

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1826 of 2023

In

Civil Writ Jurisdiction Case No.16208 of 2022

Kavish Infrastructure Pvt. Ltd., a company registered under the Companies Act, 1956, having its registered office at 7, Lyons Range, 1st Floor, Suite No. 17B, Kolkata - 700001, West Bengal, India, through its Director Sri Rohit Kayan, Male, aged about 46 years, Son of Sri Deen Dayal Kayan, Resident of 106E, Block F, New Alipore, New Alipore, Police Station - Kolkata, PIN Code - 700053.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority through its Managing Director.
2. The Principal Secretary-cum-Managing Director-cum-Appellate Authority, Bihar Industrial Area Development Authority, Department of Industries, Industry Bhavan, East Gandhi Maidan, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority, Department of Industries, Industry Bhavan, East Gandhi Maidan, Patna.
4. The Deputy General Manager, Bihar Industrial Area Development Authority, Muzaffarpur Cluster, Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate
Ms. Shweta Anand, Advocate
Ms. Aastha Ananya, Advocate
For the Opposite Party/s : Mr. Lalit Kishore, Sr. Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 28-08-2023 The petitioner seeks modification of the order dated 15.12.2022. The controversy arose when the petitioner was allotted an industrial land by the respondent- Bihar Industrial



Area Development Authority ('BIADA' in short). The petitioner did not comply with the conditions therein and start commercial production within the stipulated time. The BIADA took proceedings to cancel the allotment, upon which the petitioner approached this Court. The petitioner, before Court, claimed that the land had not been taken over, which fact was refuted by the respondent authority. However, the Court finding that no third party rights have been created, directed the petitioner to file an undertaking specifically indicating the time within which commercial production would be started. The petitioner filed such undertaking, on recording which, the Division Bench, which considered the matter earlier, disposed of the case by order dated 15.12.2022, which is produced as Annexure-2 in the M.J.C.

2. We extract, hereunder, the undertaking given by the petitioner, which was extracted in the said order also:-

“A. The petitioner undertakes that it would start commercial production on the subject industrial plots, bearing plot no. 51P & 52P in the Barauni industrial area, within a period of 60 days

B. The petitioner undertakes that it would make the unit fully operational within a period of 6 months

C. The petitioner undertakes that it



shall clear all dues payable to BIADA as on date

D. The petitioner undertakes that it shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees

E. The petitioner undertakes that in the event of failure on the part of the petitioner to comply with the undertaking, the petitioner shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3 party, when petitioner shall lose all rights therein and

F. The petitioner undertakes that it shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.”

3. The modification now sought for by the petitioner is that within ten days he would start commercial production. It is submitted by the learned counsel for the petitioner, that the Fisheries Department had granted an order allowing subsidy only on 21.07.2023. In fact, the specific condition for grant of subsidy is that commercial production should be started only later to the order issued. It is also pointed out that the petitioner, immediately after the judgment was passed, gave an order for supply of machinery by 16.01.2023, which was supplied on



31.01.2023 and within 15 days the plant was installed.

4. We have to specifically notice that the undertaking given by the petitioner, before this Court was that he would start commercial production in industrial plots bearing plot nos. 51P and 52P in the Barauni industrial area within a period of 60 days. The petitioner had not even purchased the plant and machinery when he gave such an undertaking. The undertaking was recorded and the writ petition was disposed of on 15.12.2022.

5. It is the petitioner's case that the order for the plant and machinery itself was placed only on 16.01.2023, after one month from the said order. The further case of the petitioner is also that he waited for the order of subsidy to be issued by the Fisheries Department. If that were so, he should not have given the undertaking as he gave, before Court, on 15.12.2022. He should have at least mentioned to the Court that he is seeking benefit of the subsidy given by the Fisheries Department.

6. In the above circumstances, we find absolutely no reason to make any modification in the order passed, which is specifically on the undertaking made, that the commercial production would be started within a period of 60 days from 15.12.2022. The undertaking was also that within six months the



unit would be made fully functional. None of these undertakings
have been complied with.

7. The M.J.C. would stand dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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