
(2022) 08 PAT CK 0058

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3658 Of 2020

M/S Bharat Plastic Industries

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 24-08-2022

Acts Referred:

Citation : (2022) 08 PAT CK 0058

Hon'ble Judges : Sanjay Karol, CJ; Satyavrat Verma, J

Bench : Division Bench

Advocate : Suraj Samdarshi, Subhash Pd. Singh, Binita Singh

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

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

(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the order dated 18.12.019 as contained in memo no 32/D 30//DO/BIADA/04 dated 04.01.2020 issued by the Respondent Executive Director purportedly under the order of Respondent Managing Director whereby and where under the allotment of plot no A-2, Industrial Area, Dehri on Sone made in favour of the Petitioner has been cancelled and bank guarantee has been encashed, on the ground that the same is completely illegal, arbitrary in nature and sans any jurisdiction.

(ii) To issue an appropriate writ order or direction in the nature of mandamus commanding the Respondents to refrain from taking possession of plot no A-2, Industrial Area, Dehri on Sone allotted to the Petitioner.

(iii) This Hon'ble Court may adjudicate and hold that the impugned order dated 18.12.019 as contained in memo no 32/D 30//DO/BIADA/04 dated 04.01.2020 issued by the Respondent Executive Director is de hors the provisions of the Bihar Industrial Area Development Authority Act (hereinafter referred to as the

"Act")

(iv) This Hon'ble Court may further adjudicate and hold that the Respondent Managing Director and the Respondent Executive Directors are not the Competent Authority under the Act to cancel the allotment made in favour of the Petitioner.

(v) This Hon'ble Court may further adjudicate and hold that the impugned order dated 18.12.019 as contained in memo no 32/D 30//DO/BIADA/04 dated 04.01.2020 is in gross violation of Section 6 (2)(a) of the Act in terms of which the Petitioner ought to have been given an opportunity of 30 days to put up his case before cancellation of the allotment.

(vi) This Hon'ble Court may further adjudicate and hold that the Petitioner cannot be dispossessed from the land allotted to him on the basis of the impugned order dated 18.12.019 as contained in memo no 32/D 30//DO/BIADA/04 dated 04.01.2020.

(vii) This Hon'ble Court may award the cost of litigation and suitable compensation to the Petitioner for the loss and damages caused on account of the illegal and arbitrary actions of the Respondent Authorities.

(viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

On 17.08.2022, we had passed the following order:-

"Learned counsel for BIADA states that as on date no 3rd party rights stand created.

Learned counsel for the petitioner states that petitioner is ready and willing to furnish an undertaking to this Court to the effect that (a) within six months, petitioner shall make the Unit fully operational and functional, for the category for which the land stood allotted; (b) also comply with all statutory provisions, including labour laws; (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 loose all rights therein and (f) also, petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

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 22.08.2022 to enable the petitioner to file an undertaking.

If the undertaking is not furnished within the said period, the petition shall be deemed to be dismissed in default."

Pursuant to our order dated 17.08.2022, petitioner has filed an undertaking on affidavit in the following terms:

2nd SUPPLEMENTARY AFFIDAVIT ON BEHALF OF THE PETITIONER

I, Anvar Alam, aged about 39 years, male, Son of Late Md. Adbul Jalil, Resident of Mohalla Islam Ganj, Ward No. 23, Idgah, Dehri on Sone, Rohtas, do hereby solemnly affirm and state as follows:-

1. That I am the proprietor of the petitioner firm in the present writ application and as such well acquainted with the facts and circumstances of the case and competent to swear this affidavit on behalf of the petitioner.

2. That the present writ application has been filed for issuance of an appropriate writ, order or direction in the nature of certiorari for quashing the order dated 18.12.019 as contained in memo no.32/D 30//DO/BIADA/04 dated 04.01.2020 issued by the Respondent Executive Director purportedly under the order of Respondent Managing Director whereby and where under the allotment of plot no A-2, Industrial Area, Dehri on Sone made in favour of the Petitioner has been cancelled and bank guarantee has been encashed.

3. That the present affidavit is being filed in light of the order dated 17.08.2022 passed by this Hon'ble Court.

4. That it is most humbly submitted that the manufacture of PVC pipes had become unviable and therefore currently the petitioner is manufacturing of steel almirah and steel cooler body.

5. That the petitioner undertakes as follows:-

a) The petitioner undertakes to approach BIADA and get the land use converted from manufacture of PVC pipes to manufacture of steel almirah and cooler body and wooden furniture.

b) Within a period of six months, the Petitioner shall make the unit fully operational and functional.

c) The petitioner undertakes to comply with all statutory provisions including labour laws.

d) The Petitioner shall clear all the dues payable to BIADA as on date.

e) The petitioner shall make itself compliant with all the statutory requirements

including the ones protecting interest of the employees.

f) The event of failure on the part of the petitioner to comply with this undertaking the 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.

g) Petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished.

6. That the contents of the present affidavit have been explained to me in hindi which are true and correct to the best of my knowledge and belief.

7. That the annexures if any are the true/photo copies of their respective originals.

Learned counsel for the BIADA states that petition can be disposed of in terms of the undertaking so furnished.

The undertaking is accepted and taken on record. 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 20.08.2022 (reproduced supra) is accepted and taken on record;

(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 18.12.2019 issued by respondent no.4, namely the Executive Director, Bihar Industrial Area Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna in Memo No. 32/D 30//DO/BIADA/04 (Annexure-9) is quashed and set aside;

(f) Issue of release of the Bank Guarantee is left open to be decided by the respondents, in relation to which, hopefully, appropriate action, in the affirmative, shall be taken.

Petition stands disposed of in the aforesaid terms.

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