

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.63 of 2025

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ACME Nalanda Solar Power Private Limited a company registered under the Companies Act, 2013 having its registered office at Plot No. 152, Sector- 44, Gurugram- 122 002, Haryana, through its authorised representative Ajay Kumar Chaudhary (M) aged about 41 years S/o Parmanand Chaudhary R/o House Number- 16, Baluwa Tapa Kathut, Ghazipur, P.S.- Mohammadabad District- Ghazipur, Uttar Pradesh 233227.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Industries, Government of Bihar, Patna.
2. The State Investment Promotion Board, through Industrial Development Commissioner, Department of Industries, Government of Bihar, Patna.
3. Secretary, Department of Industries, Government of Bihar, Patna.
4. Industrial Development Commissioner, Department of Industries, Government of Bihar, Patna.
5. The Director (Technical Development), Department of Industries, Government of Bihar, Patna.
6. The Director, Industries, Department of Industries, Government of Bihar, Patna.
7. The Assistant Industries Director, SIPB Cell, Department of Industries, Government of Bihar, Patna.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 19772 of 2024

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ACME Magadh Solar Power Private Limited a company registered under the Companies Act, 2013 having its registered office at Plot no. 152, Sector - 44, Gurugram- 122002, Haryana, through its authorised representative Ajay Kumar Chaudhary (M) aged about 41 years S/o Parmanand Chaudhary R/o House Number- 16, Baluwa Tapa Kathut, Ghazipur, P.S. - Mohammadabad District- Ghazipur, Uttar Pradesh- 233227.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Industries, Government of Bihar, Patna.
2. The State Investment Promotion Board through Industrial Development Commissioner, Department of Industries, Government of Bihar, Patna.
3. Secretary, Department of Industries, Government of Bihar, Patna.
4. Industrial Development Commissioner, Department of Industries, Government of Bihar, Patna.



- 5. The Director (Technical Development) Department of Industries, Government of Bihar, Patna.
- 6. The Director, Industries, Department of Industries, Government of Bihar, Patna.
- 7. The Assistant Industries Director, SIPB Cell, Department of Industries, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 63 of 2025)

For the Petitioner/s : Mr. Satyabir Bharati, Sr. Adv.
Mr. Aniket Prasoon, Adv.
Mr.Brisketu Sharan Pandey

For the Respondent/s : Mr.Standing Counsel (28)

(In Civil Writ Jurisdiction Case No. 19772 of 2024)

For the Petitioner/s : Mr. Satyabir Bharati, Sr. Adv.
Mr. Aniket Prasoon, Adv.
Mr.Brisketu Sharan Pandey

For the Respondent/s : Mr.Standing Counsel (28)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT

Date : 27-02-2026

1. Since both the writ petitions involve identical questions of law and arise out of a common factual matrix, with the consent of the parties, both petitions were heard together and are being decided by this common judgment/order.

2. The present writ applications have been filed seeking declaration that the petitioners were eligible to avail incentives under the Bihar Industrial Investment Promotion Policy, 2016 (in short ‘BIIPP-2016’) on the ground that the petitioners have not availed any incentive or benefit either under the Bihar Industrial Incentive Policy, 2011 (in short ‘BIIP-2011’) or under BIIPP-2016 including as permitted under Notification No. 4571 dated 14.10.2022.



3. The petitioners have further prayed for quashing of the rejection letters dated 03.11.2023, 30.12.2023, 21.10.2023 and 12.07.2024 issued by the State Investment Promotion Board (in short “SIPB”) and for a direction upon the respondents to process the petitioners’ applications for interest subvention subsidy and reimbursement of stamp duty and registration fee under BIIPP-2016.

CWJC No. 63 of 2025 - ACME Nalanda Solar Power Private Limited vs The State of Bihar & CWJC No. 19772 of 2024 -ACME Magadh Solar Power Private Limited vs The State of Bihar.

4. Brief facts giving rise to the present writ petitions are that the Government of Bihar initially notified the Industrial Incentive Policy, 2006 with the object of accelerating the industrial growth and reviving sick and closed industrial units by creating a favourable investment climate. Subsequently, in view of changing global industrial dynamics, the State Government introduced the BIIP- 2011, which came into effect on 01.07.2011 and remained operative till 30.06.2016.

5. Clause 2(v)(d) read with Clause 9 of the BIIP – 2011 provided that new and / or existing industrial units generating energy through non-conventional sources were eligible to re-



ceive subsidy up to 60% of the expenditure incurred on plant and machinery subject to the condition that such units has not availed benefits under any other Government policy.

