

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5129 of 2023

M/S Janki Agro through its Partner Shri Ravindra Prasad Singh, Male, aged about 63 years, S/o Late Gita Prasad Singh, R/o- Holding No. 776, Adarsh Colony, Kalambagh Road, PS- Kazi Mohammadpur, PO- Ramna, District- Muzaffarpur ... Petitioner

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), Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
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, Muzaffarpur.
7. The Deputy General Manager, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur Cluster.
8. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur.
9. The Assistant Regional Manager, Bihar Industrial Area Development Authority (BIADA), Industrial Area Muzaffarpur.
10. Area Incharge, (BIADA), Industrial Area Muzaffarpur. ... Respondents

Appearance :

For the Petitioner	:	Mr. P.N. Shahi, Sr. Adv. with Mr. Rajesh Ranjan, Adv.
For the State	:	Mr. Manish Dhari Singh, AC to AG
For the BIADA	:	Mr. Pankaj Kumar, Adv.

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

6 19-08-2023 Pursuant to the order, dated 18th April, 2023, it is stated by the counsel for the petitioner that the petitioner has been put in possession of the subject property and that the petitioner is operating the industry as of now.

2. Learned counsel has stated that the petitioner has



filed an undertaking to the effect that he will commence the production and abide by the provision imposed by the BIADA and under similar circumstances this Court in C.W.J.C. No. 3815 of 2023, dated 25.07.2023, has set aside the order of the BIADA and the appellate authority and permitted the petitioner to operate the unit.

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.

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, I hereby give the undertaking that I will start commercial production in the unit within 60 days and 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 upto-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 and 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 the judgment of this Hon'ble Court passed in C.W.J.C. No. 15567 of 2022 dated 02.12.2022, wherein duly taking into account the undertaking given by the petitioner therein the Court 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 same and also the submissions made by the learned counsel for the BIADA, who has 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.

8. The petitioner shall clear all the dues payable to BIADA if not already cleared and start the commercial production within sixty days and start manufacturing as per the plan approved by the Bihar Industries Commercial Policy, 2016.

9. 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.

10. As such, petition is disposed off in the following terms:-

(a) Undertaking of the petitioner dated 10.08.2023 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 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 BIADA within a period of two weeks thereof. The authorities of the BIADA are free to take possession of the premises in question.

e) The order dated 20.03.2023 passed by respondent no. 2 namely, the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal No. 91 of 2023 and order dated 04.01.2023 in Memo No. 5 passed by the respondent no. 7, namely, the Deputy General Manager, Bihar Industrial Development Authority, Muzaffarpur Cluster, are accordingly quashed and set aside.

11. The writ petition stands disposed off in terms of the above order.

(A. Abhishek Reddy , J)

Shamshad/-

U			
---	--	--	--

