

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16695 of 2022

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Magnet Projects Pvt. Ltd., A Company registered Under Indian Companies Act, 1956-having its registered Office at M-3/12, S.K. Puri, Patna, Bihar, through its Authorised representative Ajay Kumar Singh S/o Late Ramesh Prasad Singh, aged about 55 Years, Male, Resident of House no. M-3/12, S.K. Puri, P.S.-S.K. Puri, Patna, Bihar, Pin-800001

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Industrial Department, Government of Bihar, Patna.
2. The Bihar Industrial Area Development Authority through its Joint Managing Director, BIADA, Patna. Bihar.
3. The Executive Director, BIADA, Patna.
4. The DGM, Patna Cluster, BIADA, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanket, Advocate
For the Respondent/s : Mr.Kinkar Kumar (SC 9)

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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) : -

“a. For issuance of writ in nature of certiorari setting-a-side the order dated 21.11.2022 passed by Principal Secretary, Department of Industries in Appeal No. 208/2022 refusing to interfere with order dated 20.08.2022 passed by DGM, Patna Cluster, BIADA where under and whereby a part of land allotted with land no. C-2, measuring 14,400 Sq. Ft. lands situated in Patliputra Industrial Area has been cancelled without considering the factual aspect.

b. For issuance of writ in nature of certiorari quashing the order dated 20.08.2022 passed by DGM, Patna Cluster, BIADA where under and whereby a part of land allotted with land no. C-2,



measuring 14,400 Sq. Ft. lands situated in Patliputra Industrial Area has been cancelled without considering the factual aspect.

c. For issuance of writ in nature of mandamus directing and commanding the respondent authorities to restore the lease of the allotted land no. C-2 measuring 14,400 Sq. Ft. lands situated in Patliputra Industrial Area, Patna in the name of the petitioner.

d. For any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”

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 09.12.2022 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 in the following terms:



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

(ii) That, I further undertake that within Six/nine month, 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, I further undertake that I shall clear all upto date dues payable to BIADA. The dues shall be cleared, within four weeks from the date of handing over possession/ recall of the order of cancellation.

(iv) That, I further undertake that I shall comply with the mandatory statutory requirements, including the ones protecting the interest of the employees and that I shall clear all the other statutory dues including G.S.T./electricity charges etc.

(v) That, I further undertake that 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 me with liberty for further allotment to 3rd party, with losing all rights therein.

(VI) That I further undertake that I shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Hon'ble 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 09.12.2022 (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 21.11.2022 passed by respondent no.1 namely the State of Bihar through Principal Secretary, Industrial Department, Government of Bihar, Patna in Appeal Case No.208 of 2022 and the order dated 20.08.2022 passed by respondent no.4 namely the Deputy General Manager, Patna Cluster, BIADA, 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	