6. ACME Cleantech Solutions Private Limited (ACSPL) the parent company of both petitioners participated in a competitive bidding process floated by Bihar State Power (Holding) Company Limited (BSPHCL) vide bid document dated 04.06.2014 for selection and establishment of solar power developers of Solar Photovoltaic Projects of an aggregate capacity of 100 MW for supply of solar power to BSPHCL for a period of 25 years. ACSPL emerged as a successful bidder and was allotted solar projects of 15 MW and 10 MW capacity. Pursuant thereto, two Special Purpose Vehicles (SPV) were incorporated, namely ACME Nalanda Solar Power Private Limited for establishment of a 15 MW solar power project and ACME Magadh Solar Power Private Limited for establishment of a 10 MW solar power project. Both were to be established at Block Kakwara, District Banka, Bihar.

7. Separate Power Purchase Agreements were executed between the petitioners and South Bihar Power Distribution Company Limited and North Bihar Power Distribution Company Limited for supply of solar power for a period of 25 years.



8. Both projects were commissioned on 28.06.2016 pursuant to approval of their respective investment proposals by the SIPB. The project of ACME Nalanda Solar Power Private Limited involved an investment of Rs. 113.33 Crores approved on 23.02.2016 whereas the project of ACME Magadh Solar Power Private Limited involved an investment of Rs. 71.55 Crores approved on 17.03.2016. Commissioning Certificates were issued by the Department of Industries (Technical Development), Government of Bihar. At the time of commissioning, the BIIP- 2011 was in force, which expired on 30.06.2016 i.e., two days after commissioning of the petitioners' projects. It is undisputed that none of the petitioners have availed any incentive under the 2011 Policy.

9. Subsequently, the State Government notified the BIIPP-2016 on 01.09.2016, which, inter alia, provides incentives to renewable energy projects. Clause 3.7 of BIIPP-2016 identifies renewable energy, particularly solar energy, as a priority sector and specifically emphasized promotion of investment in solar power generation, hybrid energy systems and their utilization in domestic as well as industrial sectors. Clause 6.2 of BIIPP-2016 underscores the State Government's commitment of promoting industrial growth by creating an entrepreneur-friendly ecosys-



tem supported by an attractive incentive framework. The policy, inter alia, provides reimbursement of stamp duty and registration fees for new industrial units along with interest subvention on term loans for eligible units. Enhanced incentives have also been extended to micro and small enterprises and units falling within identified priority sectors. The upper limit of interest subvention have been fixed at Rs. 10 Crore.

10. Clause 8 of the BIIPP-2016 provides for transitional provisions concerning the carry forward of benefits under earlier policies. Clause 8(a) stipulates that projects approved by the competent authority, as defined under Circular No. 128 dated 16.01.2006 issued by the Department of Industries, Government of Bihar, but which have not commenced commercial production as on the effective date of BIIPP-2016 would be granted an option to choose between the earlier policy and BIIPP- 2016. Clause 8(a) further provides that these units will have to apply separately with their choice or else they will be covered under the BIIPP-2016 by default.

11. Clause 8(b) provides that existing units which have already availed incentives under the BIIPP- 2011 would not be eligible to seek incentives under BIIPP-2016. However, existing units continuing to avail benefits under 2011 policy would re-



main entitled to such benefits in accordance with the prescribed terms and conditions.

12. Subsequently, the Bihar Industrial Investment Promotion Act, 2016 (hereinafter referred to as “BIIP Act, 2016”) was published in the Bihar Gazette on 02.09.2016 and came into force. In exercise of powers conferred under Section 16 of the BIIP Act 2016, the Department of Industries, Government of Bihar, notified the Bihar Industrial Investment Promotion Rules, 2016 (hereinafter referred to as “BIIP Rules, 2016”) on 28.12.2016. Rule 6 of the BIIP Rules, 2016 provides for an integrated clearance system for approval of investment proposals. Rule 7 of the BIIP Rules provides financial incentives to eligible industrial units.

13. After coming into force BIIP Rules, 2016 a fresh SIPB clearance was taken for grant of financial incentives. In terms of Rule 6 of the BIIP Rules, 2016, both petitioners applied for Stage-I clearance before SIPB on 15.05.2018. In the SIPB meeting dated 21.06.2018 Stage-I clearance was granted for investment of Rs. 11,333 Lakhs in respect of ACME Nalanda Solar Power Private Limited and Rs. 7,543 Lakhs in respect of ACME Magadh Solar Power Private Limited.

