

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17301 of 2022

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M/s Jai Mata Vaishno Devi Industries a proprietorship firm, through its Proprietor Rakesh Choubey (Male) aged about 53 years S/o late Shyam Narayan Choubey, Resident of Village- Ahirauli, P.S.- Industrial Area, Buxar, District- Buxar.

... .. 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, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate Mr. Madan Kumar, Advocate Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Piyush Lall, Advocate Mr. Kumar Priya Ranjan, Advocate

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

Date : 24-01-2023

Heard learned counsel for the parties.

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



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- A. For issuing a writ in the nature of mandamus directing the respondents to bring on record the order dated 15.11.2022 (which has yet not been uploaded on web portal and copy of which has also not been served on the petitioner) issued against the petitioner while dismissing the appeal against the office order dated 31.08.2022 passed by Respondent No. 5.
- B. For issuing appropriate writ including writ of certiorari for quashing such produced Appellate Order dated 15.11.2022 by the Respondent No.2 whereby and whereunder the appeal preferred by the petitioner bearing Appeal No. 221/2022 against the Office Order dated 31.08.2022 passed by the Respondent No. 5 has been dismissed.
- C. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the office order dated 31.08.2022 (Annexure P/1) passed by the Respondent No. 5, whereby and whereunder allotment made to the Petitioner, of land admeasuring 5000 sq. ft. of land in Industrial Area, Buxar transferred to the Petitioner vide letter dated 01.07.2004, has been cancelled.
- D. For issuing a writ of mandamus or any other appropriate writ directing the Respondents to allow the Petitioner to continue with the possession on the allotted plot and continue to run the commercial production of general fabrication on the allotted land.
- E. For issuing appropriate direction to the Respondent authorities to consider and allow the application for change of business/change of nature of industrial activity to be undertaken by the petitioner on the allotted plot of land.



F. For issuing appropriate order (s) staying all further proceedings and consequential actions pursuant to the Appeal Order dated 15.11.2022 and the original order dated 31.08.2022 in relation cancellation of the allotment of the petitioner.

G. For allowing the petitioner to operate the machinery relating to general fabrication on the land allotted to the petitioner during the pendency of this case.

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

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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 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 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 23.12.2022, in the following terms:-

- “(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.”

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 23.12.2022 (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.



Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	25.01.2023
Transmission Date	

