

**(2022) 11 PAT CK 0006**

**In the Patna High Court**

**Case No : Civil Writ Jurisdiction Case No. 7629 Of 2019**

Kumar Aditya

APPELLANT

Vs

State Of Bihar

RESPONDENT

**Date of Decision : 01-11-2022**

**Acts Referred:**

**Citation : (2022) 11 PAT CK 0006**

**Hon'ble Judges : Sanjay Karol, CJ; Partha Sarthy, J**

**Bench : Division Bench**

**Advocate : Pramod Kumar Mallick, Subhash Prasad Singh, Indeshwari Prasad Mandal, Kumar Priya Ranjan, Ankur Apurv Singh**

**Final Decision : Disposed Of**

## **Judgement**

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

"(i) To quash the order dt 08.11.018 passed by the Principal Secretary, Department of Industries, Bihar, Patna, the respondents No. -1 in Appeal no. -40/2015 and also quash the order dt. 20.08.2015 passed by the respondent no. -06 the Development Officer, BIADA, Bhagalpur.

(ii) To direct the respondents BIADA for extending the time to start the factory of Maize Processing Unit in the allotted plot at Growth Centre Maranga, Purnia.

(iii) To grant any other relief/reliefs as to which the petitioner is entitled in the facts and circumstances of the case."

On 11.10.2022, we had passed the following order:-

" Learned counsel for BIADA states that as on date no 3rd party right stands created. Statement accepted and taken on record.

As agreed, petitioner will file an undertaking to this Court to the effect that (a)

within 60 days, petitioner will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA; (b) within six months, petitioner shall make the Unit fully operational and functional in terms of the product sanctioned and allowed to be manufactured as per the original terms of allotment;

(c) petitioner shall clear all the dues payable to BIADA as on date; (d) petitioner shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees; (e) in the event of failure on the part of the petitioner to comply with the undertaking, petitioner shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, when petitioner shall lose all rights therein and (f) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

Petitioner is ready and willing to furnish such an undertaking within next seven working days, failing which the petition shall stand dismissed for default.

Copy of the undertaking be supplied to learned counsel for the respondents.

However, BIADA has to recall the orders passed cancelling the allotment of the premises.

Let BIADA take a call on the offer made by the petitioner.

We are sure that the respondent BIADA would take a decision in the affirmative, which, in our considered view, would be in public interest as also in the interest of the State to generate economic growth as also provide employment to the people.

List on 20.10.2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect and till then no coercive steps be taken against the petitioner.”

Pursuant to our order dated 11.10.2022, petitioner has filed undertaking on affidavit in the following terms:-

“2. That on 11.10.2022 an order was passed by your Lordships to file an undertaking to this extent that the petitioner will start the commercial production within 60 days and fully operational unit within six months and there is some conditions imposing by this Hon’ble bench of this court in this respect and the petitioner is very much obliged of this order.

3. That the petitioner is ready to comply this order passed on 11/10/2022 by this Hon’ble bench of this court.

4. That the petitioner prays and have some humble submission to this Hon’ble Bench of this court that the time given by this Hon’ble bench of this court may kindly extent for 60 days to 120 days and fully operational unit to be extended to

one year.

5. That the hurdle in way of starting this business is almost removed but still some economic problem before the petitioner who start up this business so it is humble submission to give the more time to start up this business.

6. That the petitioner also undertakes that if the business couldn't start within the time in prayed above, I shall hand over the premises to the BIADA concerned."

The undertaking is accepted and taken on record, subject to condition that petitioner will start the commercial production in the unit within 120 days and shall make the Unit fully operational and functional within six months.

BIADA has no objection to the order being passed. Consequence of breach thereof, including initiation of proceedings for contempt having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

As such, petition is disposed of in the following terms:-

(a). Undertaking of the petitioner dated 19.10.2022 (reproduced supra) is accepted and taken on record subject to condition that petitioner will start the commercial production in the unit within 120 days and shall make the Unit fully operational and functional within six months.;

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

(c) 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;

(d) Liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court.

(e) Order dated 08.11.2018 passed by respondent no.1, namely the Principal Secretary, Department of Industries, Bihar, Patna in Appeal Case No.40 of 2015 (Annexure-7) and the order dated 20.08.2015 are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.