

(2022) 09 PAT CK 0014

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 12560 Of 2022

M/S. Sain Manufacturing And Trading Pvt. Ltd

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 12-09-2022

Acts Referred:

Bihar Industrial Area Development Authority Act, 1974 — Section 6(2)(a)

Citation : (2022) 09 PAT CK 0014

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

Bench : Division Bench

Advocate : Prachi Pallavi, Yogendra Pd. Sinha, Kumar Priya Ranjan, Girish Nandan Abhishek, Ankur Apurv Singh

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

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

"(i) Issuance of a writ of certiorari, quashing the order dated 01.08.2022 (Annexure - 4, page-27) passed by the respondent no. 4 namely Joint General Manager BIADA, by which in purported exercise of powers conferred under Section 6(2) (a) of the Bihar Industrial Area Development Authority Act, 1974, the allotment of Plot No. C-7 & C-8 in Industrial Estate, Muzaffarpur, having an area of 4500 sq feet has been cancelled and the amount deposited against allotment of the said plot has been forfeited ;

(ii) Restrain the respondents from creating any third party rights in the aforesaid 4500 sq.ft. plot bearing Plot No. C-7 & C-8 in Industrial Estate, Muzaffarpur during the pendency of the writ petition."

On 01.09.2022, we had passed the following order:-

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

Statement accepted and taken on record.

As agreed, petitioner will file an undertaking to this Court to the effect that (a) within 60 days, petitioner will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner/recall the order of cancellation, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA; (b) within six months, petitioner shall 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; (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 lose all rights therein and (f) petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

Petitioner is ready and willing to furnish such an undertaking within next seven working days, failing which the petition shall stand dismissed for default.

Copy of the undertaking be supplied to learned counsel for the respondents.

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 12th September, 2022 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect."

Petitioner has filed an undertaking being part of supplementary affidavit dated 05.09.2022 in the following terms:

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, shall also stand disposed of.