

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17189 of 2022

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Mehrotra Engineering Works Pvt. Ltd. Having registered office at Bela Industrial Estate, Muzaffarpur, through its Director, Sunil Mehrotra, aged about 62 years, male, Son of Dwarika Mehrotra, Resident of A-702, Kumars Dharfari Enclave, Block-A, Club Road, P.S.- Mithanpura, District- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. he Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna - 800015.
3. The Managing Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004.
4. The Executive Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna- 800004, Bihar.
5. The Deputy General Manager, Bihar Industrial Area Development Authority, Bela Industrial Estate, Muzaffarpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ashish Giri, Advocate Ms. Riya Giri, Advocate Mr. Sumit Kumar Jha, Advocate Mr. Rajan Prakash, Advocate
For the State	:	Mr.Yogendra Pd. Sinha, AAG 7
For the BIADA	:	Mr. Kumar Priyaranjan, Advocate Mr. Girish Nandan Abhishek, Advocate

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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):-

“i) To issue an appropriate writ, order or orders in the nature of certiorari for quashing of order dated 19.11.2022 as contained in memo no. 1501 dated 19.11.2022 issued under the signature of the Respondent Deputy General Manager Bihar Industrial Area Development Authority, Muzaffarpur, whereby and whereunder the allotment of plot/land measuring 78794 sq. ft. area as allotted to the petitioner by BIADA has been cancelled. Further, security deposit submitted by the petitioner has been seized.

ii) To issue an appropriate writ order or direction in the nature of mandamus commanding the respondents to refrain from taking possession of the allotted plot/land measuring 78794 sq. ft. (allotted to the petitioner vide Memo No. 3118 dated 06.03.1974, 1.50 Acre, letter no. 1062 dated 27.05.1988, Area 0.25 Acre and vide Memo No. 1054 dated 08.08.1994 area 2564 Sq. ft.”

iii) To pass interim/ex-parte interim order staying the operation of letter no. 1501 dated 19.11.2022 issued under the signature of the Respondent Deputy General Manager Bihar Industrial Area Development Authority, Muzaffarpur and/or preventing the Authority from dispossessing the petitioner from the allotted land in question And/or preventing the respondent Authorities from taking coercive action against the petitioner in relation to the impugned order dt. 19.11.2022.

iv) To grant any other relief or reliefs which the petitioner may be found entitled to in the facts and



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 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 21.12.2022, in the following terms:-

“3. That in compliance to the aforesaid order dated 16.12.2022 by which this Hon’ble Court directed the petitioner to furnish undertaking within next seven working days from the passing of the said order dated 16.12.2022, therefore, the petitioner is furnishing his undertaking before this Hon’ble Court which are as follows:-

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 or as otherwise premitted by this Hon’ble Court.

c) 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) 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 to failure on the part of petitioner to comply with the undertaking, BIADA shall takeover 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 21.12.2022 (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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	25.01.2023
Transmission Date	

