IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9522 of 2023

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M/s Shree Saibaba Plasto Products Private Limited having its office at Flat D-3 (P) EPIP Industrial Area, Hajipur, Vaishali, Bihar 844101, through its authorized representative Dharamvir Sharma (male), aged about 54 years, S/o Chanchal Das Sharma, R/o 249, Lake-Gardens Kolkata, West Bengal, P.S.-Lake Police Station, District-Kolkata, State-West Bengal.

... ... Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
3. State Investment Promotion Board, Department of Industries, Government of Bihar, Patna through its Secretary.
4. Commissioner-cum-Secretary, Commercial Tax Department, Government of Bihar, Patna.
5. Director, Industries, Department of Industries, Government of Bihar, Patna
6. The Director (Technical Development) Department of Industries, Government of Bihar, Patna
7. Managing Director, Bihar Industrial Area Development Authority, Patna.
8. The General Manager, District Industries Centre, Hajipur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhishek Kumar
For the Respondent/s	:	Mr.P.K. Shahi (Ag)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 30-08-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following relief(s):-

> *"1. That this is a petition seeking issuance of writ, order or direction in the nature of appropriate writ including the writ of mandamus for following reliefs:-*
>
> *iv. For issuing a writ of certiorari or any other appropriate writ setting aside the email dated 08.06.2023 whereby and*

whereunder the claim of the petitioner under Bihar Industrial Incentive Policy, 2011 under the head of subsidy on investment in land/shed of plot under Industrial Area Development Authority (hereinafter referred to as "Subsidy") has been denied on the ground that the petitioner is not eligible since it is covered under Bihar Industrial Incentive Policy, 2006.

v. For issuing a writ of mandamus directing the respondents to pay the petitioner the subsidy amount.

vi. For any reliefs, direction/ directions for which the petitioner is entitled may be given.

3. It is the case of the petitioner that the petitioner has been denied the incentives offered under Bihar Industrial Incentive Policy, 2011 floated by the Government of Bihar. In this particular case, the petitioner is claiming the incentive of investment on land/shed of plot and the application of the petitioner for the said incentive has been rejected on the ground that the petitioner's unit comes under Bihar Industrial Incentive Policy, 2006 and under the 2011 Policy.

4. Learned counsel for the petitioner submits that the petitioner has submitted a proposal for establishment of the unit in the month of July, 2010 and, thereafter, the approval was communicated to the petitioner *vide* letter dated 13.08.2010. That the lease deed was executed in favour of the petitioner vide registered lease deed on 02.05.2011. Learned counsel has stated that the Bihar Industrial Incentive Policy, 2011 came into effect from 01.07.2011 and under the said policy, number of incentives were offered to industrialists who are willing to establish units in the State of Bihar. That the petitioner has been given some incentives under 2011 Policy like reimbursement of VAT, Capital investment on plants and machinery, subsidy on DG sets etc. However, the authorities have rejected the application of the petitioner for grant of incentive under the head of investment in land/shed of plot under 2011 Policy solely on the ground that the petitioner was granted SIPB approval on 13.08.2010 and comes under the Bihar Industrial Incentive Policy, 2006. Learned counsel has stated that for the purpose of granting the incentive, the date of SIPB approval is not the relevant criteria for deciding the eligibility of the petitioner but as a matter of fact, the petitioner is entitled for grant of the above incentive from the date of production which admittedly is 08.11.2011. Learned counsel has taken this Court to the relevant provisions of 2011 Policy and also the 2006 Policy to support his case. Learned counsel has distinguished the various incentives and the differences that are existing between two policies and also the relevant orders granting the incentives under 2011 Policy. Learned counsel has therefore, prayed this Hon’ble Court to set aside the impugned order dated 08.06.2023 by allowing the present writ petition and consequently, direct the respondents to grant the above incentive under 2011 Policy.

5. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and also the prayer sought for by the petitioner. Learned counsel has stated that the petitioner is not entitled to the incentive on investment of land/shed of plot as the SIPB approval was issued in favour of the petitioner on 13.08.2010 whereas, the Policy of 2011 came into existence from 01.07.2011. It is the specific stand of the respondents that the date of approval of the SIPB is the relevant criteria for grant of any incentive and in this particular case, the date of approval is before the commencement of the 2011 Policy. That the petitioner is entitled to incentives under the 2006 Policy only. The counsel has drawn the attention of the Court to the second supplementary counter-affidavit filed by the respondents wherein, a stand has been taken that the incentive for reimbursement of stamp duty for registration was already given to the petitioner under 2006 Policy and therefore, the present incentive under the head of investment on land/ shed of plot cannot be given to the petitioner. Learned counsel has also drawn the attention of the Court to the various provisions of the Industrial Policy to support his case.

6. In order to appreciate the issue involved in the present writ petition, it is necessary to extract the relevant portions of the Bihar Industrial Incentive Policy, 2011 which reads as under;

"**BIHAR INDUSTRIAL INCENTIVE POLICY-2011**

<u>Incentives to be provided to industrial units of the state to speed up industrial growth and investment in Bihar.</u>

1.Pre-Production Incentives

2. Stamp Duty and Registration Fees

(i) Post-Production Incentives

(ii) Project Report Incentive

(iii) Incentives on Land / Shed

The following incentives / subsidy will be available to all eligible units for the investment on land/shed located in the Industrial Area Development Authority/ Export Promotion Industrial Park/ Food Park/ Agri Export Zone and also investment on Land/Shed allotted in Industrial Area/ Park developed on Government land or on private land

Sl. No.	*Industry*	*Grant*
1.	*Micro/ Small units*	*50% with a ceiling of Rs. 15 lacs*
2.	*All large/ Medium/ Mega Units*	*25% with a ceiling of Rs. 30 lacs*

(iv) Financial Assistance for Technical-Know-How:….

