

(2023) 11 PAT CK 0005

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 8521 Of 2023

I.G Foods And Beverage Pvt. Ltd

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 02-11-2023

Acts Referred:

Bihar Industrial Area Development Authority Act, 1973 — Section 6

Citation : (2023) 11 PAT CK 0005

Hon'ble Judges : A. Abhishek Reddy, J

Bench : Single Bench

Advocate : Alok Ranjan, P.K. Shahi

Final Decision : Allowed

Judgement

1. Heard the learned counsel for the parties.

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

“(i) For issuance of writ in nature of certiorari for quashing of the order as dated 31.05.2023 passed in appeal case no. 90/2023, whereby and where under the appeal filed on behalf of the petitioner has erroneously been rejected and the order of cancellation as contained in memo no. 1195 dated 24.12.2022 whereby the allotment of plot measuring an area of 0.60 acre land situated At the request of learned counsel for the petitioner, post this matter on Industrial area Pandaul has been cancelled, without taking into consideration the fact that petitioner is ready start the production well within six months and there is no any dues as against the petitioner and moreover respondent no. 6 has no jurisdiction to order for cancellation of the allotment of land of the petitioner.

(ii) For issuance of a writ in the nature of certiorari for quashing of the order dated 23.12.2022 issued vide memo number 1195 dated 24.12.2022 by the respondent authorities, the Joint Managing Director, Bihar Industrial Area Development Authority (hereinafter referred to as the BIADA for short) Darbhanga cluster whereby allotment of industrial plot to the petitioner At the

request of learned counsel for the petitioner, post this matter on Pandaul industrial plot to the petitioner At the request of learned counsel for the petitioner, post this matter on Pandaul industrial area in the District of Madhubani has been cancelled;

(iii) For holding and a declaration that the respondent number 6, the joint managing director, BIADA has no jurisdiction and authority in terms of section 6 of the Bihar Industrial Area Development Authority Act 1973 to cancel the allotment of the industrial plot;

(iv) For issuance of a writ or order or direction upon the respondents to grant a suitable time period to the petitioner to commence production activity At the request of learned counsel for the petitioner, post this matter on the industrial plot number 13, Pandaul Industrial Area, P.O. Pandaul, District – Madhubani, in light of the Division Bench judgment of this honorable court dated 18.03.2015 passed in LPA number 353 of 2008

(v) For issuance of a writ in the nature of prohibition restraining the respondent BIADA and its authorities as well as the district administration from dispossessing the petitioner from the industrial premises in light of the impugned office order dated 23.12.2022;

(vi) For further restraining the respondent BIADA and its authorities from allotting the plot number 13, Pandaul Industrial Area, P.O. Pandaul, District-Madhubani, by way of lease or otherwise in favor of any other person during the pendency of the instant writ application and further restraining the respondent authorities to take any coercive action against the petitioner;”

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:-

“A. the petitioner shall commence/resume commercial production in the industrial unit at the industrial of an industrial plot number 13 of area 0.60 Acre in Pandaul Industrial Area, P.O. Pandaul, District – Madhubani within a period of months from the date of restoration of physical possession of the unit by the

respondent Bihar Industrial Area Development Authority as during pendency of present writ application possession was taken over by the respondent authorities.

B. The petitioner shall clear outstanding dues if any of the respondent Industrial Area Development Authority within four weeks from the date of handing over possession and recall of the order of cancellation of allotment of the plot.

C. The petitioner shall make the unit fully functional within a period of 6 months from the date of handing over possession and recall of the order of cancellation of allotment of the plot.

D. That the petitioner shall comply with all the statutory obligations as are relevant and applicable to the industrial activity of the petitioner including fiscal statutes, labour laws, electricity laws, industrial laws etc.

E. That on default the petitioner shall be liable for proceedings of contempt before this honourable court.

F. That in case the petitioner defaults in making the aforesaid unit fully operational within a period of 6 months, the petitioner shall voluntarily hand over the physical possession of the plot in question to the respondent authority.

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. two lakhs 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 ninety days from the date of handing over the possession and start manufacturing plan as approved by the Bihar Industries Commercial Policy, 2016.

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 08.09.2023 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 24.12.2022 passed by respondent no. 6, the Joint Managing Director, Bihar Industrial Area Development Authority (BIADA), issued vide Memo No. 1195 (Annexure-2) and order dated 31.05.2023 passed in Appeal Case No. 90 of 2023 by Respondent No. 3, the Additional Chief Secretary-cum-the Appellate Authority, Department of Industry, Government of Bihar contained (Annexure-4) are accordingly quashed and set aside.

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