

(2022) 11 PAT CK 0011

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11014 Of 2022

M/S Kishore Engineering Works

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 03-11-2022

Acts Referred:

Bihar Industrial Area Development Authority Act, 1973 — Section 6

Citation : (2022) 11 PAT CK 0011

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

Bench : Division Bench

Advocate : Gautam Kumar Kejriwal, Subhash Pd. Singh, Binita Singh

Final Decision : Disposed Of

Judgement

The petitioner has prayed for the following relief/s :-

“(I) For issuance of a writ in the nature of certiorari for quashing of the order dated 29.06.2022 issued vide memo number 1095 by the respondent number 7, the Deputy General Manager, Bihar Industrial Area Development Authority (hereinafter referred to as the BIADA for short) Muzaffapur cluster whereby allotment of industrial plot to the petitioner at Barauni industrial area has been cancelled;

(II) For holding and a declaration that the respondent number 5, 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;

(III) 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 industrial plot number A/8, Barauni Industrial Area, P.O. Tilrath, District - Begusarai -851122 in light of the Division Bench judgement of this honourable court dated 18.03.2015 passed in LPA number- 353 of 2008;

(IV) For issuance of a writ in the nature of prohibition restraining the respondent BIADA and its authorities as well as the district administration represented by the respondent number 9, 10 and 11 from dispossessing the petitioner from the industrial premises in light of the impugned office order dated 29.06.2022;

(V) For further restraining the respondent BIADA and its authorities from allotting the plot number A/8, Barmuni Industrial Area, P.O. Tilrath, District-Begusarai – 851122 by way of lease or otherwise in favor of any other person during the pendency of the instant writ application;

(VI) For any other relief/(s) to which the petitioner is found entitled in the facts and circumstances of this case.”

On 11.08.2022, we had passed the following order:-

“ Petitioner will file an undertaking to the effect that he will commence commercial production in the unit within 90 days should the respondents hand over the possession to the petitioner. Also, petitioner undertakes to clear the entire dues.

Let such an undertaking be filed. Lists on 01.09.2022.”

Petitioner has filed an undertaking being part of supplementary affidavit dated 29.08.2022 in the following terms:

“4. That the petitioner undertakes as follows :-

A. The petitioner shall commence/resume commercial production in the industrial unit at the industrial plot number A/8 of area 0.12 acre in Barauni Industrial Area, P.O. Tilrath, district Begusarai – 851122 within a period of 90 days from the date of restoration of physical possession of the unit by the respondent Bihar Industrial Area Development Authority.

B. The petitioner shall clear outstanding dues if any of the respondent Bihar Industrial Area Development Authority.

C. That the petitioner shall comply with the labour laws.

D. That on default the petitioner shall be liable for contempt.

E. That on default Petitioner shall hand over the physical possession of the land to the respondent authority.”

In view of the aforesaid, petitioner’s undertaking is accepted and taken on record.

BIADA has no objection to the order being passed, as is so being passed in similarly situated cases to augment the industrial growth within the State of Bihar.

Petitioner’s undertaking that he would revive the unit within six months and make it fully operational and functional, is accepted and taken on record.

Consequence of breach thereof stands explained through the learned counsel.

This Court would not hesitate to not only initiate proceedings of contempt for violating such an undertaking, but also direct the BIADA to take over the possession of the property for allotment to a third party in accordance with law.

Present petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, stands disposed of.