

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4032 of 2023

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M/s. Jyoti Mini Rice Mill through its proprietor Awadhesh Kumar Kashya,
Male, aged about 73 years, S/o- Vishwanath Prasad Saraf, R/o- Jyoti
Jewellers, Old G.T. Road, Dehri, Rohtas, Bihar- 821307.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Industries,
Government of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar,
Patna.
3. The Bihar Industrial Area Development Authority (BIADA), through the
Managing Director, Udyog Bhawan, Gandhi Maidan, Patna.
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
(BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, Bihar Industrial Area Development Authority
(BIADA), Regional Office, Gaya Cluster.
7. The Deputy General Manager, Bihar Industrial Area Development Authority
(BIADA), Gaya Cluster.
8. The Development Officer, Bihar Industrial Area Development Authority
(BIADA), Regional Office, Gaya.
9. The Area In- Charge, Bihar Industrial Area Development Authority
(BIADA), Industrial Area- Dehri-on- Sone.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sachin Kumar, Adv.
For the Respondent/s	:	Mr. Vikash Kumar (SC11)
For the BIADA	:	Mr. Avinash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

12 01-11-2023

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

reliefs:-

*“For quashing the order dated 13.01.2023
passed in Appeal Case No. 276 of 2022*



communicated vide memo no. 397 dated 18.01.2023 by the Respondent No. 2 (Principal Secretary, Department of Industries) whereby and where under the statutory appeal filed by the petitioner has been arbitrarily dismissed and the order of Respondent No. 5 The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA). Udyog Bhawan, Gandhi Maidan, Patna has been affirmed and also to quash Memo No. 141 dated 21.10.2022 issued by the Respondent No. 5 whereby and whereunder the allotment of an area admeasuring 1 acre in Industrial Area Dehri-On-Sone made in favour of the petitioner have been cancelled and that the same is completely illegal, arbitrary in nature and sans jurisdiction being de horse to the provisions of BIADA Act, 1974.”

3. Learned counsel for the petitioner has stated that due to unavoidable circumstances like Covid-19 etc., the petitioner could not start the commercial production and the same is not deliberate but for the reasons beyond the control of the petitioner and therefore, an opportunity may be given to the petitioner to start commercial production.

4. Learned counsel for the petitioner has stated that under the similar circumstances, a Division Bench of this



Hon'ble Court in C.W.J.C. No. 15567 of 2022 (*M/s Maa Kali Food Products Industrial Growth Centre, Maranga Vs. The State of Bihar & Ors.*) dated 02.12.2022 has set aside the order of Bihar Industrial Area Development Authority (hereinafter referred to as "the BIADA") based on the undertaking given by the petitioner therein and an opportunity was given to the industry to start its commercial production.

5. Learned counsel for the petitioner has stated that the petitioner has also filed an undertaking before this Court which reads as under:-

"I. That, I hereby give the undertaking that I will start production in the unit within 60 days, from the date from which BIADA allows the Petitioner to work. Further, the Petitioner shall start manufacturing plant or such other products as approved under the Bihar Industrial Investment Promotion Policy, 2016, if the possession of the unit is handed over by BIADA.

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

III. That I further undertake that in the event of my said unit not being made operational



and functional by me within 6 (Six) Months, I will hand over the vacant and peaceful possession to BIADA.

IV. That I further undertake that I shall make compliant with all the statutory requirements including the once protecting the interest of the employees.

V. That I further undertake that in the event of default I shall be liable for being prosecuted for having committed contempt of this Hon'ble Court.”

6. Having regard to the above said undertakings which is reproduced above and also the judgment of this Hon'ble Court by a Division Bench passed in C.W.J.C. No. 15567 of 2022 dated 02.12.2022, wherein this Hon'ble Court duly taking into account the undertaking given by the petitioner therein has set aside the order of the appellate authority as well as the order passed by the BIADA and granted an opportunity to the petitioner to start commercial production.

7. Having regard to the above and also the submissions made by the learned counsel for the BIADA, this Court is of the considered opinion that the ends of Justice would be met if, the undertaking given by the petitioner is accepted and given an opportunity of starting commercial production. The Court makes the following orders:-



8 (i). As it is stated that possession has been taken by the BIADA, the same shall be handed over to the petitioner immediately after the receipt of this order. The petitioner shall then furnish a bank guarantee for an amount of Rs. 5,00,000/- within one week from the date of handing over the possession. Thereafter, the petitioner shall clear all the outstanding dues, if any of the BIADA within a period of two weeks thereof. The petitioner shall start the commercial production within sixty/ninety days from the date of handing over the possession and start manufacturing plan as approved by the Bihar Industries Commercial Policy, 2016.

8(ii). Consequence of breach thereof, including initiation of proceedings for contempt for having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

8.(iii) Undertaking of the petitioner dated 25.07.2023 is accepted and taken on record.

8.(iv) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;

8.(v) In the event of default of the undertaking, petitioner shall hand over vacant and peaceful possession of the



allotted property to BIADA within a period of two weeks;

8.(vi) It is made clear that, in case, the petitioner fails to start the commercial production within the stipulated time and also fails to hand over the vacant and peaceful possession of the allotted property to BIADA within a period of two weeks thereof. The authorities of the BIADA are free to take possession of the premises in question.

8.(vii) Consequently, the order passed by Respondent No. 5, Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 141 dated 21.10.2022 (**Annexure-5**) and order dated 13.01.2023 passed in Appeal Case No. 276 of 2022 communicated vide Memo No. 397 dated 18.01.2023 by the Respondent No. 2, Principal Secretary, Department of Industries, Government of Bihar contained (**Annexure-6**) are accordingly quashed and set aside.

9. With the above observations, the present writ petition stands allowed.

(A. Abhishek Reddy, J)

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