14. The approval was formally communicated to the peti-



tioners vide letter dated 05.07.2018 wherein it was specifically recorded that the petitioners have been granted Stage-I clearance under Rule 6(2)(i) of the BIIP Rules, 2016 pursuant to the decision taken in the SIPB meeting dated 21.06.2018. The said communication further clarified that the petitioners were eligible to apply for other statutory and financial clearances in accordance with Rule 6(2) of the BIIP Rules, 2016.

15. Thereafter, on 14.01.2019, the SIPB vide letter bearing No. SIPB1805000142/07 & /06 informed the petitioners that pursuant to the Stage-I clearance granted in the SIPB meeting dated 21.06.2018 and upon submission of documents relating to land purchase, Detailed Project Report, loan sanction letter issued by PTC India Financial Services Limited and Project Appraisal Report, the SIPB in its meeting held on 18.09.2018, approved establishment of the petitioners' unit at a project cost of Rs. 10,733.00 lakhs in respect of ACME Nalanda Solar Power Private Limited and Rs. 7155 lakhs in respect of ACME Magadh Solar Power Private Limited and granted consent for financial incentives clearance under Rule 6(2)(iv) of the BIIP Rules, 2016, subject to verification of actual project expenditure at the time of disbursement. The said communication further said that the petitioners unit falls under the priority renewable energy sec-



tor and that the proposal had received approval of the competent authority under Rule 7(2)(iv) of the BIIP Rules, 2016.

16. Pursuant thereto, both petitioners submitted applications dated 01.02.2019 bearing Application No. INC1902000280 & INC1902000282 seeking reimbursement of stamp duty under BIIPP-2016. Thereafter, on 08.02.2019, both petitioners also submitted another application bearing Application No. INC1902000298 & INC1902000299 seeking interest subvention subsidy under Clause 6.2 of BIIPP-2016.

17. Subsequently, the Department of Industries, Government of Bihar, vide Notification No. 883 dated 29.06.2020 in exercise of powers under Clause 10.2.2 of BIIPP-2016 amended the policy and extended its operational period up to 31.03.2025.

18. Further, vide Notification No. 4571 dated 14.10.2022, Clause 8(b) of BIIPP-2016 was amended, whereby it was clarified that an existing unit will be eligible to receive subsidy as per the terms/rates prescribed under the Industrial Promotion Policy unless the time limit and/or limitation of the unit has expired. The units which have availed any kind of incentive under the earlier incentive policies will be eligible for incentives in the present policy only in those items which they have not availed earlier.



19. Thereafter, SIPB issued Notice No. 1630 dated 07.07.2023 directing all operational units eligible for any grant or incentive under the 2011 & 2016 policies to submit pending subsidy or grant applications, along with requisite documents, on the departmental portal on or before 31.07.2023.

20. In compliance thereof, the petitioners submitted a letter dated 24.07.2023 to the Director, Industries, Government of Bihar, informing that the petitioners have already been granted approval under the BIIP Rules, 2016. It was further stated that although the project had been commissioned on 28.06.2016, i.e., prior to enforcement of BIIPP-2016, the subsidy approval process had remained in abeyance, and accordingly, the petitioners submitted its online applications in light of the Clause 8(b) of BIIPP-2016 amended vide Notification dated 14.10.2022 and the Notice dated 07.07.2023 issued by SIPB.

21. Consequently, on 27.07.2023, the petitioners submitted their applications seeking interest subvention subsidy under Clause 6.2 of BIIPP-2016 and also submitted their applications for reimbursement of stamp duty and registration fees.

22. Upon submission of the applications, SIPB raised queries on its web portal on 17.08.2023 seeking certain documents to which the petitioners responded by submitting the



same on 28.08.2023 and thereafter furnished additional documents vide email dated 12.09.2023. Subsequently, SIPB again raised queries on 15.09.2023 requiring submission of documents in a prescribed format for processing of the interest subvention subsidy.

23. In view of the repeated queries, a meeting was convened on 25.09.2023 between the petitioners and officials of the Department of Industries, wherein the petitioners explained the documents already submitted. The Director, Industries, directed submission of certain documents in the prescribed format within seven days. SIPB communicated vide email dated 26.09.2023 and the petitioners clarified vide email dated 27.09.2023 that the financial sanction letter and pollution control NOC had already been submitted.

