

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7624 of 2023

M/s Mother India Construction Private Limited A Company Registered under the Companies Act 1956/2013, having its Registered Office at Bikram, District- Patna, through its Authorized representative Raj Kishore, Male, Aged about 48 Years, Son of Ram Shankar Singh, Resident of Chankya Nagar, Kothwa Bagicha, P.S. Rupaspur, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Bihar, Patna.
2. The Principal Secretary, Department of Industries, Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA), through its Managing Director, Head Office- Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Head Office- Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Patna.
6. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar.
7. The Deputy Manager, Patna Cluster, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar.
8. The Deputy General Manager, Bihta Cluster, Bihar Industrial Area Development Authority (BIADA), Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prince Kumar Mishra, Advocate
For the Respondent/s : Mr. Vikash Kumar (Sc11)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL ORDER

2 18-05-2023 In the instant petition, petitioner has prayed for the following relief(s):-

“a) For issuance of writ in the nature of Certiorari, quashing the Memo No.110 dated 28.04.23 issued by Deputy General Manager, Bihta Cluster, BIADA, whereby and whereunder, petitioner has been directed to surrender/handover Plot bearing Plot No.-MUP-IV (P) admeasuring 63,900 ft²



to BIADA Within 7 Days - which is absolutely illegal and arbitrary as the application of petitioner dated 31.01.2023 seeking approval of change of product in terms of the policies/amended rules of BIADA is pending for consideration and till date no order has been passed.

b) For issuance of writ in the nature of mandamus, directing and commanding upon the respondent authorities to grant approval/permission for changing project from the PVC/Garden/Hose Pipe to fortified rice for which petitioner has submitted application on 31.01.2023 and same is pending.

c) For issuance of writ in the nature of Certiorari, quashing the Letter No.64 dated 16.01.2023, issued by Deputy General Manager, Patna Cluster, BIADA, whereby and whereunder, the request of petitioner for change of project from PVC/Garden/Hose Pipe to Warehouse with Cleaning and Drying Facilities at transferred land bearing Plot No.-MUP-IV (P) admeasuring 63,900 ft² has been rejected in one line citing clause 15 of Land Allotment Policy-2022, which has no application.

d) In Alternative, For issuance of writ in the nature of mandamus, directing and commanding upon the respondent authorities to grant consent for changing project from PVC/Garden/Hose Pipe to Warehouse with Cleaning and Drying Facilities at transferred land bearing Plot No.-MUP-IV (P) admeasuring 63,900 ft² - which is in the priority list of the Bihar Industrial Incentive Policy -2016.

e) For any other relief/ reliefs which this Hon'ble Court deems fit."

2. The petitioner has a statutory remedy of appeal before the Appellate Authority – Government. In the light of Apex Court's decision in the case of **State of Jammu and Kashmir V/s. R.K. Zalpuri & Ors.** reported in **AIR 2016 SC 3006, para-20**, one of the principle laid down by the Apex Court



is writ Court has to examine whether writ petitioner has exhausted the statutory remedy available to him or not.

3. On this point, the petitioner has not made out a case, accordingly, present petition stands disposed of, reserving liberty to the petitioner to invoke statutory remedy of appeal before the Appellate Authority – Government.

4. The Appellate Authority is hereby directed to decide the petitioner's appeal within a period of two months from the date of receipt of such appeal. The petitioner is also permitted to make Interlocutory Application before the Appellate Authority insofar as seeking any interim order or direction. If such Interlocutory Application is filed along with memorandum of appeal, the Interlocutory Application shall be considered by the Appellate Authority within a week from the date of receipt of such appeal along with Interlocutory Application.

(P. B. Bajanthri, J)

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