

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.79 of 2023

In
Civil Writ Jurisdiction Case No.5451 of 2021

-
-
1. The Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna through its Managing Director,
 2. The Executive Director, BIADA, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna
 3. The Area Incharge, Industrial Areas, Bihar Industrial Area, Bihiya, Dist- Bhojpur.

... .. Petitioner/s

Versus

1. M/s Sarvshri Maa Mahthin Industrial Area 1/A through its Proprietor Bindeshwari Sah, aged about 63 years, G-Male, Son of Late Heeralal Sah, Resident of Station Road Bihiya, Funagi, P.S.- Bihiya, District- Bhojpur
2. The State of Bihar through Mr. Sandeep Paundrik Principal Secretary, Department of Industries, Government of Bihar, New Seretariat, Patna.
3. Mr. Sandeep Paundrik Principal Secretary, Department of Industries, Government of Bihar, New Seretariat, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Girijish Kumar, Advocate
For the Opposite Party/s	:	Mrs.Mira Kumari, Advocate
		Ms.Ankita Roy, Advocate
For the State	:	Mr.Abbas Haider (Sc6)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-04-2024

The present MJC is filed for non-compliance of the order dated 18.01.2022 passed in CWJC No. 5451 of 2021. For non-filing of show-cause, Opposite Party No. 1 – *Bindeshwari Sah* was to be present in the Court. Such personal appearance of order was ignored by the Opposite Party No. 1, resulted in issuance of



bailable warrant. Thus, Opposite Party No. 1 is present along with his counsel. Opposite Party No. 1 has given an undertaking before this Court in CWJC No. 5451 of 2021. The undertaking are as under:- “

“(i) That, I hereby give the undertaking that I will make my unit fully functional within 3(three) months and start production of bolt also.

(ii) That also undertakes that on receipt of dues amount payable by me to the BIADA I will immediately pay the same to the BIADA.

(iii) That for financial assistance I have talked to financial institution for financial assistance of Rs. 2500000 (Twenty Five Lakhs).

(iv) That I further undertakes that in the event of my said unit not being made fully functional by me within three months, I will hand over the vacant and peaceful possession of the premises to BIADA.

(v) That I further undertakes that in the event of default I shall be liable for being prosecuted for having committed contempt of this Hon'ble Court.”

2. Perusal of the show-cause along with documents, it is evident that Opposite Party No. 1 has failed to comply the orders of this Court with reference to his own undertaking. If there is any



delay in execution of his own undertaking in that event he should have filed review petition in CWJC No. 5451 of 2021 decided on 18.01.2022 in modifying the undertaking given. On the other hand, he has slept over the matter. In the show-cause he has furnished certain documents which are all of the year 2023. Therefore, it is a clear case of contempt and so also Opposite Party No. 1 was liable to hand over the subject land allotted on behalf of the petitioner – BIADA.

3. Be that as it may, having regard to the investment made by the Opposite Party No. 1 in the year 2023 in establishing industry. It is not appropriate to ask the BIADA to take over the subject allotted land at this juncture. On the other hand, it suffice to impose fine of Rs. 2,000,00/- (Rupees Two Lakh Only), the same shall be paid by the Opposite Party No. 1 to the petitioner – BIADA within a period of eight weeks' from the date of receipt of this order.

4. Accordingly, the present MJC No. 79 of 2023 stands dropped. Reserving liberty to the petitioner – BIADA to file interlocutory application to revive this order in the event of non-compliance of today's order on behalf of Opposite Party No. 1.

5. Bailable warrant issued against Opposite Party No. 1 stands discharged. At this stage, learned counsel for the BIADA



submitted that production has not yet commenced. If it is so, opposite party are hereby directed to commence the production within a period of three months from today, failing which BIADA officials are empowered to inspect the Opposite Party No. 1 industry and obtain a report to the extent whether production has commenced or not? If productions has not commenced in that event, the same shall be highlighted in filing interlocutory application to revive this order so as to issue appropriate directions to the Opposite Party No. 1 insofar as handing over the subject land in favour of BIADA.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2024
Transmission Date	NA