24. On 21.10.2023, the SIPB vide memo no 2680, rejected the petitioner's 2023 applications for interest subvention subsidy submitted on 27.07.2023 by the ACME Magadh Solar Power Private Limited, purportedly on the ground of non-submission of certain documents.

25. Thereafter, on 25.10.2023, both the petitioners, vide letter bearing No. ACME / BUS / 251023 / 5221 and ACME / BUS / 251023 / 5220 submitted the requisite documents as de-



manded by the SIPB. The petitioners further informed that NOC from the Fire Department, Banka was awaited and assured that the same would be submitted immediately upon its issuance. Accordingly, the petitioners requested SIPB to keep the online portal open and active to enable submission of the Fire NOC.

26. However, to the utter shock and surprise of the petitioner, the SIPB, vide memo no. 2827 dated 03.11.2023, rejected the petitioners 2023 applications for interest subvention subsidy submitted on 27.07.023 by the ACME Nalanda Solar Power Private Limited purportedly on the ground of non-submission of certain documents. Subsequently, the Fire Department issued the requisite NOC to both the petitioners for its project on 19.12.2023.

27. Upon obtaining all requisite documents, both the petitioners submitted a fresh application dated 02.01.2024 seeking interest subvention subsidy under Clause 6.2 of BIIPP-2016.

28. Despite full compliance by the petitioners, no subsidy was released. The petitioners accordingly submitted representations dated 27.02.2024 and 23.05.2024 requesting release of the subsidies. As no action was taken, representation was also served upon the Hon'ble Minister, Department of Industries and to the Additional Chief Secretary, Department of Industries,



Government of Bihar, seeking necessary directions for release of subsidy.

29. However, in a complete turn around SIPB, vide letter dated 12.07.2024 rejected the petitioners' 2024 application solely on the ground that the commercial operation date of both the petitioners project was 28.06.2016, i.e., prior to the effective date of BIIPP-2016, and therefore the application could not be considered under the said Policy.

30. Aggrieved thereby, the petitioners submitted detailed representations dated 15.07.2024 explaining that the petitioners project had been rendered eligible for incentives in view of the amendment dated 14.10.2022 and requested parity with similarly situated industrial units whose claims had already been processed under BIIPP-2016.

31. Subsequently, on 03.09.2024, the petitioners submitted representations to the Secretary, Department of Industries, Government of Bihar, seeking withdrawal of the impugned rejection letter dated 12.07.2024 and release of subsidies to the extent of Rs. 10 crores under BIIPP-2016.

32. Mr. Satyabir Bharti, learned senior counsel assisted by Mr. Aniket Prasoon, learned counsel appearing on behalf of the petitioners argued that subsequent to the issuance of the BIIPP-



2016, the SIPB, in its meeting dated 21.06.2018 granted Stage-I clearance to the petitioners, which was formally communicated vide letter dated 05.07.2018. Thereafter, SIPB, vide letter dated 14.01.2019 granted financial approval under Rule 6(2)(iv) of the BIIP Rules, 2016, declaring the petitioner eligible for fiscal incentives including interest subvention subsidy and reimbursement of stamp duty and registration fee. The grant of Stage-1 clearance followed by financial approval constituted a statutory recognition of the petitioners eligibility and created a vested and enforceable right in favour of the petitioners. The subsequent failure of the respondents to process the petitioners' applications and their arbitrary rejection is contrary to the statutory mandate and settled principles governing fair administrative action.

33. Learned counsel next argued that between 2019 to 2024, the petitioners submitted multiple applications seeking grant of interest subsidy, stamp and registration fee, all of which were repeatedly entertained and processed by SIPB. During this prolonged period, SIPB consistently sought additional documents, conducted meetings, directed further compliances, requested submission of bank mandates and affidavits and processed the petitioners applications through the official online portal. Significantly, throughout this entire period, SIPB ac-



knowledge of the petitioners eligibility and never raised any objection with respect to the Commercial Operation Date (COD) or the date of execution of the lease deed. The continuous processing of the petitioners applications, without any adverse finding regarding eligibility, created a legitimate expectation that the petitioners would be granted statutory benefits under the policy framework.

34. The unexplained and inordinate pendency of the petitioners 2019 application and abrupt rejection of later applications are legally unsustainable and undermine the very object of the incentive policy, which is intended to promote industrial investment through procedural certainty and administrative fairness.

