

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17496 of 2022

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M/s Jayswal Makhana Enterprises through its Proprietor Dilip Kumar Jaysawal, aged about 42 years (Male), son of Late Sukhlal Jaiswa, Resident of Village-Hard, Police Station-K. Hat, District-Purnea.

... .. 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, Purnea Cluster, Bihar Industrial Area Development Authority (BIADA), Industrial Development Centre, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s : M/s Lalit Kishore, Sr. Advocate
Piyush Lall, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-01-2023

Heard learned counsel for the parties.



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

“A. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 21.11.2022 (Annexure-P/1) by the Respondent No.2 whereby and whereunder the appeal preferred by the petitioner bearing Appeal No. 219/2022 against the Office Order bearing Memo no 39 dated 06.09.2022 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. 39 dated 06.09.2022 passed by Respondent No. 5 (DGM, Purnea Cluster), Bihar, Patna on the order of Respondent No. 3 (Joint Managing Director, BIADA) whereby allotment of Plot No. 20, admeasuring a total area of 0.5Acres allotted to the petitioner. 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 21.11.2022(Annexure-P/1),

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

True/Photo Copies of the



Impugned Order dated 21.11.2022 and order dated 06.09.2022 bearing Memo No 39 are annexed herewith and marked as Annexure - P/1 and P/2 respectively to this Writ Application.”

By way of filing a supplementary affidavit dated 22.12.2022, petitioner has given undertaking in the following terms:-

“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, petitioner shall hand 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 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 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)

Spd/-Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	31.01.2023
Transmission Date	

