

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17382 of 2022

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M/s Wilson Engineering Industries Pvt. Ltd. a company incorporated under the Companies Act having its registered office at Anuj Chamber, 7th Floor, Suit No. 7B, 24, Park Street, Kolkata and Local Office at NS- 20, Pataliputra Industrial Area, P.S. Pataliputra, District- Patna through its Vishal Sahay, Male, aged about 45 years, son of Late Shyam Sundar Sahay, resident of 10, Lord Sinha Road, 15A, Ankur Building, Middleton Row, Police Station- Shakespeare Sarani, District- Kolkata, West Bengal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. The 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 Deputy General Manager, Bihar Industrial Area Development Authority, Patna Cluster, Udyog Bhawan, Gandhi Maidan, Patna.
5. The Development Officer, Bihar Industrial Area Development Authority, Patna Cluster, Udyog Bhawan, Gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shakti Suman Kumar, Advocate Mr. Deepak Kumar, Advocate Mr. Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh, GA-3 Mr. Piyush Lall, Advocate Mr. Avinash Kumar, 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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- i. For issuance of appropriate Writ/Writs, direction/directions in the nature of Certiorari for setting-aside the order dated 17.11.2022 passed by the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No.-217/2022 as contained in Annexure-12 whereby and where under the Appeal preferred against the order of cancellation of allotment of 5400 Sq. Ft. land bearing plot no. NS-5 in the name of petitioner company dated 11.08.2022 / 17.08.2022 passed by Joint Managing Director, Bihar Industrial Area Development Authority (herein after called as BIADA) has been dismissed and consequently the possession of plot in question was taken on 19.11.22.
- ii. Consequent upon the quashing of the order dated 17.11.2022 the order of cancellation of allotment dated 11.08.2022 passed by Joint Managing Director, BIADA communicated vide order contained in memo no.-141 dated 17.08.2022 issued under the signature of Deputy General Manager, Patna Cluster may be set aside and the respondents may be directed to restore the possession of the petitioner forthwith.
- iii. 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.

”



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 been taken over. 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 22.12.2022, in the following terms:-

“i. That, on behalf of the petitioner company I hereby undertake that within sixty/ninety days from BIADA handing over possession of the premises



/recall of the order of cancellation the commercial production shall be started, failing which, BIADA shall take over vacant and peaceful possession of the premises.

ii. That the petitioner company also undertakes that within six/nine months, the Unit shall be made 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.

iii. That the petitioner company has already cleared the dues and further undertakes to clear all up-to-date dues payable to BIADA and the same shall be done within four weeks from the date of handing over possession/recall of order of cancellation.

iv. That the petitioner company also undertakes to make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees, and shall clear all other statutory dues including G.S.T./electricity charges etc.

v. That the petitioner company also undertakes in the event of failure on its part to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises with liberty for further allotment to 3rd party, with losing all rights therein.

vi. That I further undertake that I shall be liable for initiation of proceedings for contempt 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 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.

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	

