

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11004 of 2023

=====

M/S Jagran Prakashan Limited A Company registered under Indian Companies Act, 1956- having its registered Office at 2, Sarvodaya Nagar, Kanpur- Uttar Pradesh, Regional Head Office at C-6, Patliputra Industrial Area, Patliputra, Patna-800013, and Regional Office at Uma Shankar Prasad Marg, Near Pani Tanki Chowk, P.O.- Ramna, P.S.- Mithanpura, District- Muzaffarpur, PIN- 842002 through the General Manager, Shambhu Nath Pathak, Male, Age about-54 years, Son of Late Braj Bihari Pathak, Resident of House No. 25, Hanuman Nagar, Behind Rajbanshi Nagar, New PunaiChak, P.O.- Shastri Nagar, P.S. - Shastri Nagar, Patna, Bihar PIN- 800023.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Industries, Government of Bihar, Bihar, Patna.
2. The Director Industries, Department of Industries, Government of Bihar, Patna.
3. The Director (Technical) Development, Department of Industries, Government of Bihar, Patna.
4. The General Manager, District Industries Centre, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Adv.
	:	Mr. Sanjay Kumar, Adv.
For the Respondent/s	:	Mr. Ajay Behari Sinha (Ga 8)
	:	Mr. Suryakant, Adv.

=====

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

Date : 10-10-2023

Heard the learned counsels for the parties.

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

*“a) For issuance of a writ
in nature of Certiorari for quashing the
Memo*

*No. SIPB/946 dated
10.04.2023 issued by the Director
Industries, Department of Industries,
Government of Bihar, Patna whereby*



the claim of the petitioner for grant of remission from Monthly Minimum Charges/Minimum Base Energy Charge/Demand/Billing Demand under Clause 2 (vi) and remission of Electricity Duty under Clause 3 (ii) of the Bihar Industrial Incentive Policy-2011 has been rejected despite of the fact that the petitioner unit was having the approval from the State Investment Promotion Board (hereinafter referred to as SIPB) dated 20.08.2014.

b) For issuance of writ in the nature of Mandamus directing the respondent authorities to grant the remission from Monthly Minimum Charges/Minimum Base Energy Charge/Demand/Billing Demand in terms of the Clause 2 (vi) of the Bihar Industrial Incentive Policy- 2011 and remission of Electricity Duty as incentive of 100% for seven years in terms of Clause 3(ii) of the Industrial Incentive Policy-2011 - to the Petitioner Company in terms of the order passed by the Hon'ble Division Bench of this Hon'ble Court in CWJC 12104 of 2018 and analogous cases (M/s Sunny Star Hotels Private Limited versus The State of Bihar & Others) reported in 2020 (2) BLJ 55.

c) For issuance of such other order/orders, direction/directions, writ/writs which the Petitioner may be entitled to.”

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 20.08.2014 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 28.08.2014 and it is the case of the respondents that the commercial production has started on 27.03.2012 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 the 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)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.10.2023.
Transmission Date	N/A

