

(2022) 10 PAT CK 0041

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11230 Of 2022

M/S. Vaishnavi Arya Industries

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 19-10-2022

Acts Referred:

Citation : (2022) 10 PAT CK 0041

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

Bench : Division Bench

Advocate : Rajesh Ranjan, Indeshwari Prasad

Final Decision : Disposed Of

Judgement

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

"i. For quashing and modifying the part of the order dated 17.12.2021 passed in Appeal Case No. 10/2020 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 Amnesty 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. For setting aside the order bearing Memo No. 444 dated 20.03.2019 passed by the Respondent No. 4, Managing Director, BIADA whereby and where under the land measuring an area of 7,000 Sq. Ft. which was allotted to the petitioner has been cancelled.

iii. For declaration and to hold that the aforesaid impugned order dated 17.12.2021 passed in Appeal Case No. 10/2020 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. 1083 dated 29.06.2022 has been passed by respondent no. 4 Managing Director and

the order dated 17.12.2021 passed in Appeal Case No. 10/2020 has been passed by respondent no. 2 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.”

In pursuance of our order dated 12.08.2022, petitioner has filed a supplementary affidavit furnishing the undertaking in the following terms:

“i. That, I hereby undertake that within 60 days, I will start commercial production in the Unit, should the respondents hand over possession of the premises to the petitioner, failing which petitioner shall give vacant and peaceful possession of the premises to BIADA.

ii. That also undertakes that within six months, I will make the Unit fully operational and functional in terms of order of Hon’ble High Court.

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.

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) Statement made by the petitioner is accepted and taken on record as an undertaking;

(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) Order dated 17.12.2021 passed by respondent no.2, namely The Principal Secretary, Department of Industries, Government of Bihar, Patna in Appeal No. 10 of 2020 and the order dated 20.03.2019, under Memo. No.444, passed by respondent No.4, namely The Managing Director, BIADA, Patna are quashed and set aside.

Petition stands disposed of in the aforesaid terms.

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