

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17224 of 2022

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M/s Sanjay Foundry and Engineering Works through its Proprietor Anjneya Gautam, aged about 54 years (M), Son of Ram Kumar Singh, Resident of Near Pani Tanki Chaowk, Club Road, P.S.- Mithanpura, District- Muzaffarpur.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
For the BIADA : Mr. Yashraj Bardhan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-01-2023

Petitioner has prayed for the following reliefs:

“A. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 07.10.2022 (Annexure-P/1) by the Respondent No.2 whereby and whereunder the appeal preferred by the petitioner bearing Appeal No. 138/2022 against the Office Order bearing Memo no 1081 dated 29.06.2022 passed by the Respondent No.5 has been dismissed.



B. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Office Order bearing Memo no. 1081 dated 29.06.2022 passed by Respondent No. 5 (DGM, Muzaffarpur Cluster), Bihar, Patna on the order of Respondent No. 3 (Joint Managing Director, BIADA) whereby allotment of Plot No. A+C1 and A+B-6, admeasuring a total area of 2 Acres allotted to the petitioner in the Year 1981 by BIADA, and the to establish an Industry for Foundry, in the Industrial Area, Muzaffarpur, given in the name of M/s Sanjay Foundry and Engineering Works has been cancelled.

C. For issuing a writ of mandamus or any other appropriate writ directing the Respondents to restore the possession and allow the Petitioner to continue to work and run the unit on the allotted land.

D. For issuing appropriate order (s) staying all further proceedings and consequential actions pursuant to the Appellate Order dated 07.10.2022 (Annexure-P/1).

E. For such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

On 16.12.2022 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 hall statutory requirements, including the ones protecting the interest PAT 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 peti-



tioner.

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 24.01.2023 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 16.12.2022, petitioner has filed an undertaking on affidavit dated 24.1.2023, in the following terms:-

“1, Anjneva Gautam, aged about 54 years (M). Son of Ram: Kumar Singh Resident of Near Pani tanki Chaowk, Club Road, P.S- Mithanpura. District- Muzaffarpur, do hereby solemnly affirm and state as follows:

1. That, I am the proprietor of the Petitioner in this case and as such well acquainted with the facts and circumstances of the case and I am as such competent to swear the present affidavit.

2. That the present supplementary affidavit is being filed for furnishing the undertaking in terms of order

dated 14.09.2022 passed in Series of



connected/batch cases i.e. CWJC No.6883/2020-Umesh Service Station Vs. The State of Bihar.

3. That the petitioner herein undertakes as follows in terms of (1) order dated 14.09.2022 passed in Series of connected/batch cases i.e. CWJC No.6883/2020-Umesh Service Station Vs. The State of Bihar and (2) in terms of recent order dated 05.12.2022 in CWJC No.15895 of 2022 M/S Jankinandan Food Pvt. Ltd VS The state of Bihar :-

a. That within 60 days, petitioner will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA;

b. That within six months, petitioner shall make the Unit fully operational and functional in terms of the product sanctioned and allowed to be manufactured as per the original terms of allotment

c. That petitioner shall clear all the dues payable to BIADA as on date:

d. That petitioner shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees:

e. That in the event of failure on the part of the petitioner to comply with the undertaking, BIADA shall take over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when petitioner shall lose all rights therein and

f. That petitioner shall be liable for initiation of proceedings for contempt for having violated the un-



dertaking furnished to the Court.

4. That I have gone through the contents of this affidavit and have fully understood the same.

5. That the statement made in paragraph no. 3 are true to my knowledge and those made in paragraph nos. 2, 4 are true to my information derived from the records of the case and the rest are by way of submission before this Hon'ble Court.

6. That the annexures are true copies of their originals.”

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 24.1.2023 (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 peti-



tioner 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)

Bibhash/KCJha

AFR/NAFR	
CAV DATE	
Uploading Date	25.1.2023
Transmission Date	

