

**(2023) 07 PAT CK 0030**

**In the Patna High Court**

**Case No : Civil Writ Jurisdiction Case No. 8247 Of 2023**

M/S. Pratik Frozen Food Products Pvt. Ltd.

APPELLANT

Vs

State Of Bihar

RESPONDENT

**Date of Decision : 06-07-2023**

**Acts Referred:**

**Citation : (2023) 07 PAT CK 0030**

**Hon'ble Judges : A. Abhishek Reddy, J**

**Bench : Single Bench**

**Advocate : Sachin Kumar, Abhishek Kumar Pandey, Vikash Kumar, Parth Gaurav, Kumar Saurav**

**Final Decision : Disposed Of**

## **Judgement**

1. Heard the learned counsel for the parties.

2. This writ petition has been filed for the following reliefs:-

(i) For quashing the order dated 2.05.2023 passed in Appeal Case 122 No. 296 communicated vide Memo No. 2666 dated 4.05.2023 by the Respondent No. 2 whereby and where under the appeal filed by the Petitioner has been dismissed in a mechanical, arbitrary, whimsical, pick and choose manner, whereas the similarly situated allottees have been given the benefits as are being given by the Hon'ble Court in C.W.J.C. No. 6883/2020. M/s. Umesh Service Station vs. The State of Bihar and Ors, and in terms of Appeal No. 76/2022.

(ii) For setting aside order bearing Memo No. 1503 dated 19.11.22 passed by the Respondent No. 7, The Deputy General Manager, Muzaffarpur Cluster. Bihar Industrial Area Development Authority (BIADA), Muzaffarpur, (hereinafter referred to as 'BIADA') whereby and where under the allotment of land measuring an area of 2 Acres for the manufacturing of Ice Cream, Ice Block, Sorting and Packing of fruits and vegetables. manufacturing of Dahi, Lassi, Paneer and other dairy products within the Industrial Area-Muzaffarpur has arbitrarily been cancelled, since the reason recorded therein is non-est, not

sustainable that too being perverse and in complete violation of the principles of natural justice and against all canons of justice.

(iii) For declaration and to hold that the aforesaid impugned order dated 2.05.2023 passed in Appeal Case No. 296/communicated vide Memo No. 2666 dated 4.05.2023 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. 1503 dated 19.11.22 has been passed by Respondent No. 7 The Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Muzaffarpur and the order dated 2.05.2023 passed in Appeal Case No. 296 communicated vide Memo No. 2666 dated 4.05.2023 by Respondent No. 2 Additional Chief Secretary, Department of Industries who is colorably holding the same post at same time and as such liable to be quashed on this ground itself.

(iv) For a direction upon the Respondents to give the benefits as are being given to the similarly situated allottees in C.W.J.C. No. 13558/2022, C.W.J.C. No. 12560/2022, C.W.J.C. No. 6883/2020, C.W.J.C. No. 13037/2022 and other analogous cases.

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

3. Learned counsel for the petitioner has stated that due to unavoidable circumstances like Covid-19 etc., the petitioner could not start the commercial production and the same is not deliberate but for the reasons beyond the control of the petitioner.

4. Learned counsel for the petitioner has stated that under the similar circumstances, a Division Bench of this Hon'ble Court in C.W.J.C. No. 15567 of 2022 (M/s Maa Kali Food Products Industrial Growth Centre, Maranga Vs. The State of Bihar & Ors.) dated 02.12.2022 has set aside the order of Bihar Industrial Area Development Authority (hereinafter referred to as "the BIADA") based on the undertaking given by the petitioner therein and an opportunity has been given to the industry to start its commercial production.

5. Learned counsel for the petitioner has stated that the petitioner has also filed an undertaking before this Court which reads as under:-

"(i) That, I hereby give the undertaking that I will start commercial production in the unit within 60 days and start manufacturing plant or such other products as approved under the Bihar Industrial Investment Promotion Policy, 2016, if the possession of the unit is handed over by BIADA.

(ii) That also undertakes that I shall clear all up-to-date dues payable to BIADA if any and shall be done within four weeks from the date of handing over possession/recall of order of cancellation.

(iii) That I further undertake that in the event of my said unit not being made

operational and functional by me within 6 (Six) Months, I will hand over and the vacant and peaceful possession to BIADA.

(iv) That I further undertake that I shall make compliant with all the statutory requirements including the once protecting the interest of the employees.

(v) 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".

6. Having regard to the above said undertakings which is reproduced above and also based on judgement of the Division Bench of this Hon'ble Court passed in C.W.J.C. No. 15567 of 2022 dated 02.12.2022. Wherein duly taking into account the undertaking given by the petitioner therein this Hon'ble Court has set aside the order of the appellate court as well as the order passed by the BIADA and granted an opportunity to the petitioner to start commercial production.

7. Having regard to the same and also the submissions made by the learned counsel for the BIADA, who stated that the present writ petition can be disposed off in terms of the undertaking so furnished. The undertaking is accepted and taken on record.

8. If the possession has been taken by the BIADA, the same shall be handed over to the petitioner and the petitioner shall start the commercial production within sixty days and start manufacturing plan as approved by the Bihar Industries Commercial Policy, 2016.

9. 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.

10. As such, petition is disposed off in the following terms:-

(a) Undertaking of the petitioner dated 26.06.2023 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) It is made clear that, in case, the petitioner fails to start the commercial production within the stipulated time and also fails to hand over the vacant and peaceful possession of the allotted property to BIADA within a period of two weeks thereof. The authorities of the BIADA are free to take possession of the premises in question.

(e) Order dated 02.05.2023 passed by respondent no. 2 namely, the Additional Chief Secretary, Department of Industries, Government of Bihar, Vikash Bhawan, Bailey Road, Patna in Appeal Case No. 296 of 2022 communicated vide Memo

No. 2666 dated 04.05.2023 (Annexure-19) and order dated 19.11.2022 in Memo No. 1503 passed by the respondent no. 7, namely, the Deputy General Manager, Muzaffarpur Cluster, Bihar Industrial Area Development Authority (BIADA), Regional Office, Bela, Muzaffarpur (Annexure-14) are accordingly quashed and set aside.