

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16523 of 2022

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M/S Herald Projects Limited At. 1/3, Industrial Estate, Patna- 800013 (Bihar) through one of its Director Mr. Nisheeth Jaiswal, Male age about 66 years, S/o Sri Deodutt Prasad, R/o Building No. 1/117, Road No.1, Draupadi Kunj, New Patliputra Colony, Boring Road, Patna, Patliputra, Patna- 800013 (Bihar).

... .. Petitioner/s

Versus

1. The Bihar State Industrial Area Development Authority through Managing Director, Udyog Bawan, Gandhi Maidan, Patna.
2. The Dy. General Manager, Patna Cluster, BAIDA, Udyog Bhawan, East Gandhi Maidan, Patna- 800001
3. Executive Director, BAIDA, Udyog Bhawan, Gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Arbind Kumar Jha, Advocate
For the Respondent/s	:	Mr.Lalit Kishore, Advocate General
		Mr. Kumar Priya Ranjan, Advocate
		Mr. Ankur Apurv Singh, Advocate
		Mr. Girish Nandan Abhishek, 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 the present writ petition is being filed for quashing the letter dt. 04.11.2022 issued by the Executive Director (South) by which order was passed under Section 6(2)(a) (b) of Bihar Industrial Area Development Authority Act, 1974 r/w Bihar Industrial Area Development Authority (Amendment) Act, 2017 cancelling the allotment of the land and forfeited the amount deposited by the petitioner. The order passed by the respondent no.3 is without jurisdiction and contrary to statutory provisions of section 6(2)(a)(b) of the Bihar Industrial Area Development Authority Act, 1974 as amended upto date.

That the petitioner further seeks declaration that right to land is by virtue of registered lease deed



executed between the parties and that being constitutional right under Art 300-A of the Constitution of India, petitioner can not be deprived of property save by authority of law.

That the petitioner further seeks declaration that petitioner can not be dispossessed unless lease is determined in accordance with law.

The petitioner further prays for issuance of any other writ/writs order/orders and direction/ directions for which petitioner may be found entitled.”

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 08.12.2022 in the following terms:

“2. That the petitioner's case was listed before Hon'ble Court on 02.12.2022, presided over by Hon'ble Chief Justice and in compliance of the order petitioner is filing and undertaking to the 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) The 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) The 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) The 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 08.12.2022 (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 04.11.2022 passed by respondent no. 3
namely the Executive Director, BIADA, Udyog Bhawan,
Gandhi Maidan, Patna is 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	

