

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22867 of 2018

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M/s Maa Jagdamba Agro Industries, Industrial Area, Plot No. N. S.-14 (P)
through Sandeep Kumar, S/o Shri Suresh Prasad Singh, Baijnath Bhawan,
Station Road, P.S. - Dehri-on-Sone, District-Rohtas, PIN-821305

... .. Petitioner/s

Versus

1. State Of Bihar through the Principal Secretary, Department of Industries,
Vikas Bhawan, Bailey Road, Govt. of Bihar, Patna
2. Bihar Industrial Area Development Authority, Patna through its Secretary,
1st Floor, Udyog Bhawan, Gandhi Maidan, Patna
3. Managing Director, BIADA, Patna, Bihar
4. Executive Director, BIADA, Patna
5. Development Officer, BIADA, Patna
6. The Area In Charge, Industrial Area, Dehri-on-Sone, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kumar Devashish, Advocate Mr. Prakash Chandra, Advocate
For the Respondent/s	:	Mr.Yogendra Pd. Sinha, AAG-7 Mr. Rajeev Kumar Sinha, AC to AAG-7
For BIADA	:	Mr. Yashraj Bardhan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-08-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

That the Petitioner prefers this application with a prayer for issuance of writ or writs in the nature of certiorari quashing the order dt. 09.05.2018 passed in Appeal No. 22/2016 by the Principal Secretary, Department of Industries- cum- Appellate Authority of BIADA communicated through



Letter No. 2125, dt. 23.05.2018 issued by Dy. Secretary, Department of Industries, Govt. of Bihar whereby the order of cancelling allotment of Plot No. N.S. – 14 (P) VIDE Memo No. 162, dt. 13.01.2016 of the Managing Director, BIADA has been upheld and not interfered with and he further prays for quashing of the order contained in Memo No. 162, dt. 13.01.2016 whereby the allotment of plot was cancelled by BIADA.

The petitioner further seeks direction restraining the concerned respondent authorities for creating any third party rights over the said plot allotted to petitioner and on setting aside the impugned orders to allow him to establish industry and to declare that the action of cancellation as well as its affirmation by the Appellate Authority on assumed grounds, is not only arbitrary, callous and discriminative, but also violative of rights of livelihood guaranteed under Article 21 of the Constitution of India.

On 22.08.2022, we had passed the following order:-

“Learned counsel for BIADA states that as on date no 3rd party right stands created.

Statement accepted and taken on record.

As agreed, petitioner will file an undertaking to this Court to the effect that (a) within 60 days, petitioner will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA; (b) within six months, petitioner shall make the Unit fully



operational and functional in terms of the product sanctioned and allowed to be manufactured as per the original terms of allotment; (c) petitioner shall clear all the dues payable to BIADA as on date; (d) petitioner shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees; (e) in the event of failure on the part of the petitioner to comply with the undertaking, petitioner shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when petitioner shall lose 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 stand 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.

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 31.08.2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect.”

Petitioner has filed an undertaking being part of supplementary affidavit dated 29.08.2022 in the following terms:

3. That the petitioner makes statement and furnishes undertaking in accordance with the order dt. 22.08.2022 passed in the instant writ petition, as follows:-
 - (a) That the petitioner unit shall start commercial production in the unit, within 60 days, should the respondents hand over possession of the premises to the petitioner/ recall the order of cancellation, failing which he shall hand over vacant and peaceful possession of the premises to BIADA,
 - (b) That the petitioner shall make the unit fully operational and functional within 6 months in terms of the production sanctioned and allowed to be manufactured as per the terms of allotment,
 - (c) That the petitioner unit has already paid the dues amount earlier, however, if any legal dues is communicated to him, he shall make payment of the same, as on date.
 - (d) That the petitioner shall make compliant with all statutory requirements including that of the compliance to all applicable labor laws.



- (e) That it is stated that if the petitioner fails to comply with aforesaid undertaking, he shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when the petitioner shall loose all rights therein,
- (f) That the petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the court.

In view of the aforesaid, petitioner's undertaking is accepted and taken on record.

BIADA has no objection to the order being passed, as is so being passed in similarly situated cases to augment the industrial growth within the State of Bihar.

Petitioner's undertaking that he would revive the unit within six months and make it fully operational and functional, is accepted and taken on record.

Consequence of breach thereof stands explained through the learned counsel.

This Court would not hesitate to not only initiate proceedings of contempt for violating such an undertaking, but also direct the BIADA to take over the possession of the property for allotment to a third party in accordance with law.

Present petition stands disposed of in the



aforesaid terms.

Interlocutory Application, if any, stands disposed
of accordingly.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	03.09.2022
Transmission Date	

