

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16772 of 2022**

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M/S Continental Chemical Company A partnership firm constituted under Indian Partnership Act, having its office at- First floor, Govinda Complex, Govind Mitra Road, Patna- 800004, factory at-31 Industrial Estate, Patna- 800013 through its partner Indrjeet Kumar son of Jagdeep Prasad Verma, resident of- Govinda Complex, Govind Mitra Road, Patna- 80004.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department of Industries, Bihar, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority, Sone Bhavan, Patna, Bihar.
3. The Joint Managing Director, Bihar Industrial Area Development Authority, Udyog Bhavan, East Gandhi Maidan, Patna.
4. Deputy General Manager, Patna Cluster, Industrial Area Development Authority, Udyog Bhavan, East Gandhi Maidan, Patna.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Krishna Mohan Mishra, Advocate |
| For the Respondent/s | : | Mr.Kinkar Kumar ( SC 9 )          |
| For the BIADA        | : | Mr.Kumar Priya Ranjan, Advocate   |
|                      |   | Mr. Ankur Apurv Singh, 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) : -

- i. To quash and set aside the order dated 21.11.2022 issued under the signature of Principal Secretary cum appellate authority in appeal no. 218 of 2022 and also the order of cancellation of allotment issued by the signature of Deputy General Manager dated 17.08.2022 which contain in gaypank no. 143 whereby and whereunder the allotment of plot made by respondent were cancelled which affirmed by the appellate authority cum principal secretary by order dated 21.11.2022 without allowing opportunity of hearing to the petitioner.



ii. To further quash and set aside the notice contain in gayepenk No. 550 dated 23.11.2022 issued by Deputy General Manager, BIADA, Patna Cluster whereby and whereunder the respondent had passed direction to take the possessing of unit with a period of three days and before service the copy of appellate order to the petitioner.

iii. To direct the respondent to unlock the industrial unit and allow the petitioner to carry out production activities in the unit by unlocking the premises because the industrial unit has been locked in gross violation of natural justice and also without looking to the fact available on record.

iv. to issue any other order/orders, direction/directions, writ/writs as your Lordship deemed fit and proper.”

On 09.12.2022, 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 3<sup>rd</sup> 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 20.12.2022 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 09.12.2022, petitioner has



filed an undertaking on affidavit in the following terms:

“(3) That, the petitioner undertakes that if the BIADA unlock and hand over the unit, the petitioner shall start Commercial production within sixty or ninety days from the date of handing over of the unit. If the petitioner will not abide by the undertaking and fail to make commercial production within the period of sixty or ninety days, he shall hand over over possession to the BIADA peacefully

(4) That, the petitioner further undertake that they shall make the unit fully operational and functional at least upto the capacity of 80% for the product sanctioned and allowed to be manufactured as per original terms of allotment.

(5) That, the petitioner also undertake that he shall pay all the dues upto date and also upto the date of handing over of possession of unit to the BIADA within four weeks from the date of taking possession of cancellation or order..

(6) That, the petitioner shall make compliance of all mandatory and statutory requirements and also shall protect the interest of the employees. The petitioner shall also pay all and whole of the statutory dues like G.S.T./electricity charges etc.

(7) That, the petitioner failed to abide by the undertaking as detailed about the BIADA can take over vacant and peaceful possession of the premises from the petitioner with a liberty for further allotment to 3<sup>rd</sup> party. The petitioner shall lose all right in the premises in other word the petitioner shall not claim any right over the unit if he fail to abide the undertaking as above.

(8) That the petitioner further undertake that in addition to losing his right in unit for failure to abide the undertaking he is also liable for initiation of proceedings for contempt for violation of 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 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 3<sup>rd</sup> 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, Department of Industries, Bihar, Patna in Appeal Case No.218 of 2022; order dated 17.08.2022 passed by respondent no.4 namely the Deputy General Manager, Patna Cluster, Bihar Industrial Area Development Authority, Udyog Bhawan, East



Gandhi Maidan, Patna and notice contained in Memo No.550 dated 23.11.2022 issued by respondent no.4, namely, Deputy General Manager, Patna Cluster, Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, 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

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