

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.32 of 2023

In
Civil Writ Jurisdiction Case No.6883 of 2020

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1. The Bihar Industrial Area Development Authority, Patna, through its Managing Director, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.
 2. The Executive Director, Bihar Industrial Area Development Authority, Patna, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004.

... .. Petitioners.

Versus

1. Umesh Servicing Station through its Proprietor, Umesh Prasad Singh, aged about 62 Years (Male), Son of Late Upendra Narain Singh, Resident of Plot No. 33, Barauni Industrial Area, Tiltrath, P.S.-Barauni, District-Begusarai.
2. The State of Bihar through Mr. Sandeep Paundrik, the Principal Secretary, Department of Industry, Government of Bihar, Patna.
3. Mr. Sandeep Paundrik, the Industrial Development Commissioner, Government of Bihar, Patna.

... .. Opposite Parties.

Appearance :

For the Petitioners	:	Mr. Girijish Kumar, Advocate.
For the O.P. No.2 and 3	:	Mr. Ravish Chandra, AC to SC-6
For the O.P. No.1	:	Mr. Vikash Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 14-11-2024

The present M.J.C./Contempt Petition is filed for non-compliance of the orders of this Court dated 14.09.2022 passed in C.W.J.C. No.6883 of 2020. The Co-ordinate Bench passed the following order on 14.09.2022 in C.W.J.C. No.6883 of 2020:

“Pursuant to our order dated 22.08.2022, petitioner has filed an undertaking on affidavit in the following terms:



“3. That this affidavit is being filed in the light of order dated 24.08.2022 passed by this Hon’ble Court in present writ application, which are as follows:-

- a. That within 60 days, petitioner will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA;
- b. That within six months, petitioner shall make the Unit fully operational and functional in terms of the product sanctioned and allowed to be manufactured as per the original terms of allotment;
- c. That petitioner shall clear all the dues payable to BIADA as on date;
- d. That petitioner shall make itself complaint with all the statutory requirements, including the ones protecting interest of the employees;
- e. That in the event of failure on the part of the petitioner to comply with the undertaking, petitioner shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when petitioner shall lose all rights therein and
- f. That petitioner shall be liable for initiation of proceedings for contempt for having violated



the undertaking furnished to the Court.”

“As such, petition is disposed of in the following terms:

- (a) Undertaking of the petitioner dated 12.09.2022 (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 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) Liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court;
- (e) Order dated 20.11.2019 passed by respondent no.4, namely the Executive Director, BIADA, Patna is quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.”

2. For non-compliance of the undertaking given by the



1st respondent, the present M.J.C./Contempt Petition is filed.

3. We have undertaken number of exercise insofar as whether the 1st respondent has fulfilled the conditions stipulated in his undertaking or not by appointing Director, Industry Department. He had submitted report. Thereafter, 1st respondent disputed such report, resultantly, we had passed the following order on 11.09.2024:

“Respondent No.1 is hereby directed to produce electricity bill for the period from October, 2022 to March, 2023. He is also hereby directed to produce certificate of GST or any State Sales Tax and Service Tax registration so as to verify is there any exemption for selling certain production material and labour charges so as to draw inference that petitioner is exempted in rising invoice /bill without sales tax or service tax.

2. Re-list this matter on 03.10.2024.”

4. The 1st respondent has filed supplementary affidavit on 03.10.2024 while furnishing Electricity Bills. For the period from 31.12.2022 to 10.01.2023, he has consumed 22 units. Similarly, from 31.01.2023 to 10.02.2023, he has consumed 68 units, from 01.03.2023 to 11.03.2023, he has



consumed 87 units and from 02.04.2023 to 12.04.2023, he has consumed 18 units. He has also produced Goods and the Service Tax document which was not registered as on 11.09.2024, the date on which we had passed the order directing the 1st respondent to furnish GST or any State Sales Tax and Service Tax registration in order to ascertain whether 1st respondent is running the subject Industrial Unit or not?

5. Perusal of GST document at Annexure-R/B, it is evident that the 1st respondent has submitted application for registration only on 15.10.2024. Therefore, one has to draw inference that the 1st respondent has violated his own undertaking given before this Court in C.W.J.C. No.6883 of 2020. Instead of taking Contempt of Courts action against the concerned 1st respondent, the petitioner is hereby permitted to take over the subject unit from the 1st respondent. The first respondent is hereby directed to cooperate in handing over subject industrial unit to the petitioners/BIADA within a period of two weeks from today.

6. Accordingly, the present M.J.C./Contempt Petition stands disposed of.

7. At this stage, learned counsel for the 1st respondent pointed out paragraph-7 of the reply dated 10.09.2024.



Paragraph-7 of the same reads as under:

“7. That so far as low production is concerned, it is submitted that production of the unit of opposite party no.1 is depended upon the demand made from the local market. The work of opposite party no.1 is of General Fabrication, which is based on demands made by the local customers. As soon the opposite party no.1 receive the demand from the local market he operates this unit and fulfill their demands by making production in its unit. So far as low consumption of electricity is concerned, it is submitted that opposite party no.1 always not runs the unit on the electricity but also by use of generator, which is established in the unit itself.”

8. It is not supported by documents. Therefore, the same cannot be taken into consideration. That apart, the 1st Respondent unit has not been registered in accordance with law as is evident from Annexure-R/B dated 15.10.2024. Even assuming that if 1st Respondent is running unit till date, it is an



illegal in view of the fact that without registration 1st respondent was illegally running the industrial unit. Accordingly, paragraph-7 of the reply dated 10.09.2024 stands rejected.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.11.2024.
Transmission Date	NA

