

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13881 of 2023

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M/s Shoolin, Industrial Area Pandaul, Madhubani being represented through its Proprietor Smt. Anju Devi W/o Late Arun Kumar Thakur, Female, aged about - 58 years, resident of Village - Kalna, P.O. - Basopatti, P.S. - Harlakhi, District - Madhubani, Bihar

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority through the Chairman-cum-Managing Director, Udyog Bhawan, Gandhi Maidan, Patna.
2. The Chairman-cum-Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director (North), Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna.
5. The DGM, Bihar Industrial Area Development Authority (BIADA), Darbhanga Cluster, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Krishna Chandra
For the Respondent/s : Mr.Lalit Kishore

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 16-10-2023

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following relief(s);

For issuance of appropriate Writ/Writs, direction/directions in the nature of Certiorari for setting-aside the order dated 08.09.2023 passed by the Additional Chief Secretry-cum-Appellate Authority, Department of Industries, Government of Bihar, Patna in



Appeal Case No.-227/2023 whereby and where under the Appeal preferred against the office order contained in Memo No.-584 dated 08.06.2023 passed by Joint Managing Director and issued under the signature of DGM, BIADA, Darbhanga by which the allotment of the land being Plot no.-136 having total area of 10,890 sq. ft. in Industrial Area, Pandaul in the district of Madhubani for establishing manufacturing unit of Blood collection tubes/Bag, Gloves, Catheters, etc. has been dismissed on perverse finding and contrary to material available on record and in consequence thereof to set-aside the order of cancellation of allotment contained in Memo No.-584 dated 08.06.2023.

ii. For any other relief/reliefs which the Hon'ble Court may grant in general interest that may be deemed appropriate and necessary in this case and further to stay the impugned order of cancellation during pendency of the present writ application.”

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:-

“1. That I hereby give the undertaking that I will start trial production within 60 days and start manufacturing.

2. that I also undertake to clear all the dues payable to the BIADA within four weeks from the date of restoration of allotment.

3. That I further undertake that in the event of my said unit not being made fully operational within Six months from the date of restoration of allotment, I shall handover the vacant and peaceful possession to the BIADA.

4. That I shall make complaint with all the statutory requirements including the once protecting the interest of the employee.

5. That I further undertake that in the event of default, I shall be liable for being prosecuted for having committed contempt of 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. 1.5 lakhs 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 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 13.09.2023 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 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 08.06.2023 passed by respondent no. 3, the Joint Managing Director, Bihar Industrial Area Development Authority, Patna, issued vide Memo No. 584 **(Annexure-P/10)** and order dated 08.09.2023 passed in Appeal Case No. 227 of 2023 communicated vide order dated 08.09.2023 by the Additional Chief Secretary-cum-the Appellate Authority, Department of Industry, Government of Bihar contained **(Annexure-P/11)** are accordingly quashed and set aside.



9. With the above observations, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.10.2023
Transmission Date	N/A