35. It has further been submitted that the petitioners eligibility stood further reinforced by the amendment introduced in BIIPP-2016 through Notification No. 4571 dated 14.10.2022, whereby Clause 8(b) of the Policy was amended to expressly provide that existing industrial units are eligible to avail incentives under the prevailing policy subject to the condition that such units had not availed any benefit under the earlier BIIP, 2011.

36. It is contended that the petitioners project commenced



commercial operation on 28.06.2016, i.e., barely two days prior to the cessation of the 2011 Policy. It is an admitted position that the petitioners did not avail any incentive or benefit under the 2011 Policy. In view thereof, the petitioners squarely fall within the eligibility criteria as contemplated under the amended policy framework.

37. It is next argued that the petitioners duly complied with all procedural requirements and furnished all documents as sought by the SIPB from time to time and that the only document which remained pending was the Fire NOC, the issuance of which was beyond the control of the petitioners and was under active consideration by the competent authority. It is contended that despite substantial compliance and repeated requests seeking reasonable opportunity to furnish the remaining document, SIPB rejected the petitioners' application on the ground of non-submission of requisite documents, overlooking that all other required documents had already been submitted and that the Fire NOC was subsequently issued by the Fire Department on 19.12.2023 to the petitioners for its project.

38. It is next argued that the impugned rejection letter dated 12.07.2024 is wholly unsustainable in law as the same is non-speaking and proceeds on the erroneous ground that the



Commercial Operation Date (COD) of the petitioners' project is 28.06.2016, i.e., prior to the effective date of the 2016 Policy. It is contended that SIPB has acted in a discriminatory and arbitrary manner in violation of Article 14 of the Constitution of India inasmuch as several similarly situated industrial units, whose commercial operation dates were prior to the enforcement of the 2016 Policy have been granted subsidies under the amended policy framework whereas the petitioners claim has been rejected on identical grounds without any rational basis thereby resulting in discrimination and unequal treatment.

39. The impugned action of the SIPB violate the doctrine of Promissory Estoppel and Legitimate Expectation also. The State Government through the 2011 Policy and subsequently through the 2016 Policy assured fiscal incentives to renewable energy projects. Acting upon such promise, the petitioners made substantial investments and established its solar power project and having induced the petitioners to alter its position, the State cannot now deny incentives by adopting a contrary stand, particularly in absence of any overriding public interest.

40. Learned Counsel also submits that the respondents have done interpretation of the Clause-8(b) which is wholly erroneous, contrary to the plain language of the provision and de-



feats the very object and purpose of the policy. It is argued that Clause 8(b) is required to be interpreted in two parts, namely, the first part enables existing units to continue to draw incentives under the prevailing policy framework, while the second part operates as a proviso restricting duplication of benefits by restricting incentives under the 2016 Policy only to those heads for which benefits were not availed under earlier policies. Since the petitioners admittedly did not avail any benefit under the 2011 policy, they remain eligible to claim incentives under the 2016 Policy.

41. Learned Counsel next submits that SIPB vide Notice No. 1630 dated 07.07.2023 invited all legible operational units to submit pending claims under the 2011 and 2016 policies. Pursuant thereto, the petitioners which were eligible to receive incentives under 2011 policy but had not availed any incentive under either 2011 and 2016 policy submitted fresh applications along with requisite documents. It is further submitted that Clause 12 of the 2011 Policy only requires commencement of commercial production within five years from 01.07.2011 and the petitioners project commenced commercial production on 28.06.2016 which falls within the prescribed eligibility period. There was no requirement under the 2011 Policy that an applica-



tion for incentives must be submitted prior to cessation of the policy.

42. Learned Counsel next submits that although the petitioners satisfied the essential eligibility condition under the 2011 policy, the narrow two-day window between COD and cessation of the 2011 Policy rendered it practically impossible for the petitioners to complete procedural formalities for claiming incentives. It is contended that the carry-forward mechanism incorporated under the 2016 Policy was intended precisely to address such situations and ensure continuity of benefits to industrial units which commenced production during the 2011 Policy period but were unable to avail incentives due to procedural or administrative constraints. It is submitted that rejection of the petitioners claim on the ground that COD was achieved under the 2011 Policy defeats the very purpose of the carry-forward provision, renders the policy intent redundant, and results in manifest arbitrariness.

