

(2023) 01 PAT CK 0024

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1817 Of 2022

Sarv Sri Harbals A.P.S. Pvt. Ltd.

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 19-01-2023

Acts Referred:

Citation : (2023) 01 PAT CK 0024

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

Bench : Division Bench

Advocate : Dilip Kumar, Abbas Haider, Syed Hussain Majeed, Pankaj Sinha, Devesh Shankaran

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

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

i. For quashing of impugned office order bearing memo No. 6724/D dated 20.11.2019 (Annexure-8) passed by the Executive Director, BIADA, Patna by the order dated 16.11.2019 of Managing Director, BIADA allotment order bearing memo No. 371/D dated 13/03/2004 of industrial plot No. C-26(Part) area measuring 5958 square feet situated at Patliputra Industrial Area Patna for 82 years has been cancelled.

ii. For quashing of impugned order dated 12/11/2021 passed in Appeal No. 26/2020 by the Additional Chief Secretary Department of Industry, Vikash Bhawan, Bailey Road, Patna (Annexure-10) by which affirmed the order bearing memo no. 6724/D dated 20.11.2019 passed by the Executive Director, BIADA, Patna.

AND/OR

pass such other order or orders as your lordships may deem fit and proper.

On 03.01.2023, we had passed the following order:-

"Learned counsel for the petitioner states that as on date possession of the unit/plot has not been taken over, which fact is seriously disputed by the learned counsel for the respondent BIADA. However, it is not in dispute that, as on date, no third party right stands created.

Statement accepted and taken on record.

As agreed, petitioner will file an undertaking before this Court to the effect that

(a) within sixty days, petitioner will start commercial production with BIADA handing over possession of the premises to the petitioner/recall of the order of cancellation. With the petitioner failing to do, petitioner shall hand over vacant and peaceful possession of the premises to BIADA; (b) within six months, petitioner shall make the Unit fully operational and functional at least to the capacity of 80% for the product sanctioned and allowed to be manufactured as per the original terms of allotment; (c) petitioner shall clear all upto date dues payable to BIADA. This shall be done within four weeks from the date of handing over possession/recall of order of cancellation; (d) petitioner shall make itself compliant with all mandatory statutory requirements, including the ones protecting the interest of the employees; Petitioner shall clear all other statutory dues including G.S.T./electricity charges etc.; (e) in the event of failure on the part of the petitioner to comply with the undertaking, petitioner shall hand over vacant and peaceful possession of the premises to BIADA with liberty for further allotment to 3rd party, with the petitioner losing 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 be deemed to have been 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.

Learned counsel for the BIADA states that, should the petitioner make an application for change of user, it would be considered in accordance with the industrial policy, provided the petitioner does not take any benefit in terms thereof.

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 17.01.2023 so as to enable learned counsel for the petitioner to file an undertaking on affidavit to the aforesaid effect, and till then no coercive steps be taken against the petitioner.”

Pursuant to our order dated 03.01.2023, petitioner has filed an undertaking on affidavit in the following terms:-

“2. That in compliance of order dated 21.03.2022 passed in CWJC No.1817 of 2022 the petitioner undertakes that he has started manufacturing of Aurvedic medicines in the name and style “Sarv Sri Harbals A.P.S. Ltd.” in the industrial plot no. C-26(P) measuring 4921 sq feet bearing survey plot no. 5500(P), 5501(P) and 3145(P) under khata no. - 40, 559 and 1135 respectively at mauza- Digha 1, Pargana- Azimabad, District- Patna and within 2 months from 21.03.2022 i.e. the date of order the petitioner will establish other plants also to manufacture the ayurvedic medicine in the said pot no. - 26(P).

3. That in the event of failure the petitioner shall hand over the vacant and peaceful possession of the plot no.- 26(P) to BIADA for further allotment.”

Learned counsel for the 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 (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 failure on the part of the petitioner to comply with the undertaking, BIADA shall take over vacant and peaceful possession of the premises from the petitioner with liberty for further allotment to 3rd party, with the petitioner losing all rights therein and petitioner shall be liable for initiation of proceedings for contempt for having violated the undertaking furnished to the Court.

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

(e) Order dated 12.11.2021 passed by the Additional Chief Secretary, Department of Industry, Vikash Bhawan, Bailey Road, Patna in Appeal No. 26/2020 (Annexure-10) and the order dated 20.11.2019 passed by the Executive Director, BIADA, Patna (Annexure-8) are quashed and set aside.

Petition stands disposed of in the aforesaid terms. Interlocutory Application(s), if

any, shall stand disposed of.