

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17534 of 2022

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M/S Om Sai Ram Rice Mill, West Champaran through its proprietor Umeh Kumar Sah, Male aged about 43 years, son of Rama Sah, Resident of Ward No. 11, MahanGani, P.S.- Muffasil Bettiah, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
3. The District Magistrate, West Champaran.
4. The Managing Director, Bihar Industrial Development Authority, Udhog Bhawan, Gandhi Maidan, Patna.
5. The Executive Director, BIADA, Muzaffarpur.
6. The Development Officer, BIADA, Muzaffarpur.
7. The Incharge of Industrial Area, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Shashi Bhushan Kumar, Adv.
For the State	:	Mr. Rakesh Ambastha, AC to AAG-07
for the BIADA	:	Mr. Pankaj Kumar Sinha, Adv.
		Mr. Devesh Shankaran, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 28-03-2023

Learned counsel for the petitioner has filed an undertaking in terms of the order passed by the Division Bench in the present case on 25.01.2023.

It is noticed that earlier the roster relating to commercial matters for trade and commerce was assigned to the Division Bench and, therefore, the aforesaid order was passed. Presently, the roster has been assigned to the Single Judge.

It would be apposite, therefore, to quote the order



passed by the Division Bench dated 25.01.2023 :-

“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 08.02.2023 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.”

Having noticed the aforesaid order, this Court finds that the respondent and the petitioner has filed his undertaking that he shall start commercial production within 60/90 days from the day BIADA hands over the possession of the premises and recalls the order of cancellation. Further, he undertakes to make the unit fully operational and functional at least to the capacity of 80 per cent of the product sanctioned and allowed to be manufactured within 6/9 months and also undertakes to clear up all the dues payable to the BIADA. He also undertakes to clear all other statutory dues from time to time. The undertaking has been given with an understanding that, in the event of failure on the part of the petitioner, BIADA shall take over vacant and peaceful possession of the premises from the petitioner with liberty to further allot to third party and the petitioner losing all rights therein.

The petition stands allowed. The orders passed by the



respondent dated 28.08.2022 and 29.11.2022 shall be held
quashed.

(Sanjeev Prakash Sharma, J)

Gauravkr/-
Item no. 32

AFR/NAFR	
CAV DATE	
Uploading Date	27.04.2023
Transmission Date	