43. He relies upon the following judgments of Hon'ble Supreme Court as well as this Court:-

1. State of Kerala and Ors. V. K.G. Madhavan Pillai and Ors (1988) 4 SCC 669

2. Commissioner of Central Excise, New Delhi v. Hari Chand Shri Gopal (2011) 1 SCC 236



3. A.L Kalra v. P& E Corp. of India Ltd. 1984 SC 1361
4. Sivanandan C.T. v. High Court of Kerala reported in (2024) 3 SCC 799
5. Food Corporation of India v. Kamdhenu Cattle Feed Industries (1993) 1 SCC 71
6. U.P Awas Evam Vikash Parishad Vs. Gyam Devi & Ors (1995) 2 SCC 32
7. M/s Sunny Stars Hotels Private Limited Vs. The State of Bihar and Ors. CWJC No. 12104 of 2018
8. M/s Leoline Foods Private Limited Vs. The State of Bihar and Ors. CWJC 4051 of 2021
9. State of Jharkhand v. Brahmputra Metallics Ltd. reported in (2023) 10 SCC 634
10. State of Jharkhand & Ors. v Tata Cummins Ltd. and Another (2006) 4 SCC 57

44. Per contra, learned counsel for the respondents argued that the claim of the petitioners for grant of incentives under the BIIPP-2016 has rightly been rejected as the date of commercial production of the petitioners' unit admittedly precedes the commencement of BIIPP-2016.

45. The petitioners unit commenced commercial production on 28.06.2016, whereas BIIPP-2016 came into force subsequently on 01.09.2016. Since eligibility for incentives under the 2016 Policy is governed strictly by its provisions, the petitioners whose unit was already operational prior to enforcement of the



said policy cannot claim incentives thereunder as a matter of right.

46. Learned Counsel further submits that although BIIPP-2016 contains transitional provisions under clause 8 relating to carry forward of benefits under earlier policies, the amendment introduced vide Memo No. 4571 dated 14.10.2022 substituting clause 8(b) clarifies that existing units shall continue to avail incentives at the rates and conditions prescribed under the earlier policy until exhaustion of the eligible limit or period.

47. The amended provision further stipulates that only those units which had availed incentives under earlier policies would be eligible to claim incentives under new heads which had not been granted earlier. The said amendment does not extend blanket eligibility to all pre-existing units, and therefore, the petitioners, who admittedly did not avail incentives under the BIIP- 2011 cannot claim benefit under the amended provision in a manner inconsistent with the scheme of the policy.

48. Reliance placed by the petitioners upon Notice bearing Memo No. 1630 dated 07.07.2023 is wholly misplaced. The said notice merely called upon operational industrial units whose claims were pending under the 2011 or 2016 policies to submit applications along with requisite documents within the stipu-



lated time through the departmental portal. The notice neither created any new substantive right nor expanded the scope of eligibility under BIIPP-2016 and was purely administrative in nature intended only to facilitate processing of pending claims in accordance with the existing policy framework.

49. The allegation of discrimination is wholly unfounded as the units cited by the petitioners namely M/s Koshi Uday Foods Product Pvt. Ltd., M/s GHPCL Begusarai and M/s Janki Toofan Agro Industries Pvt. Ltd. stand on a different factual footing having availed incentives under BIIP-2011 and thereafter granted benefits under amended clause 8(b) in accordance with policy provisions and therefore the petitioners cannot claim parity with such units, nor is any violation of Article 14 of the Constitution of India made out.

50. Petitioners are not entitled to any relief in the present writ petitions and the impugned letters have been issued strictly in accordance with law and policy provisions and consequently do not warrant interference by this Court in exercise of its writ jurisdiction.

51. I have heard learned counsel for the parties and perused the materials available on record.

52. On the basis of pleadings and submissions advanced



on behalf of the parties the questions which requires consideration are as follows:-

(A) Whether the petitioners are eligible to claim incentives under BIIPP-2016 in view of the amendment dated 14.10.2022 ?

(B) Whether grant of Stage-I clearance and financial approval created a vested or enforceable right in favour of the petitioners ?

(C) Whether the rejection of the petitioners applications suffers from arbitrariness and violation of statute and policies ?

53. This Court has carefully examined the BIIPP- 2016 as well as the amendment introduced therein vide Notification No. 4571 dated 14.10.2022.

