

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1152 of 2023

M/S Vaishnavi Enterprises through its Proprietor Shri Rajesh Prasad Singh Male, aged about 59 years, S/o Ram Nivas Singh, Ward No.9, Near Hanuman Mandir, South Tola Keshawe, Keshaba, Keshave, Begusarai, Bihar- 851134.

... .. 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 Joint Managing Director, Bihar Industrial Area Development Authority (BIADA)
6. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur.
7. The Development Officer, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur.
8. Area Incharge, Bihar Industrial Area Development Authority (BIADA), Industrial Area- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Neeraj Kumar, Adv. Mr. Sachin Kumar, Adv.
For the State	:	Mr. Yogendra Pd. Sinha (Aag7) Mr. Rajeev Kumar Sinha, AC to AAG-7
For the BIADA	:	Mr. Girijish Kumar Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 23-08-2023

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

reliefs:-

- i. For quashing and modification of the order dated 11.11.22 passed in Appeal Case No.



104/22 by the Respondent No. 2, whereby and where under while allowing the appeal filed by the petitioner has imposed the conditions of Bank guarantee of Rupees 2.5 Lakhs, which is in teeth of the which are without the sanction of law and against the provisions of BIADA Amnesty Policy, 2021 and in teeth of various orders of this Hon'ble court whereby upon submission of undertaking an extension of time is being granted for initiating the commercial production on the unit of the petitioner.

- ii. For directed against the Officer Order bearing Memo 17 Dated 20.07.2022 passed by the Respondent No. 4, Managing Director of Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA') whereby and where under the land measuring an area of 17,424 Sq. Ft. bearing plot no. 100(P) part in the year 2007 vide Allotment Letter No. 2903 dated 18.12.2007 within the industrial Area-Hajipur, its alltment and the Registered Deed pursuant thereto has been cancelled in complete violation of the principles of natural justice as well as ignoring the law laid down by the Hon'ble Division Bench of the High Court of the Judicature at Patna in the well celebrated case of the Deepak Paints (P) Ltd Vs. The State of Bihar bearing L.P.A. No. 353/2008 and other analogous cases were decided by the order dated 18.03.2015 as such aforesaid cancellation order is not sustainable in the eye of law and is fit to be set aside by this Hon'ble Court.
- iii. For declaration and to hold that the



aforesaid impugned order dated 11.11.2022 passed in Appeal Case No. 104/2022 communicated vide memo no. 4700 dated 20.10.2022 is illegal and in contravention to the settled principles of law i.e. *NemoJudex in CausaSua* (No one should be made a judge on his own cause) as the impugned order vide Memo No. 17 Dated 20.07.2022 has been passed by Respondent No. 4 Managing Director and the order dated 30.09.2022 passed in Appeal Case No. 76/2022 has been passed by respondent no. 2 Principal Secretary, Department of Industries who is colorably holding the same post at same time and as such liable to be quashed on this ground itself.

- iv. For a direction upon the Respondents to give the benefits as are being given to the similarly situated allottees in C.W.J.C. No. 13558/2022, C.W.J.C. No. 12560/2022, C.W.J.C. No. 6883/2020, C.W.J.C. No. 13037/2022 and other analogous cases.
- v. 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.

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 has been 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, 20016 from the date from which Respondent BIADA permits the Petitioner to work, 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 stipulated period 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 contempt of this Hon'ble Court."

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

7. Having regard to the same and also the submissions made by the learned counsel for the BIADA, who stated that the present writ petition can be disposed off in terms of the undertaking so furnished. The undertaking is accepted and taken on record.

8. If the possession has been taken by the BIADA, the same shall be handed over to the petitioner. The petitioner shall clear all the dues payable to BIADA and start the commercial production within sixty days and start manufacturing plan as



approved by the Bihar Industries Commercial Policy, 2016.

9. 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.

10. As such, petition is disposed off in the following terms:-

(a) Undertaking of the petitioner dated 16.08.2023 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 default of the undertaking, petitioner shall hand over vacant and peaceful possession of the allotted property to BIADA within a period of two weeks;

(d) 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.

(e) Order dated 11.11.2022 passed by respondent no.



2, Principal Secretary, Department of Industries, Government of Bihar, in Appeal Case No. 104 of 2022 (**Annexure-5**) and order dated 20.07.2022 contained in Memo No. 17 issued by the respondent No. 4, the Managing Director of Bihar Industrial Area Development Authority (**Annexure-4**) are accordingly quashed and set aside.

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

(A. Abhishek Reddy , J)

gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.08.2023
Transmission Date	N/A

