

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2777 of 2024

Work Brigade Venture LLP having its registered office at 2/1, Patliputra Industrial Area, Patliputra, Patna, Bihar, through its Partner Piyush Nandan, Male, aged about 39 years, S/o Shri Krishna Nandan Varshney, R/o 88 Nandan Kavi Raman Path, Nageshwar Colony, Boring Road, Patna, P.S. Budha Colony, Dist-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Industries Department, Government of Bihar, Patna.
2. The Bihar Industrial Area Development Authority having its office at Udyog Bhawan, Patna through its Managing Director.
3. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Patna.
4. The Deputy General Manager, Bihar Industrial Area Development Authority, Udyog Bhawan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar, Sr. Adv.
	:	Ms. Supragya, Adv.
For BIADA	:	Mr. Avinash Kumar, Adv.
	:	Mr. Ajay Kumar Mehta, Adv.
For the Respondent/s	:	Mr. Government Pleader 20

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 22-07-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

reliefs:-

“I. In the nature of Certiorari, quashing the order dated 08.02.2024, issued under the signature of Regional Manager, Industrial Estate, Patliputra, whereby and whereunder, the Petitioner has been directed to hand over the physical possession of plot-2/1, land admeasuring 6250 Sqft, situated within Patliputra Industrial Area to Bihar Industrial Area



Development Authority (hereinafter referred to as 'BIADA') failing in which, the physical possession shall be taken over by BIADA forcefully with the help of administration.

II. In the nature of Certiorari quashing of the Order dated 01.02.2024, issued under the signature of Deputy General Manager, BIADA, Patna Cluster, whereby and whereunder Plot- 2/1, land admeasuring 6250 Sqft, situated within Patliputra Industrial Area, transferred to the Petitioner has been cancelled with effect from 22.01.2024.

III. In the nature of mandamus directing the Respondent authorities to stay the operation of the order dated 08.02.2024, issued under the signature of Regional Manager, Industrial Estate, Patliputra.

IV. In the nature of Mandamus directing the respondent authorities to allow the Petitioner to enjoy the peaceful possession of Plot- 2/1, land admeasuring 6250 Sqft, situated within Patliputra Industrial Area, without any interference and hindrance.

V. In the nature of Mandamus restraining the respondent authorities from taking forceful possession of Petitioner's aforesaid plot by use of administration.

VI. For any other relief/reliefs for which the petitioner may be deemed entitled to.”

3. The present writ petition has been filed challenging the order of cancellation (Annexure-P/11) as well as the order passed by the appellate authority (Annexure-R/7). Admitted facts are that the petitioner has been allotted the land area of 6250 Sq ft.



way back in the year 1990 for the purpose of establishing factory. Thereafter, the petitioner has applied for change of project and received due permission on 21.07.2022 for manufacturing of stainless steel pipes, shutter *pati* & shutter lath.

4. Learned counsel for the petitioner has stated that the authorities without considering the explanation to the show cause notice have passed the order of cancellation in a mechanical manner. The authorities under a mistaken impression that the unit of the petitioner is not working at the full capacity have passed the order of cancellation. Learned counsel has drawn the attention of the Court to the agreements entered between the petitioner and the third parties (Annexure-P/19 & P/20) and also the documents filed along with the present writ petition i.e., GST returns, electricity bills to buttress her contention that the unit of the petitioner is working at full capacity. That the authority without taking into consideration the documents submitted by the petitioner has passed the impugned order. That the appellate authority has also not taken the documents into consideration and passed the order in a pedantic and mechanical manner. Learned counsel has further stated that the unit of the petitioner cannot be run at 100% capacity throughout the year and the same is depended on the market conditions and also the work orders received by the petitioner from



time to time. That the production of the unit will be in accordance with the market fluctuations and requirements. That the allotment cannot be cancelled merely on the ground that the production of the petitioner's unit is less in one or two months and the same cannot be termed as being in violation of the terms of allotment. Learned counsel has drawn the attention of the Court to the electricity bills filed along with the present writ petition to show that the unit of the petitioner is running at full capacity as on date. Learned counsel has further stated that there is no allegation against the petitioner that at any point of time, the unit of the petitioner has stopped production. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the orders which are impugned in the present writ petition.

5. *Per contra*, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has been given ample opportunity to start his commercial production from time to time but the petitioner has failed to do so. That the electricity bills filed by the petitioner in the present writ petition bears testimony to the fact that the petitioner has not been running the unit to its full production. Learned counsel has stated that the unit of the petitioner is not working at all, much less at full capacity. Learned



counsel has drawn the attention of the Court to the comparative chart filed by him to show that similarly situated unit is consuming much more electricity than what is being consumed by the petitioner. That the consumption of the electricity done by the petitioner bears testimony to the fact that the unit of the petitioner was not running at all. Learned counsel for the respondents has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. A perusal of the documents filed by the petitioner, more particularly, the electricity bills, GST returns, the agreements entered between the petitioner and the third parties for doing job work, the photos filed along with the writ petition reveal that the petitioner has established the unit and the same is in full production. The copy of the project report of the petitioner's unit filed along with the counter-affidavit reveals that the installed capacity of the petitioner is approximately 75 metric tons per month. It is no doubt true that the petitioner has to work at the full capacity but invariably the production of the unit is dependent on the exigencies of the market and may not be working at full capacity at all times. The unit may sometimes be shut down for maintenance work, the unit may not be working at full capacity due to market fluctuation of demand and supply or lack of work



orders. But on an average, if the production of the unit more than 75%, the same is acceptable and has to be taken into consideration before any action is taken against the petitioner. The documents filed by the petitioner reveal that as on date the unit of the petitioner is working over and above the full capacity. The documents filed by the petitioner, more particularly, the electricity bills, the agreements entered between the petitioner and the third parties for doing job work, the GST returns, the photographs filed along with the writ petition reveal that the unit of the petitioner is in full production. Moreover, it is not the case of the authorities that there is no production at all at the unit of the petitioner.

7. Having regard to the above, this Court is of the opinion that the ends of justice would be met if the impugned order passed by the appellate authority is set aside and the matter remanded back to the authority for considering the appeal afresh duly taking into account the documents filed by the petitioner along with the present writ petition i.e., the electricity bills, the GST returns, the agreements entered between the petitioner and third parties and any other document to substantiate the claim of the petitioner that the unit is in full production. The petitioner shall file a representation along with necessary documents within a period of four weeks from today. On such representation being



filed, the authority concerned shall take the documents into consideration and pass necessary orders in the appeal filed by the petitioner. The authority before passing any order shall give an opportunity of hearing to the petitioner, the authority shall also take into consideration the observations made by this Court while passing the order. The entire exercise shall be completed as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of the representation from the petitioner. Any order passed shall be communicated to the petitioner.

8. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2024.
Transmission Date	NA

