

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17069 of 2022

M/s PVC Processor through its proprietor Geeta Sinha, aged about 75 years (female), wife of Late Brajendra Nath Sinha, resident of A/8, 2nd Phase Industrial Area, P.O.-Adityapur Industrial Area, P.s.-Adityapur, District-Seraikala Kharsawan, State-Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Govt. of Bihar, Patna-cum-Chairman, Bihar Industrial Area Development Authority.
3. The Director of Industries, Department of Industries, Govt. of Bihar, Patna.
4. The Bihar Industrial Area Development Authority (BIADA) through its Managing Director, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Managing Director, the Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
6. The Executive Director (North), the Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
7. The Deputy General Manager (Hajipur), the Bihar Industrial Area Development Authority (BIADA), 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
8. The Area Manager the Bihar Industrial Area Development Authority (BIADA), Regional Office, Industrial Area, Hajipur, District-Vaishali.
9. The Development Officer, the Bihar Industrial Area Development Authority (BIADA), Regional Office, Industrial Area, Hajipur, District-Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Sr. Adv Mr. Akshansh Ankit, Adv
For the State	:	Mr. Rajeev Kumar Sinha, AC to AAG-7
For the BIADA	:	Mrs. Binita Singh, Adv

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-01-2023

Heard learned counsel for the parties.

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



“a) To set aside the order dated 28.10.2022 passed in Appeal No. 107/2022 [Annexure P6] by the Respondent No. 2 whereby and whereunder the appeal filed by the petitioner against order of cancellation of allotment of Plot Nos. C-21 and 22 within the Hajipur Industrial Area to the petitioner, as contained in Memo No. 2363/D dated 07.06.2022 , was rejected in a most mechanical, arbitrary manner without considering the grounds raised by the petitioner.

b) To set aside order of cancellation of allotment of Plot Nos. C-21 and 22 within the Hajipur Industrial Area to the petitioner and forfeiture of earnest deposit of the petitioner contained in Memo No. 2363/D dated 07.06.2022[Annexure P5] passed by the respondent no. 7 as the same was passed wholly without jurisdiction and in utter violation of the principles of natural justice and statutory provisions.

c) For a consequential direction upon the Respondents to restore the allotment of the Plot Nos. C-21 and 22 within the Hajipur Industrial Area to the petitioner and allow the petitioner to carry on its industrial unit on the plots without any undue interference.

d) For a direction upon the respondents to not to give effect to Memo No. 2363/D dated 07.06.2022 [Annexure P5] passed by the Respondent no. 7 and order dated 28.10.2022 passed in Appeal No. 107/2022 [Annexure P6] passed by the Respondent No. 2 during the pendency of the instant writ application.

e) For a direction upon the Respondents to allow the petitioner to carry on its business/manufacturing on the allotted plot Plot Nos. C-21 and 22 in the Hajipur Industrial Area during the pendency of the instant writ application.”

On 16.12.2022, we had passed the following order:-

“Mrs. Binita Singh, learned counsel for the BIADA states that as on date possession of the unit/plot stands taken over. However, 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 23.01.2023 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 22.12.2022, in the following terms:-

“(a) within sixty/ninety days, the 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, the 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) The Petitioner shall clear all up to 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) The 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) That 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) The Petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the 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 22.12.2022 (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.

We clarify that this exercise shall not come in the way of the petitioner abiding by the undertaking.

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

