

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.607 of 2025**

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1. Bihar Industrial Area Development Authority (BIADA), A Govt. of Bihar Undertaking, through its chairman having its office at 1st floor, Udyog Bhawan, East Gandhi Maidan, Patna, Bihar- 800004.
2. The Chairman, Bihar Industrial Area Development Authority(BIADA), having its office at 1st floor, Udyog Bhawan, East Gandhi Maidan, Patna, Bihar-800004.
3. The DGM (Technical), Bihar Industrial Area Development Authority (BIADA), having its office at 1st floor, Udyog Bhawan, East Gandhi Maidan, Patna, Bihar- 800004.

... .. Petitioner/s

Versus

M/s Frick India Limited a company incorporated under Companies Act 1956 as a public limited company through its Authorised Representative Sh.Amit Singh Tomar S/O Sh. Shiv Nath Tomar, aged about 41 years, Working as Company Secretary with petitioner company having its office at 809, Suryakiran Building, 19, Kasturba Gandhi Marg, New Delhi-110001 and also having registered office at 21.5 km. Main Mathura Road, Faridabad, Haryana-121003.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Parth Gaurav, Advocate  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL ORDER**

2      16-05-2025                      Record taken up on mentioning being made on behalf  
of the petitioners.

2. Heard learned counsel for the petitioners.

3. Learned counsel for the petitioners submits that the  
petitioners have challenged the order dated 22.04.2025 passed  
by learned Principal District Judge, Patna in Misc. (Arbitration)  
Case No. 65 of 2024, whereby and whereunder the learned  
Principal District Judge allowed the respondent to participate in



e-retender, i.e., MT No. 18/BIADA/2024-25. The respondent has been blacklisted by the petitioners for five years and respondent is debarred from future tender process. Learned counsel further submits that the respondent has filed a petition under Section 9 of the Arbitration and Conciliation Act with following prayer:-

“i) restrain the Respondent from terminating the contract awarded to the Petitioner Company and from forfeiting the Performance and Additional Performance Bank Guarantees and debarring the Petitioner Company from participating in any further tender for next five years in connection with NIT No. 14/BIADA/2023-24 with regard to supply, installation, commissioning and testing of different machines at BIADA MEGA FOOD PARK, (CPC), Motipur Sahebganj State Highway, Motipur, Muzaffarpur Block, Bihar, during the pendency of the present case and till the conclusion of the arbitral proceedings;

ii) restrain the respondent from making deduction towards penalty from Performance and Additional Performance Guarantees submitted by the Petitioner Company in connection with aforesaid Tender;

iii) pass such other/further orders,



which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

Thereafter, another petition under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure (in short 'the Code'), wherein in paragraph 7 following amendment has been sought:-

“i. Restrain the Respondent from terminating the contract awarded to the Petitioner company and from forfeiting the Performance and Additional Performance Bank Guarantees and stay the implementation of letter dated 10.08.2024 to the extent it relates to debarment of the Petitioner company from participating in any further tender for next five years in connection with NIT No. 15/BIADA/2023-2024 with regard to supply, installation, commissioning and testing of different machines at BIADA MEGA FOOD PARK (CPC), Motipur, Sahebganj, State Highway, Motipur, Muzaffarpur Block, Bihar during the pendency of the present case and till the conclusion of the arbitral proceedings.”

Learned counsel further submits that subsequently the petition dated 08.04.2025 has been filed, wherein the respondent



sought relief from the court that an order be passed directing the respondents to participate in short notice inviting e-retender, NIT No. 18/BIADA/2024-2025. Learned counsel further submits that though the petition filed for amendment of the main petition with same prayer is still pending, by clever drafting, petition was filed under Section 151 of the Code which has been allowed by the learned Principal District Judge. Effectively, the relief sought by the respondent has been granted by the impugned order as the challenge was to be debarment of respondent for five years and without considering the said fact, the impugned order has been passed. The order for debarment has virtually been set aside by the learned Principal District Judge, Patna by allowing the respondent to participate in the tender process though respondent is blacklisted. Moreover, the petition filed under Section 151 of the Code was not maintainable as the same relief has been prayed in Misc. (Arbitration) Case No. 65 of 2024 filed under Section 9 of the Arbitration and Conciliation Act.

4. Issue notice to the respondent by both modes, i.e., under ordinary process as well as registered cover with A/D for which requisites etc. must be filed within a week, failing which the petition will be dismissed.



5. List this matter on 04.07.2025.

6. Till next date of hearing, operation of order dated 22.04.2025 passed in Misc. (Arbitration) Case No. 65 of 2024 shall remain stayed.

**(Arun Kumar Jha, J)**

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