
(2016) 03 KAR CK 0375

In the Karnataka High Court

Case No : Writ Petition No. 36557/2011 (L-RES)

Bhadra Sahakan Sakkare Karkane Niyamitha Employees and
Workers Union (Regd.)

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 29-03-2016

Acts Referred:

Citation : (2016) 03 KAR CK 0375

Hon'ble Judges : S. Abdul Nazeer, J.

Bench : Single Bench

Advocate : P.H. Virupakshaiah, Advocate, for the Appellant; T.S. Mahanthesh, AGA, for the Respondent

Final Decision : Disposed off

Judgement

S. Abdul Nazeer, J.—1. The petitioner is the Employees" and Workers" Union of Bhadra Sahakan Sakkare Karkhane Niyamitha, Davanagere. This writ petition was presented by the Union for a mandamus directing the second respondent-Commissioner for Cane to issue an appropriate order by way of recovery certificate for making payment of arrears of wages to its members.

2. The 5th respondent had availed certain financial assistance from the Ratnakar Bank Limited, Dharwad. Ratnakar Bank Limited filed a writ petition in No. 36639/2011 challenging the validity of the order dated 16.9.2011 passed by the Commissioner for Cane Development and Director of Sugar in Karnataka and for a direction to the said authority to hand over sugar stock lying in godown of Bhadra Sahakan Sakkare Karkhane Limited, Doddabathi District, Davanagere, third respondent herein. The farmers filed writ petitions in Nos. 17669 to 17679/2012 seeking a direction to the Deputy Commissioner, Davanagere District to disburse the amount due to them by the Karkhane.

3. All these cases were coming up together for orders before the Court. In W.P. No. 36639/2011 filed by the Ratnakar Bank Limited, an interim order was passed

on 5.9.2012 as under:

"ORDER ON I.A. NOS. IV & V/2012

The sugar was auctioned pursuant to the order of this Court and an amount of Rs. 5,00,84,290/- was generated and the same is deposited in Punjab National Bank, Davanagere. The said amount has earned the interest of Rs. 11,30,033/- as on July, 2012. Thus, approximately the amount in the Nationalised Bank earned out of sale of sugar is about Rs. 5.12 crores.

Sri Sanjay Gowda, learned Advocate for the petitioner in W.P. No. 36639/2011 submits that the molasses worth Rs. 2.5 crores is lying with the factory unsold and if the said molasses is not sold at an early date, there is every likelihood that the same may be spoiled.

However, learned Government Advocate on instructions submits that only 500 metric tones of molasses is available with the sugar factory and the same may be worth of Rs. 20 lakhs.

Be that as it may, the said molasses also needs to be auctioned to satisfy the dues of farmers, workers and the bank.

The affidavit filed by Sri S.S. Pattanashetti, the Deputy Commissioner of Davanagere District dated 10.8.2012 reveals that the dues of farmer is Rs. 1,04,01,864/- and whereas the dues of employees/workers is Rs. 2,34,02,379/- the dues of the bank are about Rs. 4,13,21,373/-. However, it is submitted on behalf of the Bank that the actual dues to the Bank as on this day are Rs. 4.19 lakhs.

From the above, it is clear that dues of all the three, viz., farmers, workers and banks are to be satisfied by way of equitable distribution in their favour. In my considered opinion, interest of justice will be met if the amount of Rs. 80 lakhs is paid in favour of the farmers and a sum of Rs. 1.25 crores is paid in favour of the employees. The remaining amount (out of the total amount available) i.e. Rs. 3,07,00,000/- shall be disbursed in favour of the Bank. Accordingly, the following order is made:

Pending disposal of the matter, an amount of Rs. 80 lakhs shall be disbursed by the Deputy Commissioner proportionately in favour of the farmers to satisfy their dues at least in part. A sum of Rs. 1.25 crores shall be disbursed in favour of the employees/workers for proportional disbursement to satisfy their dues. Remaining amount of Rs. 3,07,00,000/- (Rupees three crores and seven lakhs only) shall be disbursed in favour of the bank.

The Deputy Commissioner shall make arrangement for auctioning the existing molasses of the sugar factory as per law. The auction shall be conducted in the supervision of the jurisdictional Deputy Commissioner. The auctioned amount shall be deposited in Fixed Deposit by the Deputy Commissioner in the very Nationalised Bank in which the other amounts are now deposited.

I.A. Nos. IV and V/2012 are allowed accordingly."

4. In pursuance of this order, it appears that existing molasses of the sugar company was auctioned and the sale proceeds was deposited in Punjab National Bank, Davanagere. An affidavit was filed by the Tahsildar, Davanagere Taluk, and the Managing Director, Bhadra Sahakan Sakkare Karkhane Niyamitha and Deputy Registrar for Co-operative Societies, stating as under:

"AFFIDAVIT

We, Manjunath R. Ballan, aged about 35 years serving as Tahsildar at Davanagere Taluk, Davanagere District, and Suresh N., Managing Director, Bhadra Sahakan Sakkare Karkhane Niyamitha and Deputy Registrar for Cooperative Societies, aged about 47 years today at Bangalore to hereby makes an oath and state as follows:

1. We state that M/s. Gyanba Sugar & Developers Limited had taken in lease Bhadra Co-operative Sugar Factory Ltd., from 2010-11 but since it violated the terms and conditions of the lease contract, contract was cancelled on 3.9.2011 as per the order of the Government. In the same period, since the farmers agitated for the payment of sugarcane that was supplied to the factory, the Deputy Commissioner, Davanagere, brought it to the notice of the Government. Then, respected Commissioner for sugarcane development, Bangalore, vide letter No. DSK/STT/36/2011-12 dated 16.9.2011 directed the Deputy Commissioner, Davanagere to confiscate the sugar stock that was produced in 2010-11 and to pay the pending bills of the farmers by selling the sugar stock. As per this order, Deputy Commissioner, Davanagere, confiscated sugar stock and started the sale process.

