

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2052 of 2023

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M/s Reliable Insupacks Industries through its Proprietor Nirmala Devi, W/o-
Pawan Kumar, R/o-At Post-Surajpur, Greater NOIDA, District-Gautam Budh
Nagar, Uttar Pradesh-201306.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Industry,
Govt. of Bihar.
2. The Principal Secretary, Department of Industry, Govt. of Bihar. Vikash
Bhawan, Baily Road, Patna 800015
3. The Bihar Industrial Area Development Authority (BIADA), Udyog
Bhawan, Gandhi Maidan , Patna through its Managing Director,
4. The Managing Director, Bihar Industrial Area Development Authority
(BIADA), Udyog Bhawan, Gandhi Maidan , PatnaJ.
5. The Joint Managing Director, Bihar Industrial Area Development Authority
(BIADA), Udyog Bhawan, Gandhi Maidan, Patna 800001
6. The Executive Director, North, Bihar Industrial Area Development
Authority (BIADA), Regional Office Muzaffarpur.
7. The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area
Development Authority (BIADA) Muzaffarpur, Bela, Bihar 804403.
8. The Area Incharge, Industrial Area-Bela Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
For the Respondent/s : Mr.Kinkar Kumar (SC9)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 25-08-2023

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

reliefs:-

“i. For setting aside the order bearing Memo



No. 943 dated 17.06.2022 passed by the Respondent No. 5, Joint Managing Director, BIADA whereby and where under an area of 10,890 Sq. Ft. bearing Plot No D-11, within the Industrial Area, Hajipur has been cancelled on non-est and against the basic tenants of Natural Justice

ii. For quashing and the order dated 20.11.2022 passed in Appeal Case No. 209/2022 by the Respondent No. 2 whereby and whereunder while allowing 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 unfounded, baseless as the unit of the petitioner is running condition.

*iii. For declaration and to hold that the aforesaid impugned order dated 20.11.2022 passed in Appeal Case No. 209/2022 is illegal and in contravention to the settled principles of law i.e. **Nemo Judex in Causa Sua** (No one should be made a judge on his own cause) as the impugned order vide Memo No. 943 dated 17.06.2022 passed by the Respondent No. 5. Joint Managing Director, BIADA and the order dated 20.11.2022 passed in Appeal Case No. 209/2022 has been passed by respondent no. 2 Principal Secretary, Department of Industries who is*



holding the same post at same time and as such liable to be quashed on this ground itself.

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

3. Learned counsel for the petitioner has stated that due to unavoidable circumstances like Covid-19 etc., the petitioner could not start the commercial production and the same is not deliberate but for the reasons beyond the control of the petitioner and therefore, an opportunity may be given to the petitioner to start commercial production.

4. Learned counsel for the petitioner has stated that under the similar circumstances, a Division Bench of this Hon'ble Court in C.W.J.C. No. 15567 of 2022 (***M/s Maa Kali Food Products Industrial Growth Centre, Maranga Vs. The State of Bihar & Ors.***) dated 02.12.2022 has set aside the order of Bihar Industrial Area Development Authority (hereinafter referred to as “the BIADA”) based on the undertaking given by the petitioner therein and an opportunity was given to the industry to start its commercial production.

5. Learned counsel for the petitioner has stated that the petitioner has also filed an undertaking before this Court



which reads as under:-

i. That, I hereby give the undertaking that I will start commercial production in the unit within 60 days and start manufacturing plant or such other products as approved under the Bihar Industrial Investment Promotion Policy, 2016, if the possession of the unit is handed over by BIADA.

ii. That also undertakes that I shall clear all up-to-date dues payable to BIADA if any and shall be done within the period this undertaking and from the date of handing over possession/recall of order of cancellation.

iii. That I further undertake that in the event of my said unit not being made operational and functional by me within 6 (Six) Months, I will hand over and the vacant and peaceful possession to BIADA.

iv. That I further undertake that I shall make compliant with all the statutory requirements including the once protecting the interest of the employees.

v. That I further undertake that in the event of default I shall be liable for being prosecuted for having committed contemps of the Hon'ble Court.”

6. Having regard to the above said undertakings



which is reproduced above and also the judgment of this Hon'ble Court by a Division Bench passed in C.W.J.C. No. 15567 of 2022 dated 02.12.2022, wherein this Hon'ble Court duly taking into account the undertaking given by the petitioner therein has set aside the order of the appellate authority as well as the order passed by the BIADA and granted an opportunity to the petitioner to start commercial production.

7. Having regard to the above and also the submissions made by the learned counsel for the BIADA, this Court is of the considered opinion that the ends of Justice would be met if, the undertaking given by the petitioner is accepted and given an opportunity of starting commercial production. The Court makes the following orders:-

8 (i). The petitioner shall clear all the outstanding dues if any, the BIADA and in case the possession has been taken by the BIADA, the same shall be handed over to the petitioner. The petitioner shall start the commercial production within sixty days from the date of handing over the possession and start manufacturing plan as approved by the Bihar Industries Commercial Policy, 2016.

8(ii). Consequence of breach thereof, including initiation of proceedings for contempt for having violated the



undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

8.(iii) Undertaking of the petitioner dated 09.08.2023 is accepted and taken on record.

8.(iv) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;

8.(v) In the event of default of the undertaking, petitioner shall hand over vacant and peaceful possession of the allotted property to BIADA within a period of two weeks;

8.(vi) It is made clear that, in case, the petitioner fails to start the commercial production within the stipulated time and also fails to hand over the vacant and peaceful possession of the allotted property to BIADA within a period of two weeks thereof. The authorities of the BIADA are free to take possession of the premises in question.

8.(vii) Order dated 17.06.2022 passed by respondent no. 5, Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 943 dated 17.06.2022 (**Annexure-4**) and order dated 20.11.2022 passed in Appeal Case No. 209 of 2022 by Respondent No. 2, the Principal Secretary, Department of Industry, Government of



Bihar contained **(Annexure-5)** are accordingly quashed and set aside.

9. With the above observations, the present writ petition stands allowed.

(A. Abhishek Reddy , J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.08.2023
Transmission Date	