54. The BIIPP-2016 defines an “Existing Industrial Unit” under Clause 4 as an industrial unit which had commenced commercial production prior to the enforcement of the said policy. In the present case, it is an admitted and undisputed position that both the petitioners units commenced commercial production on 28.06.2016 i.e. prior to the enforcement of BIIPP-2016. Therefore, the petitioners clearly fall within the category of an “Existing Industrial Unit”.

55. Clause 8 of BIIPP-2016 talks about carry forward of the existing policy and has made provisions with respect of carrying forward of the existing policy.

56. Clause 8(a) & 8(b) are quoted herein below for ready



reference:-

(a) All projects which have been approved by the competent authority (as defined vide Circular No. 128, dated 16.01.2006 of Department of Industries, Government of Bihar) but have not commenced commercial production as on the effective date of the new policy will be given a choice between the existing policy and the new policy. These units shall have to apply separately with their choice or else they will be covered under the Industrial Investment Promotion Policy, 2016 by default. Those units which opt to be governed under Incentive Policy, 2011 shall continue to be governed under that policy by the Department of Industries provided they shall commence Commercial Production/Operations by 31st March, 2017 or they shall complete the implementation and commence operations as per the timeline in the approved DPR (in case the approved time line is beyond 31 March, 2017). Units that do not commence commercial production/operations till 31 March, 2017 shall not be eligible for any incentives under the Incentive Policy, 2011, subject to all existing conditions of the Department of Industries. Such units shall have to apply afresh under the current policy. Further, units which opt to be governed under this policy shall apply afresh to the competent authority as may be notified by the State Government.

(b) Existing unit will continue to draw the incentive at rates and conditions of the Incentive Policy, 2011 till their limit is exhausted on completion of the eligible period, whichever is earlier. A unit



which has availed any incentive under the previous incentive policy shall not be eligible to apply under this policy subject to the above mentioned clause.

57. Subsequently the State Government issued notification no. 4571 dated 14.10.2022 whereby clause 8(b) was amended. The amended provision stipulates that “existing industrial units will be eligible to receive subsidy as per the conditions / rates prescribed under Industrial Promotion Policy unless time limit and / or limitation of the unit has expired. The units which have received any type of incentive in the previous incentive policies will be eligible for incentives in the current policy only in those items which they have not received earlier”.

58. Amended clause 8(b) is as follows:-

“Existing units will be eligible to receive subsidy as per the conditions / rates prescribed under the Industrial Promotion Policy, unless the time limit and / or limitation of the unit has expired. The units which have received any type of incentive in the previous incentive policies will be eligible for incentives in the current policy only in those items which they have not received earlier.”

59. On a close reading of clause 8(b) amended by resolution of 2022 it is evident that it consists of a general enabling rule which confers eligibility upon existing units and a restrictive provision operating in the nature of a proviso applicable



only to those units that have already availed incentives for particular items under earlier policy.

60. Petitioners admittedly did not avail any incentive earlier, therefore the restrictive provision of clause 8(b) does not apply to the petitioners and the petitioners case falls to be examined under the general enabling part of clause 8(b).

61. The main objection of the State is that the petitioners never applied for incentives during the currency of 2011 policy. That commercial production of the petitioners unit commenced on 28.06.2016 whereas BIIPP -2016 came in force subsequently on 01.09.2016 which is prior to coming into force of 2016 policy as such the petitioners are not entitled for benefits under 2016 policy.

62. Giving purposive interpretation of clause 8 of 2016 policy along with its amendment which carry forward benefits to the existing policy it would be evident that this provision does not create any bar upon existing industrial units from claiming incentives under the present policy of 2016.

63. Clause 8(b) clarifies that those industrial units which had availed incentives under the incentive policy earlier, would remain eligible under 2016 policy but only in respect of such incentives components which had not been been availed earlier.



64. Petitioners unit though an existing industrial unit has admittedly not availed any incentive or subsidy under previous policy of 2011 as such clause 8(b) as amended suggests that the petitioners unit is eligible for grant of incentives under the present policy of 2016. The amendment of 2016 policy is specific in language and says that existing units will be eligible to receive subsidy as per the conditions / rate prescribed under the Industrial Promotion Policy i.e. 2016. It further says that units which have received any type of incentive in the previous incentive policies will be eligible for incentives in the current policy only to those items which they have not received earlier.

65. Thus, there is no ambiguity in the amendment which seeks to grant incentives to existing units to the extent that the existing units have not received incentives in the previous incentive policies. The amended provisions of 8(b) creates eligibility of existing industrial units for incentives under the current policy.

