

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10625 of 2023

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M/s. Saraswati Lakshmi Litho Printing Press through its Proprietor Mrs Asha Devi, gender female aged 66 years, W/o Late Ajit Kumar Jha, Village and Post Jogiara, District- Darbhanga, Bihar-857101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna, Bihar.
2. The Additional Chief Secretary, Department of Industries, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna.
3. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
4. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
5. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, North, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna, P.S.-Gandhi Maidan, Patna- 800004.
7. The Deputy General Manager, Darbhanga Cluster, Bihar Industrial Area Development Authority (BIADA).
8. The Area Incharge, Bihar Industrial Area Development Authority Industrial Area- Bela, Darbhanga.
9. The District Magistrate, Darbhanga,Collectorate, Laheriasarai, Darbhanga, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar Pandey, Adv.
	:	Mr. Sachin Kumar, Adv.
For BIADA	:	Mr. Avinash Kumar, Adv.
For the Respondent/s	:	Mr. Prashant Pratap (Gp2)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 15-09-2023

Heard the learned counsel for the parties.



2. This writ petition has been filed for the following
reliefs;

“i)

For quashing the order dated 3.7.23 passed in Appeal Case No. 198/2022 communicated vide Memo No. 3984 dated 7.7.23 by the Respondent No. 2 whereby and where under the Appeal filed by the Petitioner has been dismissed in a mechanical, arbitrary, whimsical, pick and choose manner, whereas the similarly situated allottees have been given the benefits as are being given by the Hon'ble Court in C.W.J.C. No. 6883/2020. M/s. Umesh Service Station vs. The State of Bihar and Ors., and in terms of Appeal No. 76/2022.

(ii) For setting aside order bearing Memo No. 1029 dated 19.11.22 passed by the Respondent No. 7, The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur, (hereinafter referred to as 'BIADA') whereby and where under the allotment of land measuring an area of 1050 Sq. Ft. for the establishment of Industry etc. within the Industrial Area-Giddha has arbitrarily been cancelled, since the reason recorded therein is non-est, not sustainable that too being perverse and in complete violation of the principles of natural justice and against all canons of justice.

(iii) For declaration and to hold that the aforesaid impugned order dated 3.7.23 passed in Appeal Case No. 198/2022 communicated vide Memo No. 3984 dated 7.7.23 is illegal and in contravention to the settled principles of law i.e. Nemo Judex in Causa Sua



(No one should be made a judge on his own cause) as the impugned order vide Memo No. 1029 dated 19.11.22 has been passed by Respondent No. 7 The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur and the order dated 3.7.2023 passed in Appeal Case No. 198/2022 communicated vide Memo No. 3984 dated 7.7.23 passed by Respondent No. 2 Additional Chief Secretary, Department of Industries who is colorably holding the same post at the same time and as such liable to be quashed on this ground itself.

(iv) For a direction upon the Respondents to give the benefits as are being given to the similarly situated allottees in C.W.J.C. No. 13558/2022, C.W.J.C. No. 12560/2022, C.W.J.C. No. 6883/2020, C.W.J.C. No. 13037/2022 and other analogous cases.

(v) For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.

(vi) For any other relief or reliefs for which the petitioner may be found entitled in the eye of law.”

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:-

"i) That I, hereby undertake that within sixty/ninety days, petitioner will start commercial production with BIADA handing over possession of the premises to the petitioner/recall of the order of cancellation. With the petitioner failing to do, BIADA shall take over vacant and peaceful possession of the premises from the petitioner.

ii) That I also undertakes that within six/nine months, petitioner shall make the unit fully operational and functional at least to the capacity of 80% for the product sanctioned and allowed to be manufactured as per the original terms of allotment.

iii) That also undertakes that I shall make itself compliant with all mandatory statutory requirements, including the ones protecting the



interest of the employees and I shall clear all other statutory dues including G.S.T./electricity charges etc in this period.

iv) That I further undertake that I shall in the event of failure on my part to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises from the petitioner with liberty for further allotment to 3rd party, with the petitioner losing all rights therein.

v) That I further undertake that I shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.”

6. Having regard to the above said undertakings which is reproduced above and the judgment of this Hon’ble Court 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 of cancellation passed by the BIADA and granted an opportunity to the petitioner to start its 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 the petitioner 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 20.07.2023 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 full 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 19.11.2022 passed by respondent no. 7, the Deputy General Manager, Dharbhanga Cluster, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 1029 (**Annexure-P/10**) and order dated 03.07.2023 passed in Appeal Case No. 198 of 2023 communicated vide Memo No. 3984 dated 07.07.2023 by Respondent No. 2, the Additional Chief Secretary-cum-the Appellate Authority, Department of Industry, Government of Bihar contained (**Annexure-P/13**) are accordingly quashed and set aside.

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

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2023.
Transmission Date	NA

