

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5492 of 2023

=====

M/s J.K. Marbles (a Partnership firm), Plot no. B-43, B-44, hajipur Industrial Area Hajipur, Vaishali-844101, through its Partner Smt. Shyama devi Female, aged about 77 Years, Wife of Late Janak Kishore, Resident of Salimpur Ahra, Near Sarswati Central English School, P.O.-Kadamkuan, P.S.-Gandhi Maidan, Patna-800003,

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secreary, Department of Industries, Bihar, Patna.
2. The Principal Secretary, Department of Industries, 2nd Floor, Vikas Bhawan, Jawaharlal Nehru Marg, Patna. Bihar 800015.
3. The Bihar Industrial Area Development Authority thorough its Managing Director, 1st Floor, Udyog Bhawan, East gandhi Maidan, Bihar, Patna.- 800004.
4. The Managing Director, BIADA, 1st Floor, Udyog Bhawan, East Gandhi Maidan , Bihar, Patna-800004.
5. The Executive Director (HQ), Bihar Industrial Area development Authority, Patna.
6. The Joint General Manager, Hijipur Cluster, Bihar Industrial Area Development Authority, Hajipur.
7. The Deputy General Manager Hajipur Cluster, Bihar Industrial Area Development Authority, Hajipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Navendu Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar (Sc 11)

=====

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

Date : 30-08-2023

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following reliefs:-

“i) For quashing of the order dated 02.01.2023 passed. in Appeal No. 260/2022 (Annexure 7) by the Principal Secretary, Department of



Industries. Bihar, which was preferred against the order of cancellation of the plot allotted to the petitioner.

ii) For quashing of the order contained in Memo no. 133/D dated 13.10.2022 (Annexure 6) passed by the Deputy Managing Director. Hajipur Cluster. Industrial Area under order of the Joint Managing Director. Hajipur Cluster, Industrial Area, whereby and where under the Industrial Plot bearing Plot No. B 43 (part) and B 44 (part) in Hajipur Industrial Area. Hajipur allotted to the petitioner was cancelled and the entire money deposited by the petitioner against the allotted land was declared to be forfeited, when the Deputy Managing Director or the Joint Managing Director was not empowered to do so under the BIADA Act.

iii) For quashing of the notice bearing letter number 2647/ D dated 23.06.2022 (Annexure 4) issued by the Deputy General Manager. BIADA Cluster. Hajipur for cancellation of the plot allotted to the petitioner was issued.

iv) Further, direct the respondents to allow the petitioner to do their business by restoring his allotted plot and also for releasing of the forfeited deposited money of the petitioner.

v) For issuance of such other writ(s)/ order(s)/ direction(s) as your Lordships may deem fit and proper.”

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:-

“(a) within ninety days, the petitioner will start commercial production with effect from the day BIADA hands 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 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 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.”

6. Having regard to the above said undertakings which is reproduced above and also the judgment of this Hon’ble Court 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). The petitioner shall clear all the outstanding dues if any, the BIADA and in case the possession has been taken by the BIADA, the same shall be handed over to the petitioner. The petitioner shall start the commercial production within 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 23.08.2023 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 dated 13.10.2022 passed by respondent no. 7, The Deputy General Manager, Hajipur Cluster, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 133/D (**Annexure-6**) and order dated 02.01.2023 passed in Appeal Case No. 260 of 2022 by Respondent No. 2, the Principal Secretary, Department of Industry, Government of Bihar contained (**Annexure-7**) are accordingly quashed and set aside.

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

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.09.2023.
Transmission Date	N/A

