IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11516 of 2021

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M/s Bidasaria Fenster Solutions under Proprietorship of Nitesh Bidasaria aged about 36 years, Son of Sri Mahabir Prasad Bidasaria, having its registered office at Rajendra Path, Pirmohani, Patna 800001 under Gandhi Maidan, P.S. in the District of Patna and having its production Unit situated at Plot No. F-12, Phase-II, Fatuha Industrial Area, Fatuha under Fatuha P.S. in the district of Patna 803201.

... ... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Old Secretariat, Patna- 800001.
2. The Additional Chief Secretary, Department of Industries, Government of Bihar, Vikas Bhawan, Patna- 800001.
3. The Principal Secretary, Department of Finance, Government of Bihar, Old Secretariat, Patna- 800001.
4. The Secretary-cum-Commissioner, State Tax and Commercial Taxes Department, Government of Bihar, Vikas Bhawan, Patna- 800001.
5. The Secretary, Department of Industries, Government of Bihar, Vikas Bhawan, Patna.
6. The Director of Industries, Department of Industries, Government of Bihar, Vikas Bhawan, Patna 800001.
7. The Director, Technical Development Department of Industries, Government of Bihar, Vikas Bhawan, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prakash Sahay, Advocate
For the Respondent/s	:	Mr.Vikash Kumar SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-03-2024

The petitioner a new Industrial Unit established under the Bihar Industrial Incentive Policy, 2011 is aggrieved with the amendments made by the new policy of the year 2016. It is the contention of the petitioner that the amendment substantially altered the benefits and in such circumstance the petitioner has been denied the benefits promised under the Bihar Industrial Incentive Policy, 2011.

2. We have heard Mr. Prakash Sahay learned Counsel for the petitioner and Mr. Vikash Kumar learned Counsel for the State.

3. Mr. Vikash Kumar points out that there is no application filed in accordance with the new policy and there is no change in the policy as it existed in the year 2011.

4. We have gone through the documents as pointed out by the learned Government Advocate. The Bihar Industrial Incentive Policy, 2011 is produced as Annexure-12 in the writ petition. The facility as is seen from Clause-3; 'Tax related Incentives' were available to new MSME/Large Industries as per Clause-3(i)(b), which reads as '*All new Units will be entitled to avail 80% reimbursement against the admitted VAT amount deposited in the account of the Government, for a period of 10 years. The ceiling for this reimbursement will be 300% of the capital invested.'(sic)*

5. In the year, 2016 a new policy came into force which was called the Bihar Industrial Investment Promotion Policy, 2016 produced as Annexure-10. As per the new policy

also the tax related incentives as in the 2011 policy was of 80% reimbursement against the admitted VAT/GST/Entry Tax deposited in the account of the State Government, however, the period prescribed was a period of five years from the date of commencement of commercial production; which a per the earlier policy was 10 years. The 2016 policy also by Clause-8(b) provided that Existing Units will continue to draw the incentives at rates and conditions of the Incentive Policy of 2011 till their limit is exhausted or on completion of the eligible period, whichever is earlier. Hence, there is no cause of prejudice to the established Units under the Policy of 2011.

6. Then the Goods and Services Tax regime came into force and at that time the 2016 Policy was amended by a resolution produced at page 124 of the writ petition. As per Sub-Clause (d) of Clause-6.2 again all eligible units were provided with 80% reimbursement against the SGST deposited in the account of the State Government after adjustments on IGST. This was applicable from the date of implementation of Goods and Services Tax Act i.e. 01.07.2017. Clause-8(c) also provided so: -

> *"Units under Industrial Policy Incentive Policy, 2011 will be reimbursed SGST exactly in the manner as stipulated under Bihar Industrial Investment Promotion Policy, 2016. However, the period of reimbursement and the*

> *maximum limit of such reimbursement will continue to be as prescribed under Industrial Incentive Policy, 2011."*

7. Here too there is no prejudice caused to those new industries established under the policy of 2011. Though there was a shorter period of five years provided under the Policy of 2016, those who were covered under the Policy of 2011 can avail the benefits in the 10 years they were entitled under the policy of 2011 provided the limit is not exhausted.

8. The petitioner contends that the petitioner made an application but he was not granted the benefit. The petitioner's eligibility certificate is produced at Annexure-4 and his date of production is 15.06.2015 and he would be entitled to have the benefit of the policy till 2025 or till 300% of the capital invested is exhausted, whichever is earlier.

9. The learned Government Advocate refers to Annexure-E as per which the eligible Industrial units under both the Policies of 2016 and 2011 were to apply on the portal of www.swc.bihar.gov.in. The guidelines for online application is also enclosed with Annexure-E. Though the petitioner contends that the petitioner made an application online, there is nothing produced before this Court. The writ petition reveals only an application on the physical mode as is produced. In such

circumstance, we direct the petitioner to make an online application as is provided under Annexure-E, which would be considered in accordance with the terms of the policy.

10. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.04.24
Transmission Date	NA