

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18205 of 2022

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M/S Tota Rai Food Products Industrial Area- Fatuha through its Proprietor Akash Kumar, S/o Sri Sohan Rai, gender Male, aged about 35 years, R/o Mainpura, Near Anand Bread Factory, GosaiTola, P.O. and P.S.- Patliputra, Patna- 800013

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Industry, Govt. of Bihar.
2. The Principal Secretary, Bihar Industrial Area Development Authority (BIADA).
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, Patna.
5. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Patna.
6. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Patna.
7. Area Incharge, Industrial Area, Fatuha, Bihar Industrial Area Development Authority (BIADA)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate Mr. Abhishek Kumar Pandey, Advocate Mr. Sachin Kumar, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh, GA-3 Mr. Piyush Lal, Advocate Mr. Yashraj Bardhan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-01-2023

Heard learned counsel for the parties.

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



“

- i. For quashing the order dated 17.06.2022 passed in Appeal Case No. 10/2022 communicated vide memo no. 2759 dated 24.06.2022 by the Respondent No. 2 whereby and whereunder while laying the appeal filed by the petitioner has arbitrarily out rightly rejected the instant appeal case which are without the sanction of law and in teeth of various orders of this Hon'ble Court whereby without considering the difficulties faced by the petitioner as the land was not suitable for commercial production due to coverage of tress over the allotted land making it intense hardship for the petitioner.
- ii. Further, for setting aside the order bearing Memo No. 4303/D dated 13.12.2021 passed by the Respondent No. 4 Managing Director, BIADA whereby and whereunder the land measuring an area of 7500 Sq. Ft. which was allowed to the petitioner has been cancelled.
- iii. For declaration and to hold that the aforesaid impugned order dated 17.06.2022 passed in Appeal Case No. 10/2022 communicated vide memo no. 2759 dated 24.06.2022 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).
- iv. For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.
- v. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.

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Petitioner has filed an undertaking on affidavit dated 20.01.2023, in the following terms:-

“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 ones 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 20.01.2023 (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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	25.01.2023
Transmission Date	

