

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9538 of 2023

Sarvshree Durga Sattu Udyog through its proprietor Janardhan Sah, Gender-Male, aged about 56 years, S/o Late Bishun Sah, R/o Village- Bhaura Sikta, P.s.-Balthar, District-West Champaran, Bettiah, Bihar-845304.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industries, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna.
2. The Additional Chief Secretary, Department of Industries, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna.
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, Udyog Bhawan, Gandhi Maidan, Patna.
6. The Executive Director, North, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
7. The Deputy General Manager Motipur Cluster, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
8. The District Magistrate, East Champaran, Office of the Collector and District Magistrate, At and P.O.-Motihari, District-East Champaran, PIN-845401.
9. The Area Incharge, Bihar Industrial Area Development Authority (BIADA), Industrial Area-Raxaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhishek Kr. Pandey, Adv.
	:	Mr. Sachin Kumar, Adv.
For BIADA	:	Mr. Piyush Kr. Pandey, Adv.
For the Respondent/s	:	Mr. Ajay Behari Sinha (Ga8)
	:	Mr. Suryakant Kumar, AC to GA8

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

Date : 09-01-2024

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following
releifs;



“i. For quashing the order dated 30.05.2023 passed in Appeal Case No. 191/23 communicated vide Memo No. 3411 dated 8.6.23 by the Respondent No. 2 whereby and where under 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 given 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. 1491 dated 18/11/22 passed by the Respondent No. 7. The Deputy General Manager, Motipur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur, (hereinafter referred to as 'BIADA') whereby and where under the allotment of land measuring an area of 2300 Sq. Ft. for the establishment of Spices, Sattu & Beasn Udyog within the Industrial Area- Raxaul 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 30.05.2023 passed in Appeal Case No. 191/23 communicated vide Memo No. 3411 dated 8.6.23 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. 1491 dated 18.11.22 has been passed by Respondent No. 7 The Deputy General Manager, Motipur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur and the order dated 30.05.2023



passed in Appeal Case No. 191/23 communicated vide Memo No. 3411 dated 8.6.23 passed by Respondent No. 2 Additional Chief 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.

vi. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.”

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 and therefore, an opportunity may be given to the petitioner to start commercial production.

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 was 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 production in the unit within 60 days, from the date from which BIADA allows the Petitioner to work. Further, the Petitioner shall start manufacturing plant or such other products as approved under the Bihar Industrial Investment Promotion Policy, 2016, 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 four weeks 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 the vacant and peaceful possession to BIADA.

IV. That the Petitioner shall also submit a Bank Guarantee of Rs. 1,00,000/- (Rupees One Lakh) in compliance to the order dated 11.09.2023 of Hon'ble of Hon'ble Court in C.W.J.C. No. 9538/2023.



V. That I further undertake that I shall make compliant with all the statutory requirements including the once protecting the interest of the employees.

VI. 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 the judgment of this Hon'ble Court passed in C.W.J.C. No. 15567 of 2022 dated 02.12.2022, wherein this Hon'ble Court duly taking into account the undertaking given by the petitioner therein has set aside the order of the appellate authority as well as the order of cancellation passed by the BIADA and granted an opportunity to the petitioner to start its commercial production.

7. Having regard to the above and also the submissions made by the learned counsel for the BIADA, this Court is of the considered opinion that the ends of Justice would be met if, the undertaking given by the petitioner is accepted and the petitioner given an opportunity of starting commercial production. The Court makes the following orders:-

8 (i). As it is stated that possession has been taken by the BIADA, the same shall be handed over to the petitioner immediately after the receipt of this order. The petitioner shall then furnish a bank guarantee for an amount of Rs. one lakh within one week from



the date of handing over the possession. Thereafter, the petitioner shall clear all the outstanding dues, if any of the BIADA within a period of two weeks thereof. The petitioner shall start the commercial production within sixty days from the date of handing over the possession and start manufacturing plan as approved by the Bihar Industries Commercial Policy, 2016. In case the petitioner does not start the production within sixty days from the date of putting him in possession, they are free to take possession of the land.

8(ii). Consequence of breach thereof, including initiation of proceedings for contempt for having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

8.(iii) Undertaking of the petitioner dated 11.10.2023 is accepted and taken on record.

8.(iv) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;

8.(v) 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;



8.(vi) It is made clear that, in case the petitioner fails to start the full 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.

8.(vii) Consequently, the order dated 18.11.2022 passed by respondent no. 7, the Deputy General Manager, Motipur Cluster, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 1491 (**Annexure-6**) and order dated 30.05.2023 passed in Appeal Case No. 191 of 2023 by respondent no. 2, the Additional Chief Secretary-cum-the Appellate Authority, Department of Industry, Government of Bihar contained (**Annexure-12**) are accordingly quashed and set aside.

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

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2024
Transmission Date	NA

