

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16750 of 2022

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M/s. Saraswati Lakshmi Litho Printing Press through its proprietor Asha Devi, gender female aged 66 years, W/o Late Ajit Kumar Jha, R.O.- Village Yogyara, P.O. and P.S.- Jogiara, District- Darbhanga, Bihar- 847101.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr.Subhash Prasad Singh (GA 3)
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 02.11.2022 passed in Appeal Case No. 121/2022 communicated vide memo no 4928 dated 7.11.2022 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. 591 dated 15.07.2022 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 0.025 Sq. Ft. bearing Plot No. C-9 for the establishment of printing press industry within the Industrial Area Bela, Darbhanga 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 02.11.2022 passed in Appeal Case No.121/2022 02.11.2022 passed in Appeal Case No. 121/2022 communicated vide memo no 4928 dated 7.11.2022 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. 591 dated 15.07.2022 has been passed by Respondent No. 4 Managing Director and the order dated 02.11.2022 passed in Appeal Case No. 121/2022 communicated vide memo no 4928 dated 7.11.2022 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 09.12.2022, petitioner has now filed a supplementary affidavit furnishing the undertaking inter alia in the following terms:

“i. That, I hereby undertake that within sixty/ninety days, I will start commercial production with BIADA handing over possession of the premises to the me/recall of the order of cancellation. Failing to do, BIADA shall take over vacant and peaceful possession of the premises from me.

ii. That I also undertakes that within six/nine months, I 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.

iii. That also undertakes that I shall clear all up-to-date dues payable to BIADA and shall be done within four weeks from the date of handing over possession/recall of order of cancellation.

iv. That I also undertake to make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees, I shall clear all other statutory dues including G.S.T./electricity charges etc.

v. That I also undertake in the event of failure on the part of me to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises from me with liberty for further allotment to 3rd party, with losing all rights therein.



vi. That I further undertake I shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the 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 12.12.2022 (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 02.11.2022 passed by respondent no.2, namely The Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No. 121 of 2022 communicated vide Memo. No. 4928 dated 07.11.2022 and the order dated 15.07.2022 under Memo No. 591 passed by respondent no.3 namely The Joint Managing Director, 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	

