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, Bihar Industrial Area Development Authority, Govt. of Bihar, Patna in Appeal No. 73 of 2022 and the order dated 22.06.2022 passed by respondent no. 4 namely The Deputy Managing Director, Bihar Industrial Area Development Authority, Govt. of Bihar, Patna 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)

sujit/Ashwini/chn

AFR/NAFR	
CAV DATE	
Uploading Date	25.12.2022
Transmission Date	

