

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17063 of 2022

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M/S Premi Printing Press, Industrial Estate Ramchandrapur, Nalanda through its proprietor namely Shamimuddin aged about 74 Years (M) S/O Late Chote Mian, Resident of Mohalla - Alamganj, P.O. and P.S. - Biharsharif, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through its the Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Industries Govt. of Bihar, Patna.
3. The Bihar Industrial Area Development Authority (BIADA) Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
4. The Managing Director, BIADA, Patna.
5. The Joint Managing Director, BIADA, Patna.
6. The Executive Director, BIADA, Patna.
7. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Biharsharif, Nalanda.
8. The Area Incharge Industrial Area, Biharsharif.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pawan Kumar Singh, Adv
For the State	:	Mr.Rajeev Kumar Sinha, AC to AAG-7
For BIADA	:	Mr. Kumar Priya Ranjan, Adv
		Mr. Girish Nandan Abhishek, Adv
		Mr. Gaurav Prakash, Adv
		Mr. Sumit Shekhar Pandey, Adv

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-02-2023

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“(i) To issue a writ of certiorari for question the order dated 13.06.2022 issued under the signature of the Joint Managing Director, whereby & whereunder the



allotment of the land in the industrial Area, Biharsharif Plot No. N.S-3 measuring 200 sq. ft. has been cancelled without appreciating the reply of the petitioner to the show cause notice and also ignoring the law laid down by the Hon'ble Court.

(ii) For quashing the order dated 20.09.2022 passed by the Principal Secretary Department of Industries in Appeal Case No. 92/2022 by which appeal of the petitioner has been dismissed.”

On 22.12.2022, we had passed the following order:-

“Learned counsel for the petitioner states that as on date possession of the unit/plot has not been taken over, which fact is seriously disputed by the learned counsel for the respondent BIADA. However, it is not in dispute that, as on date, no third party right stands created.

Statement accepted and taken on record.

As agreed, petitioner will file an undertaking before this Court to the effect that (a) 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; (b) 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; (c) petitioner shall clear all upto date dues payable to BIADA. This shall be done within four weeks from the date of handing over possession/recall of order of cancellation; (d) petitioner shall make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees; Petitioner shall clear all other statutory dues including G.S.T./electricity charges etc.; (e) in the event of



failure on the part of the petitioner 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 and (f) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

Petitioner is ready and willing to furnish such an undertaking within next seven working days, failing which the petition shall be deemed to have been dismissed for default.

Copy of the undertaking be supplied to learned counsel for the respondents.

However, BIADA has to recall the orders passed cancelling the allotment of the premises.

Let BIADA take a call on the offer made by the petitioner.

Learned counsel for the BIADA states that, should the petitioner make an application for change of user, it would be considered in accordance with the industrial policy, provided the petitioner does not take any benefit in terms thereof.

We are sure that the respondent BIADA would take a decision in the affirmative, which, in our considered view, would be in public interest as also in the interest of the State to generate economic growth as also provide employment to the people.

List on 12.01.2023 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect, and till then no coercive steps be taken against the petitioner.”

Pursuant to our order dated 22.12.2022, petitioner has filed an undertaking on affidavit dated 04.01.2023 in the following terms:-



“Supplementary Affidavit on behalf of the petitioner.

I, Shamimuddin aged about 75 years, S/o- Late Chote Mian, R/o-of Muhalla- Alamganj, P.O+P.S.-Bihar Sharif District- Nalanda, do hereby solemnly affirm and state as follows:-

1) That I am the petitioner in this case as such I am well acquainted with the facts and circumstances of this case.

2) That I am competent to give under taking in compliance of the order dated 22.12.2022 in CWJC No.17063 of 2022 passed by this Hon'ble court an affidavit.

3) That I shall start commercial production within 90 days from the date of handing over possession of the primines/ land by the BIADA and recall of the order of cancellation by the BIADA.

4) That I further undertake that within Nine months I shall make the unit fully operational and functional at least to the capacity of 80% for the production sanctioned as per original term of the allotment.

5) That I shall clear all upodate admitted dues (if any) payable to BIADA, within four weeks the from the date of handing over possession/recall of the order of cancellation.

6) That I shall clear all the dues against GST/ electricity charges.

7) That I further undertake that in the event of failure on the part of the me to comply with the undertaking given by me, BIADA shall take over Vacant and peaceful possession of the premises from me with liberty for further allotment to 3rd party and I shall lose all rights over the land /primes.

8) That I shall be liable for the initiation of the contempt proceeding for having violated the undertaking furnished to this Hon'ble court.”

Learned counsel for the BIADA states that petition can be disposed of in terms of the undertaking so furnished.

The undertaking is accepted and taken on record.

Consequence of breach thereof, including initiation of proceedings for contempt having violated the undertaking furnished before this Court stands explained to the petitioner



through the learned counsel.

As such, petition is disposed of in the following terms:-

(a) Undertaking of the petitioner dated 04.01.2023, (reproduced supra) is accepted and taken on record;

(b) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;

(c) In the event of failure on the part of the petitioner 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 and petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

(d) Also, liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court.

(e) BIADA shall immediately recall the order and/or hand over possession of the unit to the petitioner, whatever the case may be. Learned counsel for the BIADA states that needful shall be done, positively, within a period of four weeks from today.



(f) The timeline for commencement of the period of undertaking furnished by the petitioner shall be reckoned from such date, i.e. from the date the order is recalled and/or possession of the unit is handed over by the respondent-BIADA to the petitioner, whichever is later and as the case may be.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

ranjan/-

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

