

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16868 of 2022

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M/s Basic Sanitation Private Limited A Company Registered under the Companies Act 1956/2013, having its Office at C-9, Industrial Estate Pataliputra, Patna- 800013, through its Director Bibhakar Jha, Male, Aged About 60 Years, Son of Tripti Narayan Jha, Resident of D-3/14 B Vinodpur, Vijay Enclave, South West Delhi, Delhi- 110045.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Bihar, Patna.
2. The Principal Secretary, Department of Industries, Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA) through its Managing Director, Head Office- Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Managing Director, The Bihar Industrial Area Development Authority (BIADA), Head Office- Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Executive Director (South), Bihar Industrial Area Development Authority, Patna.
6. The Deputy General Manager BIADA, Cluster, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prince Kumar Mishra, Advocate
For the Respondent/s	:	Mr.Yogendra Pd. Sinha (AAG 7)
For the BIADA	:	Mr. Girjesh Kumar, 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) : -

“(a) For issuance of writ in the nature of Certiorari, quashing the order contained in Memo No. 4487/D dated 04/11/2022 issued by Executive Director (South), BIADA, Patna, whereby and whereunder, Plot No.XXV admeasuring rakba 10868 sq. ft. Industrial Area, Pataliputra, which has been transferred vide lease deed in favour of petitioner has been cancelled on the purported ground of keeping the unit non-functional and not



carrying out the activity for which it was allotted.

(b) For any other relief/ reliefs which this Hon'ble Court deems fit.”

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 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 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: -

“(2) I. That Petitioner hereby undertakes that within sixty/ninety days it will start commercial production in the unit, should the respondents hand over possession of the premises to the petitioner /recall of the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premise to BIADA.

II. That petitioner also undertakes that within six/nine 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 in terms of the order of Hon'ble Court.

III. That petitioner undertakes that it shall clear all the dues payable to BIADA. This shall be done within four weeks from the date of handing over possession/recall of order of cancellation.

IV. That petitioner further undertakes to make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees, Petitioner shall clear all the other statutory dues including



GST./electricity charges etc.

V. That petitioner further undertakes in the event of failure on part of the petitioner to comply with the undertaking. BIADA shall take over the 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,

VI. That petitioner undertakes that it shall be liable for initiation of the 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 04.11.2022 passed by respondent no.5 namely the the Executive Director, Bihar Industrial Area Development Authority, 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/chn

AFR/NAFR	
CAV DATE	
Uploading Date	25.12.2022
Transmission Date	