(v) Incentive / subsidy on investment on Plant & Machinery purchased for Captive Power Generation / DG set…...

(vi) Exemption from Monthly Minimum Charges/ Minimum Base Energy charge/Demand/Billing Demand…….

(vii) Capital Subsidy …...

(viii) Incentive on Quality Certification …...

3. Tax Related Incentives

(i) Re-Imbursement of VAT and

Entry-Tax…..

Entry-Tax…..

(ii) Following incentive will be provided to the new industrial units after the commercial production……..

(iii) Re-Imbursement of VAT/Entry-Tax for the unit in

operation…….
Central Sales-Tax…...
4. Other special incentives
i) Industrial Rehabilitation Fund (Corpus Fund)…...
ii) S.C / S.T / Women / Handicapped……..
(iii) Employment (Subsidy on employment generation):……..
(iv) Facilities For Expansion/ Diversification/ Modernization of unit :……….
5. Industrial Sickness
Rehabilitation of Sick Units………
………
……...
12. *The incentives / subsidies / relief's outlined in this policy shall be available to only such new industrial units which commence commercial production within five years from 1st July, 2011.*
16. *This Policy will come into effect from 1st July 2011 and will remain in operation till 5 years."*

Annexure-I (Definitions)

1. Effective date: *"Effective date" means the date on which the provisions of this Policy come into force i.e. 1st July, 2011 This Policy will remain in force for 5 years from 1st July, 2011.*
4. New Industrial Unit:
"New Industrial Unit" means an industrial unit in which commercial production has commenced within five years from 1st July, 2011.
9. Date of Production:
The "Date of Production" of an industrial unit shall mean the date on which the unit actually commences commercial production of the item for which the unit has been registered. As regards the date of production of Small and Medium units, the certificate issued by the respective General Manager, District Industries Centre or Managing Director, Industrial Area Development Authority would be valid. For large industries, the certificate issued by Director Technical Development will be acceptable. In case of any dispute regarding the date of production, the decision of the Industries Secretary shall be final.

7. The relevant portions of the Bihar Industrial Incentive Policy, 2006 which reads as under;

"INDUSTRIAL INCENTIVE POLICY BIHAR 2006

Incentives/exemption facilities for Industries in Bihar to

accelerate Industrial development and to attract investments.
1. PRE - PRODUCTION INCENTIVES
Stamp duty and Registration fee:
Tiny, small, medium and large scale industries which are to be established in the industrial area / shed and outside the area of the Authority will enjoy the full (100%) exemption in stamp duty and registration fee in lease / sale / transfer. This facility will be granted only for the first time and thereafter will not be granted.
2. POST-PRODUCTION INCENTIVES
(i) Project- Report Incentive:…...
(ii) Incentive granted on land/Shed:
The Industrial Units located in Bihar Industrial AreaDevelopment Authority / Export Promotion Industrial Park / Food Park / Agri Export Zone would be eligible for the following incentive / subsidy. These facilities / concession to the industrial units willbe made available only after the commencement of production.

Sl. No.	Industry	Grant
1.	Small/ Tiny units/ Financial Limit.	50% or 7.50 lacs
2.	All large/ medium/ mega units/ Financial Units	25% or 15 lacs (Maximum)

(iv) Subsidy / Incentive on VAT:……...

(viii) Central Sales Tax (CST): ……….

……………………..

……………………..”

8. A perusal of the above incentive policies clearly point out to the fact that there is no embargo for granting of the incentives under 2011 Policy if one of the incentives is given under 2006 Policy. Further, it is to be noted that most of the incentives i.e., reimbursement of VAT, Capital investment on plants and machinery, subsidy on DG sets etc. were already given to the petitioner under 2011 Policy and there is no denial of the same by the respondent authority. Even though in the supplementary counter-affidavit as well as second supplementary counter-affidavit, specific stand has been taken by the respondents that as the petitioner has already availed the incentive for exemption from stamp duty/ registration fee under the 2006 Policy and that the petitioner is not eligible for the incentive under the head of investment on land/ shed of plot. It is to be noted that the same is contrary to the provisions of the policy initiated by the Government of Bihar. A combined reading of both 2006 Policy as well as 2011 policy, makes it abundantly clear that there is no legal embargo for extending the incentives under 2011 Policy even if some of the incentives were given under the old Policy of 2006. Further, the stand of the respondents that date of approval by the SIPB is relevant date for granting the incentives is also without any legal basis. The stand taken by the authority that the petitioner has already been granted exemption under the head stamp duty/ registration fee under the Industrial Policy, 2006 therefore, he cannot claim benefit for the second time under the new Industrial Policy of 2011 is also not correct and without any legal basis. The policy of 2011 makes it abundantly clear that those units which start their commercial production within a period of five years from the date of commencement of the new policy 2011 are eligible for incentives. The order of rejection passed by the respondent authority is contrary to the provisions of the Industrial Policy 2011, and therefore, has to be necessarily set aside.

9. Having regard to the above mentioned facts and circumstances, the impugned order dated 08.06.2023 is set aside. The authorities are directed to calculate the incentive under the head of investment on land/ shed of plot as under the Policy of 2011 expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2025.
Transmission Date	NA