

(2022) 09 PAT CK 0058

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 13185 Of 2022

M/S. Maa Kali Industries India

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 26-09-2022

Acts Referred:

Citation : (2022) 09 PAT CK 0058

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

Bench : Division Bench

Advocate : Rajesh Ranjan, Subhash Prasad Singh, Indeshwari Pd. Mandal,
Kumar Priya Ranjan, Girish Nandan, Ankur Apurv Singh

Final Decision : Disposed Of

Judgement

Petitioner has prayed for the following relief(s):

"(i) For quashing and modifying the part of the order dated 7.06.2022 and 2.08.2022 passed in Appeal Case No. 47 of 2022 by the Respondent No. 2 whereby and where under while allowing the appeal filed by the Petitioner he has arbitrarily imposed such conditions which are without the sanction of law and against the provisions of BIADA Amensty Policy, 2021 and in teeth of various orders of this Hon'ble Court whereby upon submission of undertaking an extension of time is being granted for initiating the commercial production on the unit of the petitioner.

(ii) Further, for setting aside the order bearing Memo No. 755 dated 11.12.2021 passed by the Respondent No. 4 Managing Director, BIADA whereby and where under the land measuring an area of 4000 Sq. Ft. which was allowed to the Petitioner has been cancelled.

(iii) For declaration and to hold that the aforesaid impugned order dated 7.06.2022 and 2.08.2022 passed in Appeal Case No. 47/2022 is illegal and in contravention to the settled principles of law i.e. Nemo Judex in Causa Sua (No one should be made a judge on his own cause) as the impugned order vide

Memo No 755 dated 11.12.2021 has been passed by Respondent No. 4, Managing Director and the order dated 7.06.2022 and 2.08.2022 passed in Appeal Case No. 47/2022 has been passed by respondent no. 2 Principal Secretary, Department of Industries who is holding the same post at same time and as such liable to be quashed on this ground itself.

(iv) For directing the respondents forthwith not to take any coercive steps against the allotment of petitioner till disposal of this writ application.

(v) For any other relief or reliefs for which the petitioner be found entitled in the eye of law.”

Pursuant to our previous order dated 15th of September, 2022, petitioner has filed an affidavit furnishing his undertaking in the following terms:

“2. That in pursuance of the order dated 15.09.2022 passed by this Hon’ble High Court in C.W.J.C. No.13185 of 2022, I am filing this undertaking as follows:

i. That, I hereby undertake that within 60 days the Petitioner shall start the work, should the respondents hand over possession of the premises to the petitioner.

ii. That I also undertake that within six months, I will 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/Bihar Industrial Investment Promotion Policy, 2016.

iii. That also undertakes that I shall clear all the dues payable to BIADA as on date and shall make itself compliant with all the statutory requirements, including the ones protecting interest of the employees.

iv. That I further undertake that I shall comply the provisions of labour law and other statutory compliances.

v. That I further undertake that in the event of failure on the part of I shall hand over the vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party.

vi. That I further undertake that in the event of default I shall be liable for being prosecuted for having committed contempt of this Hon’ble Court.”

Learned counsel for 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 26th of September, 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;

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

(e) Orders dated 07.06.2022 and 02.08.2022, passed by respondent no.2, namely the Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal Case No. 47 of 2022 and order dated 11.12.2021, passed by respondent No. 4, namely The Managing Director, Bihar Industrial Area Development Authority, Patna are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.