
(2022) 02 PAT CK 0039

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 20812 Of 2021

M/S DB Corp Limited

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 14-02-2022

Acts Referred:

Citation : (2022) 02 PAT CK 0039

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Brisketu Sharan Pandey, Madan Kumar, Abhishek Kumar, Abbas Haider

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

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

i. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to implement the Bihar Industrial Incentive

Policy, 2011 and thereby pay the entitlement of the Petitioner i.e. total outstanding amount of Rs. 103.4 Lacs to the petitioner under the head of

Subsidy on investment in Plants and Machinery, Subsidy on investment on Plant & Machinery purchased for Captive Power Generation/DG set, Re-

imbursement for Electricity Duty Paid.

ii. For issuing a writ of mandamus or any other appropriate writ directing the Respondent Authorities to bring on record order(s) or letter(s) through

which the claims of the petitioner for Subsidy on investment in Plants and Machinery, Subsidy on investment on Plant & Machinery purchased for

Captive Power Generation/DG set, Re-imbursement for Electricity Duty Paid, has

been denied.

iii. For issuing a writ of certiorari or any other appropriate writ quashing such order(s) or letter(s) so produced through which the claims of the

petitioner for Subsidy on investment in Plants and Machinery, Subsidy on investment on Plant & Machinery purchased for Captive Power

Generation/DG set, Re-imburement for Electricity Duty Paid, has been denied.

iv. For issuing appropriate writ declaring that the payments to the petitioner as per entitlement for post-production incentives such as Reimbursement

for GST paid, VAT paid/Electricity Duty paid, AMG/MMG paid cannot be kept pending or denied and has to be timely paid to Petitioner.

v. For holding that Respondents erred in not releasing the subsidy/reimbursement on the ground that the proposal of the "Competent Authority"

given the fact that the proposal already has approval from SIPB and the law has been settled in this regard by the Hon'ble Division bench of this

High Court and has been confirmed by the Hon'ble Supreme Court that once the proposal has been approved by the SIPB, no other approval is

required.

vi. For holding that the Respondents cannot withhold/discontinue to subsidize and/or reimbursement the entitlements accorded to the Petitioner under

the Bihar Industrial Incentive Policy 2011.

vii. For holding that once the proposal of the investment has been accepted and petitioner is declared entitled under the Policy then the Respondents

cannot interfere with the disbursal of the reimbursement/subsidy amount to the petitioner.

Viii. For holding that the Respondents erred by not releasing full Reimbursement and subsidies amount given the fact that they hold no authority to

refuse/stop/interfere, once proposal of investment has been accepted by the State Investment Promotion Board (SIPB).

ix. For holding that it is the duty of the Respondents to timely release the payments for reimbursement under the head of VAT/GST every time the

petitioner submits an application for the same and the petitioner need not go through the unnecessary technicalities and procedures again.

x. For holding that the Respondents cannot make the Petitioner run from pillar to post for reimbursement/subsidy once it is found entitled.

xi. For any other reliefs, direction/directions for which the Petitioner is entitled may be given.â??

It is brought to our notice that the decision rendered by a coordinate Bench of this Court in CWJC No. 12104 of 2018, titled as M/s Sunny Stars

Hotels Private Limited Vs. The State of Bihar & Ors, has attained finality, inasmuch as, the Special Leave Petition preferred by the State stands

dismissed by Honâ??ble the Apex Court vide order dated 17.01.2020 passed in SLP (Civil) No. 43744 of 2021.

Parties agree that the petition can be disposed of. Learned counsel for the petitioner states that certain amount already stands paid to the petitioner.

As such, petitioner shall be content if the petition is disposed of with liberty granted to the petitioner to approach the authority concerned by filing a

representation within a period of four weeks, with a direction to the authority concerned to consider and decide the same within a period of four

weeks from the date of its presentation.

Prayer allowed.

Without expressing any opinion on merits of the claim, petition is disposed of with the liberty aforesaid. All issues on facts and law are left open.

Needless to say that while considering such request, principles of natural justice shall be followed and due petition(s), if so required and desired.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same

shall be dealt with, in accordance with law and with reasonable dispatch.

The petition stands disposed of in the aforesaid terms.

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