66. The object of the amendment is to ensure equitable treatment of industrial units and to promote industrial growth by enabling eligible existing units to avail incentives under the prevailing policy frameworks.

67. Bihar Industrial Investment Promotion Act, 2016 was



enacted with an objective of providing structured statutory framework for facilitating the promotion and development of industrial investment within the State. In exercise of powers conferred under Section 16 of the aforesaid Act, the Bihar Industrial Investment Promotion Rules, 2016 was framed. The rules provide structured, multi stage statutory approval mechanism through the integrated clearance system.

68. Rule 6 of the said rules provides for grant of clearance through statutory process conducted by the SIPB which is the competent authority empowered to evaluate investment proposal, examine eligibility criteria and accord approval for financial incentive.

69. The grant of stage -I clearance and subsequently financial incentives approval in favour of the petitioners assumes significant legal importance and cannot be treated as a mere administrative formality or provisional acknowledgment devoid of enforceable consequences.

70. The Hon'ble Supreme Court has consistently held that industrial incentive policies amount to representations by the State and once eligibility conditions are satisfied and the entrepreneur has altered position by investment, benefits cannot be denied on hyper technical or procedural ground.



71. The doctrine of promissory estoppel and legitimate expectation reinforce this approach. The doctrine of legitimate expectation which is firmly embedded in administrative law mandates that where public authority by its representation or consistent past practice creates an expectation in favour of an applicant such expectation cannot be defeated arbitrarily or without rational justification.

72. In the judgment rendered in the case of State of Jharkhand versus Brahmputra Metalics Ltd. reported in (2023) 10 SCC 634 the Supreme Court has observed in paragraph 39 as follows:-

“39. Representations by public authorities need to be held to scrupulous standards, since citizens continue to live their lives based on the trust they repose in the State. In the commercial world also, certainty and consistency are essential to planning the affairs of business. When public authorities fail to adhere to their representations without providing an adequate reason to the citizens for this failure, it violates the trust reposed by citizens in the State. The generation of a business friendly climate for investment and trade is conditioned by the faith which can be reposed in Government to fulfil the expectations which it generates.”



73. The grant of statutory approvals followed by continuous processing of application attracts the doctrine of promissory estoppel. Industrial incentive policies are framed to attract capital investment and encourage industrial investment. Industries act upon such policy representation by making substantial financial commitment and establishing industrial infrastructure. Once the State through its statutory authorities acknowledges eligibility and induces investment it cannot subsequently withdraw or deny the benefit by raising hyper technical or inconsistent objections

74. The Stage-I clearance and financial incentives approval granted to the petitioners created a vested and enforceable right to have their applications considered and processed in accordance with the policy framework. The respondents cannot subsequently treat such approvals as illusory, tentative or inconsequential merely to defeat the petitioners entitlement. The subsequent refusal of incentives by the respondents in disregard to earlier statutory approvals and long standing administrative conduct is arbitrary, unreasonable and not sustainable.

75. The language employed in Rule 7(4) is mandatory in nature which clearly reflects legislative intent to eliminate administrative uncertainty and to ensure expeditious disbursement



of sanctioned incentives. The Rule consciously restricts post-sanction administrative interference and limits the scope of scrutiny only to verification of compliance with conditions attached to the sanction.

76. In the present case, it is evident from the record that SIPB vide letter dated 14.01.2019 granted financial incentive approval under Rule 6(2)(iv) of the BIIPP Rules 2016. The said approval specifically acknowledged that the petitioners unit falls within the priority renewable energy sector and are eligible for subsidy.

77. In view of the aforesaid discussions, this Court comes to the conclusion that petitioners unit are entitled for incentive under clause 8(b) of the amended BIIPP 2016 policy. The denial of the incentives by the impugned letters is arbitrary and violative of the incentive policy and the statutory rules. 2016 policy carries forward the incentives to their existing units and the concerned authorities under the statutory rules granted approval for financial incentive to the petitioners unit.

78. Accordingly, the impugned rejection letters including the letter dated 12.07.2024 are set aside.

79. It is ordered that the petitioners are entitled to interest subvention, reimbursement of stamp duty and the registration



fee under BIIPP- 2016.

80. The respondents are directed to ensure that the petitioners are given incentives under 2016 policy within a maximum period of three months from the date of receipt / production of a copy of this order.

81. With the aforesaid observation and direction, these writ applications are allowed.

(Anil Kumar Sinha, J)

praful/-

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CAV DATE	02-12-2025
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