

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7240 of 2023

M/S Ace Infra and Security Pvt. Ltd., a company registered under Companies Act Having its office at Ranjan Path, R.P.S. More, West Bailey Road, Danapur, District- Patna, through its authorized representative- Anirudh Priya, aged about 42 years (Male), Son of Ashok Kumar Gupta, Resident of Ranjan Path, Opposite R.P.S. More, Danapur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industry, Government of Bihar, Patna.
3. The State Investment Promotion Board, Vikash Bhawan, Patna through its Secretary.
4. Commissioner-cum-Secretary, Department of State Taxes, Government of Bihar, Patna.
5. Director, Industries, Department of Industry, Government of Bihar, Patna.
6. The Director (Technical Development) Department of Industry, Government of Bihar.
7. The General Manager, District Industries Centre, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. Madan Kumar, Adv.
For the State : Mr. Dhirdyuti Kumar Verma, AC to SC-11

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

Date : 10-11-2023

The present writ petition is filed for the following relief(s):-

i. For issuing writ of certiorari or any other appropriate writ setting aside the email dated 05.11.2022 and the attachment therein whereby and whereunder the claim of the petitionr under the Bihar Industrial Incentive



Policy 2011 has been rejected on the ground that the proposal of the petitioner was accepted by the State Investment Promotion Board after the date of commercial production of the unit.

ii. for issuing writ of certiorari or any other appropriate writ setting aside the letter dated 23.11.2017 bearing Memo No.3573 (to the extent it relates to the petitioner) whereby and whereunder the claim of the petitioner for VAT/GST Reimbursement along with other claims under the Bihar Industrial Incentive Policy 2011 had been rejected on the ground of proposal of the petitioner not having approval of the competent authority.

Iii. For issuing writ of mandamus directing the respondents to pay the petitioner its entitlement under the head of reimbursement of VAT/ET/SGST paid under the Bihar Industrial Incentive Policy, 2011 in cases of VAT/ET/SGST reimbursement.

iv. For issuing appropriate writ declaring that the payments to the Petitioner as per entitlement for post-production incentives such as Reimbursement for VAT/ET/GST paid cannot be kept pending or denied and has to be timely paid to Petitioner.

v. For holding that once the proposal of the investment has been accepted and



petitioner is declared entitled under the Policy then the Respondents cannot interfere with the disbursement of the subsidy amount to the Petitioner.

vi. For holding that the Respondents erred by not releasing subsidy amount given the fact that they hold no authority to refuse/stop/interfere, once proposal of investment has been accepted by the State Investment Promotion Board (SIPB).

Vii. For holding that it is the duty of the Respondents to timely release the payments for reimbursement under the head of VAT/GST every time the petitioner submits an application for the same and the petitioner need not go through the unnecessary technicalities and procedures again.

Viii. For holding that the Respondents cannot make the Petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.

2. Learned counsel for the petitioner has stated that the impugned order is passed by the authority concerned solely on the ground that the petitioner has started production even before the approval has been granted by the State Investment Promotion Board (SIPB).



3. Learned counsel has stated that under the Bihar Industrial Incentive Policy, 2011, the petitioner's entitlement for re-imbursement of VAT/ET/SGST was denied on the ground that the petitioner has started commercial production even before the approval by SIPB and the authorities have rejected the case of the petitioner.

4. Learned counsel has stated that there is nothing under the regulation which states that the approval of the SIPB is a condition precedent for starting the commercial production. That the stand taken by the authorities is not only arbitrary, bad and illegal but also contrary to the scheme floated by the State of Bihar under the Bihar Industrial Incentive Policy, 2011, and therefore, prayed this Hon'ble Court to allow the present writ petition and give a direction to the authorities concerned for granting the incentives under the Bihar Industrial Incentives policy, 2011.

5. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the prayer of this writ petition and has stated that the petitioner has violated the terms and conditions of the policy.

6. Learned counsel has stated that the petitioner has not taken prior approval of the SIPB before starting the



production. The act of the petitioner in starting the production even before the approval was granted is in violation of the incentive policy, and therefore, the petitioner is not entitled to any incentive as envisaged under the Incentive Policy, 2011. Further, it is stated under similar circumstances the authorities have rejected the case of M/s Jagaran Prakash Limited, Gaya after taking opinion of the Law Department, and therefore, the petitioner's case which is also similar has also been rejected. Learned counsel for the respondents has prayed to dismiss the present writ petition.

7. Admittedly, in the present case, the State of Bihar has floated Bihar Industrial Incentive Policy, 2011 to attract investments in the State. The petitioner, admittedly, has applied to the Competent Authority i.e. SIPB and was granted approval on 30.06.2015 and as per the said policy, the petitioner is entitled for re-imbursement of VAT/ET/SGST. But, the case of the petitioner has been rejected on the sole ground that the petitioner has started commercial production even before the grant of approval by SIPB. The said stand taken by the official respondents appears to be an arbitrary and frivolous one. Admittedly the authorities have invited investors/ industrialists to invest in the State of Bihar by floating the Bihar Industrial



Incentive Policy, 2011 and under the scheme some incentives have being offered to the Businessmen who have established their industries. The stand taken by the respondent that the petitioner has started production even before the grant of approval is without any legal basis. The policy does not lay any guidelines or restrictions on the industrialists that the production cannot be started before the approval by SIPB is granted and does not state that any person who starts production without getting the necessary approvals from SIPB is disentitled to the incentives. Admittedly in the present case, the approval was granted on 30.06.2015 and it is the case of the respondents that the commercial production has started on 08.08.2014 merely because the production is started the incentive under the scheme cannot be disallowed. At the most, the incentives can be granted from the date of the approval of SIPB but the authorities cannot deny the incentives under the scheme as a whole.

8. Having regard to the above made submissions, the court does not find any valid reasons for upholding the impugned order passed by the authorities and thle same is set aside. The authorities are directed to grant the incentives as envisaged under the Bihar Industrial Incentive Policy, 2011 from the date of approval of the SIPB and make necessary



payments to the petitioner as per the entitlement within a period of three months from the date of receipt of the copy of this order.

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.11.2023
Transmission Date	N/A

