

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18131 of 2022

M/s. Gupta Rice Mill through its proprietor Sri Ram Ratan Sah, male, aged about 46 years, S/o Raja Ram Sah, R/o Ward No. 7 Mahanagni, District West Champaran- 845438.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Bihar Industrial Area Development Authority.
2. The Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
3. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Joint Managing Director, Bihar Industrial Area Development Authority (BIADA).
5. The Executive Director, North, Bihar Industrial Area Development Authority (BIADA), Regional Office Darbhanga.
6. The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA).
7. The Area Incharge, Bihar Industrial Area Development Authority (BIADA) Industrial Area- Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sachin Kumar, Adv Mr. Abhishek Kumar Pandey, Adv
For BIADA	:	Mr. Yashraj Bardhan, Adv
For the State	:	Mr.Kinkar Kumar (SC9) Mr. Yogesh Kumar AC to SC-9 Ms. Deepika Sharma, AC to SC-9 Mr. Ayush Abhishek, Adv

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-02-2023

Heard learned counsel for the parties.

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

“i. For setting aside the office order bearing Memo
No. 1203 dated 03.08.2022 passed by the Respondent No.



3, Joint Managing Director of Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA') whereby and where under the allotment of land measuring an area of 4,000 Sq. Ft. bearing Plot No. B-17 Part for the establishment of Rice Mill within the Industrial Area-Bettiah has been cancelled.

ii. For quashing and the order dated 30.11.2022 passed in Appeal Case No. 187/2022 by the Respondent No. 2 whereby and whereunder while laying the appeal filed by the petitioner has arbitrarily been dismissed in a most. arbitrary and whimsical manner stating the reason of keeping the unit in a dilapidated state which is totally false as the petitioner has never thought of deceiving the respondent authorities and had tried his level best to enhance the production activity, and the unit was closed only for a short span of time due to Catastrophic Covid- 19 pandemic, several representation were given but no heed was given which was complete defiance of natural justice.

(iii) For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.”

On 19.01.2023, 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 1st of February, 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 19.01.2023, petitioner has filed an undertaking on affidavit dated 16.01.2023, in the following terms:-

“Supplementary Affidavit on behalf of the Petitioner

I Ram Ratan Sah, Gender- Male, aged about 46 years,
S/o:- Raja Ram Sah, R/o Ward No.7, Mahanagni, District- West



Champaran, Bihar-845438 do hereby solemnly affirms and state as follows:-

1. That I am Petitioner of M/s. Gupta Rice Mill and as such I am well acquainted to the facts and circumstances of the case. 2. That I am filing this undertaking as follows: -

i. That, I hereby undertake that within sixty/ninety days, I will start commercial production with BIADA from the date of handing over of possession of the premises to the me/recall of the order of cancellation.

ii. That I also undertake that within six/nine months, I 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.

iii. That also undertakes that I shall clear dues payable to BIADA and shall be done within four weeks from the date of handing over possession/recall of order of cancellation.

iv. That I also undertake to make itself compliant with all mandatory statutory requirements, including the protecting the interest of the employees.

v. That I also undertake in the event of failure on the part of me to comply with the undertaking. BIADA shall take over vacant and peaceful possession of the premises from me with liberty for further allotment to 3rd party.

vi. That I further undertake I 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 16.01.2023, (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)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