2. In the meanwhile, Ratnakar Bank, Dharwad, filed a writ petition No. 36639/2011 (GM) in the Hon"ble High Court of Karnataka, Bangalore, stating that the contractor M/s. Gyanba Sugars Ltd., had taken loan from them by mortgaging the sugar stock and prayed the Hon"ble High Court to cancel the Government Order of recovery certificate and permit the Bank to sell the sugar stock and recover their loan on 8.11.2011. The Hon"ble High Court heard the matter and passed an interim order directing the Deputy Commissioner, Davanagere, to sell the sugar stock and to deposit the amount in a Nationalised Bank after conducting sale procedure.

3. As per the order of the Hon"ble High Court, sale proceeds of Rs. 5,00,84,290-00 was deposited in the Punjab National Bank, Davanagere Branch. Then respected Deputy Commissioner, Davanagere, submitted an affidavit to the Hon"ble High Court on 10.8.2012 stating that the deposit has earned Rs. 11,31,031-00 interest and in the contract lease period sugar cane arrears to be paid to the farmers was Rs. 1,04,01,864-00 and that the salary arrears to be paid to the workers of the factory was Rs. 2,34,02,379-00 and that the mortgage loan of the Ratnakar Bank, Dharwad, stood at Rs. 4,13,21,373-00. Hon"ble High Court in the interim order on dated 5.9.2012 directed to distribute Rs. 5.12 crore

as follows Rs. 80.00 lakh towards payment of sugarcane supply, Rs. 1.25 lakhs towards payment of salary arrears of the workers of the factory and Rs. 3.07 lakhs towards the loan amount due to Ratnakar Bank, Dharwad.

4. As per the interim order of the Hon''ble High Court passed on dated 5.9.2012, Rs. 80.00 lakh was distributed to the farmers concerned through cheques on a proceeding basis as the outstanding due was Rs. 1,04,01,864-00. However, very few of the farmers have not received cheques because of refusal and change of address etc. Out of salary arrears of Rs. 2,34,02,379-00 due to the workers of the factory Rs. 1.25 lakhs was given through a cheque No. 086079 dated 28.9.2012 to the Managing Director, Bhadra Co-operative Sugar Factory Ltd., Doddabathi, Davanagere District, Managing Director has distributed the salary arrears on percentage basis to the workers, who had worked in the contract lease period. Ratnakar Bank was given a cheque No. 086081 dated 21.10.2012 for S.3.07 lakhs towards loan amount of M/s. Gyanba Sugars.

5. As per the orders of the Hon''ble High Court and the direction of the Government, different dues have been paid so far.

6. As per the interim order dated 5.9.2012 passed by the Hon''ble High Court of Karnataka in W.P. No. 36639/2011, this authority disposed of the molasses and amount of Rs. 10,80,570/- deposited in Punjab National Bank, Davanagere.

7. We submit that what is stated above is true to the best of our knowledge, information and belief."

5. Writ Petition filed by Ratnakar Bank Limited in No. 36639/2011 was disposed of by order dated 7.8.2014 directing the Deputy Commissioner to deposit the amount realised by the sale of molasses to the account of the Ratnakar Bank Limited. However, it appears that the amount of Rs. 10,80,570/- is deposited in Punjab National Bank Davanagere.

6. Writ petition filed by the farmers in W.P. Nos. 17669-17679/2012 was disposed of on 7.8.2014 as under:

"These petitions were filed on 2.6.2012 to direct the Deputy Commissioner, Davanagere District, to disburse the amount due, as per list produced, as at Annexure-B, along with interest.

2. Certain subsequent events have taken place. The Ratnakar Bank Limited, which had financed the 5th respondent filed W.P. No. 36639/2011 on 21.9.2011. The Dy. Commissioner filed affidavit dated 10.8.2012. In the said writ petition, it was found that the dues of farmers is Rs. 1,04,01,864/- and the dues of the employees/workers is Rs. 2,34,02,379/- and that of the writ petitioner/Bank is Rs. 4,13,21,373/- which was disputed by the bank by stating that its actual dues is Rs. 4.19 crores. An equitable arrangement was made as per order dated 5.9.2012. Out of Rs. 5.12 crores in deposit in the nationalized bank, Rs. 80 lakhs was directed to be paid to the farmers/sugar cane suppliers and Rs. 1.25 crores was directed to be paid to the employees of the sugar factory. Remaining amount

was directed to be disbursed in favour of the Ratnakar Bank

3. In view of the said arrangement made, it appears, the grievance of the petitioners in these writ petitions appears to have been redressed, which may be the cause for non appearance of their learned Advocate, on 6.8.2014 and also today.

4. In view of the aforesaid order, there is no need to issue any direction to the Dy. Commissioner, Davanagere, in the matter of payment to the petitioners. If any such is still due to be paid to the petitioners, they may work out remedy by taking separate action.

These writ petitions are disposed of accordingly."

7. It is clear from the above that the grievance of the contesting parties appears to have been redressed to a large extent. However, an amount of Rs. 10,80,570/- is still lying in Punjab National Bank, Davanagere. It is just and proper to credit the said amount to the account of the Ratnakar Bank Limited in terms of the order made in W.P. No. 36639/2012 dated 7.8.2014. Ordered accordingly. It is hereby clarified that if any sum is still due to the workmen of the third respondent-Karkhane, they may work out remedy by taking separate action. The writ petition is disposed of accordingly. No costs.