

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.332 of 2023

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M/s Rajesh Industries, through its Proprietor Mr. Rajesh Kumar Dokania, aged about 52 Years, Gender-Male, S/o Surendra Kumar Dokania, R/o Marwari Tola Lane, Radha Market Sujaganj, Jagdishpur, P.S. Kotwali, District-Bhagalpur, Bihar-812002

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Industries, Govt. of Bihar.
2. The Principal Secretary, Department of Industries, Govt. of Bihar.
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, Bhagalpur Cluster, Bihar Industrial Area Development Authority (BIADA).
7. The Deputy General Manager, Bhagalpur Cluster, Bihar Industrial Area Development Authority (BIADA).
8. The Area Incharge, Industrial Area-Bhagalpur, Bihar Industrial Area Development Authority, (BIADA).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan, Adv.

For the Respondent/s : Mr. Kinkar Kumar, SC-9.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 19-08-2023

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

reliefs:-

- (i) For quashing the order dated 2.12.2022 passed in Appeal Case No. 168/2022 communicated vide memo no. 5741 dated



13.12.2022 by the Respondent No. 2 whereby and whereunder the appeal filed by the petitioner has been dismissed in a mechanical arbitrary, whimsical, pick and choose manner, whereas the similarly situated allottees have been given the benefits as are being by the Hon'ble Court in C.W.J.C. No. 6883/2020, M/s. Umesh Service Station vs. The State of Bihar and Ors. and in terms of Appeal No. 76/2022.

- (ii) For setting aside order bearing Memo No. 547 dated 30.06.2022 passed by the Respondent No. 3 Joint Managing Director of Bihar Industrial Area Development Authority (hereinafter referred to as 'BIADA') whereby and whereunder the allotment of land measuring an area of 6000 Sq. Ft. bearing Shed No. 82 for the establishment of Polythene bag and Printed bag within the Industrial Area Barari has arbitrarily been cancelled, since the reason recorded therein is non-est, not sustainable that too being perverse and in complete violation of the principles of natural justice and against all canons of justice.
- (iii) For declaration and to hold that the aforesaid impugned order dated 02.12.2022 passed in Appeal Case No. 168/2022 communicated vide memo no. 5741 dated 13.12.2022 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. 547 dated 30.06.2022 has been passed by Respondent No. 3 Managing Director and the order dated 02.12.2022



passed in Appeal Case No. 168/2022 communicated vide memo no. 5741 dated 13.12.2022 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 undertake that within sixty/ninety days, I will start commercial production with BIADA handing over possession of the premises to the me/recall of the order of cancellation. Failing to do, BIADA shall take over vacant and peaceful possession of the premises from me.
- (ii) That I also undertakes 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 all up-to-date 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, I shall clear all other statutory dues including G.S.T/electricity charges etc.
- (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, with losing all rights therein.

(vi) That I further undertake, I shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.”.

6. Having regard to the above said undertakings which is reproduced above and also based on judgement of the Division Bench of this Hon’ble Court passed in C.W.J.C. No. 15567 of 2022 dated 02.12.2022. Wherein duly taking into account the undertaking given by the petitioner therein this Hon’ble 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 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 and the petitioner shall 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 10.02.2023 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 02.12.2022 passed by respondent no. 2, Principal Secretary, Department of Industries, Government of



Bihar, in Appeal Case No. 168 of 2022 communicated vide Memo No. 5741 dated 13.12.2022 (**Annexure-12**) and order dated 30.06.2022 contained in Memo No. 547 issued by the respondent No. 7, the Deputy General Manager, Bhagalpur Cluster (**Annexure-8**) are accordingly quashed and set aside.

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

(A. Abhishek Reddy , J)

shakir/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2023
Transmission Date	NA

