

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4556 of 2023

=====

M/s Ashoka Foundry, a partnership firm having its office at Plot no. 6(P), and C-7, Pataliputra Industrial Area, Patna through its partner Vishal Sahay aged about 47 years, Male, son of Late Shyam Sundar Sahay, resident of 10, Lord Sinha Road, 15A, Ankur Building, Middleton Row, Police Station-Shakespeare Sarani, District-Kolkata, West Bengal

... .. Petitioner/s

Versus

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

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Adv.
For the Respondent/s	:	Mr. Vivek Prasad, GP-7.
For the B.I.A.D.A.	:	Avinash Kumar, Adv.

=====

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

6 11-08-2023 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

reliefs:-

- (i) For quashing the order dated 07.03.2023 passed by the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No.-85/2023 whereby and where under the Appeal preferred against the order of cancellation of allotment of 6000 sq. ft. land bearing plot no.6(Part) and C-7 in the name of the petitioner firm as contained in Memo



no.825 dated 29/12/2022 passed by Joint Managing Director, Bihar Industrial Area Development Authority (herein after called as BIADA) has been dismissed.

- ii. Consequent upon the quashing of the order dated 07.03.2023 the order of cancellation of allotment dated 23.12.2022 passed by Joint Managing Director, BIADA communicated vide order contained in memo no. 825 dated 29/12/22 issued under the signature of Deputy General Manager, Patna Cluster may be set aside and the respondents may be directed to restore the possession of the petitioner forthwith.
- iii. During the pendency of the present writ application the respondent Authority may be restrained from taking over possession of the plot no. 6 (Part) and C-7.

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 nor wanton but for the reasons beyond the control of the petitioner.

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 has been 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, on behalf of the petitioner firm I hereby undertake that within sixty/ninety days from BIADA handing over possession of the premises /recall of the order of cancellation the commercial production shall be started, failing which, BIADA shall take over vacant and peaceful possession of the premises.
- (ii) That the petitioner company also undertakes that within six/nine months, the Unit shall be made fully operational and functional at least to the capacity of 80% for the product sanctioned and allowed to be manufactured.
- (iii) That the petitioner company has already cleared the dues and further undertakes to clear all up-to-date dues payable to BIADA and the same shall be done within four weeks from the date of handing over possession/recall of order of cancellation.
- (iv) That the petitioner company also undertakes to make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees, and shall clear all other



statutory dues including G.S.T/electricity charges etc.

(v) That the petitioner company also undertakes in the event of failure on its part to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises with liberty for further allotment to third party, with losing all rights therein.

(vi) That I further undertake that I shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to this Hon'ble Court.

6. Learned counsel for the petitioner has stated that the application of the petitioner for change of product may be considered by the authorities concerned and on such consideration the petitioner will start the production and abide by the under taking given.

7. However, the learned counsel appearing on behalf of the BIADA has stated that as per the new policy, the petitioner only has to intimate the authorities concerned about the change of product and no separate orders are necessary to be passed by the authority concerned for change of product.

8. Having regard to the above said undertakings which is reproduced above and also the judgement of the Division Bench 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 court as well as the order passed by the BIADA and granted an opportunity to the petitioner to start commercial production.

9. Having regard to the same and also the submissions made by the learned counsel for 'the BIADA', who stated that the present writ petition can be disposed off in terms of the undertaking so furnished. The undertaking is accepted and taken on record.

10. If the possession has been taken by 'the BIADA', the same shall be handed-over to the petitioner and the petitioner shall start the commercial production within sixty days and start manufacturing plan as approved by the Bihar Industries Commercial Policy, 2016.

11. 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.

12. As such, the present petition is allowed in the following terms:-

(a) Undertaking of the petitioner dated 05.08.2023 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 default of the undertaking, petitioner shall hand-over vacant and peaceful possession of the allotted property to 'the BIADA' within a period of two weeks;

(d) 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 the BIADA within a period of two weeks thereof. The authorities of the BIADA are free to take possession of the premises in question.

(e) Order dated 07.03.2023 passed by the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No. 85 of 2023 and order dated 23.12.2022 passed by Joint Managing Director, BIADA communicated vide order contained in Memo No. 825 dated 29.12.2022 (Annexure-4) are accordingly quashed and set aside.

(A. Abhishek Reddy , J)

shakir/-

U			
---	--	--	--

