

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5578 of 2023

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M/S Uгна Enterprises New Industrial Estate, Bela, Darbhanga through its partner Mihir Kumar Jha

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
2. Principal Secretary, Department of Industries, Govt. of Bihar, Patna
3. Bihar Industrial Area Development Authority, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004 through its Managing Partner
4. Managing Director, Bihar Industrial Area Development Authority, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004.
5. Joint Managing Director, Bihar Industrial Area Development Authority, First Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004.
6. Deputy General Manager, Bihar Industrial Area Development Authority, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pawan Kumar, Advocate
For the Respondent/s	:	Mr.Vivek Prasad (GP 7)
		Mr. Supragya, AC to GP 7
		Ms. Reena, AC to GP 7
		Ms. Manisha Singh, AC to GP 7
		Mr. Sanjay Kr. AC to GP 7

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

10 31-10-2023

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

reliefs:-

“For issuance of writ in the nature of writ of certiorari or any writ or writs direction or directions, order or orders setting aside (a) the order dated 14-11-2022 passed by the Joint Managing of Bihar Industrial Area



Development Authority and communicated by the Deputy General Manager vide memo no. 1004 dt. 18-11-2022 whereby the allotment of 0.08 acres of land has been cancelled forfeiting the price of land paid by the petitioner and also resuming its possession (b) appellate order dt. 20-03-2023 passed in petitioners Appeal no. 307/2022 and further to prohibit respondents to interfere or possession of petitioners unit and deprive him of his livelihood.”

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:-

“(1) The petitioner will continue to be in production and its endeavor will be to go into full production in about 6 to 9 months.

(2) The petitioner shall not use the premises for any purpose other than industrial activities.

(3) The petitioner shall ensure compliance of statutory requirements.

(4) The petitioner undertake that in the event of failure on the part of petitioner he will hand over vacant possession of the premises to BIADA.

(5) The petitioner will be liable of committing contempt of this Hon'ble Court in the event of his failure to fulfill, his undertaking as above.”

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. 50,000/- 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 03.10.2023 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 14.11.2022 passed by respondent no. 5, Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 1004 dated 18.11.2022 (**Annexure-22**) and order dated 20.03.2023 passed in Appeal No. 307 of 2022 by the Additional Chief Secretary, Department of Industries, Government of Bihar contained (**Annexure-23**) are accordingly



quashed and set aside.

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

(A. Abhishek Reddy , J)

Bhardwaj/-

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