(1999) 12 PAT CK 0101

In the Patna High Court

Case No : C.W.J.C. No. 12305 of 1999

Eastern Sugar and Industries Limited — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

Date of Decision : 22-12-1999

Acts Referred:
Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 — Section 43(7)

Citation : (2001) 1 PLJR 622

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Advocate : Y.V. Giri and Ajay Prasad, for the Appellant; V.N. Sinha, for the Respondent

Judgement

S.K. Katriar, J.—This writ petition is directed against to the order dated 14.12.99 (Annexure 1), passed by Respondent No. 2 (the Collector, East Champaran, Motihari), in Certificate Case No. 1-Cane/1999-2000, whereby he has directed the Petitioner company not to sell produced sugar in the market except in accordance with the lection.

2. The Petitioner company, having its registered office at Calcutta and its factory situated at Motihari district East Champaran, purchased sugarcane from the growers in the adjoining area which are reserved for the Petitioner company. Payment of the dues of the cane growers became due and, therefore, the Certificate Case has been started and is in the file of the Collector of the district. It appears from the records that the Petitioner company made some extra efforts during pendency of the proceeding for payment of the arrears, roughly to the tune of Rs. 20 lacs per week, and has been producing receipts thereof before the certificate officer in partial and progressive liquidation of the dues. In other words, according to the Petitioner, it has so far paid a sum of Rs. 3 crores & 98 lacs (approx.) during pendency of the proceeding and balance sum of Rs. 2 crores is yet to be paid to the cane growers. According to the Petitioner, they have submitted their Show cause before the Certificate Officer and, on

consideration of which, the impugned order has been passed prohibiting the Petitioner company from selling the sugar manufactured by them. Hence the writ petition.

3. While assailing the validity of the impugned order, Mr. Y.V. Giri, learned Counsel for the Petitioner submitted that production & sale of sugar is the only source of income for the Petitioner company and if it is not permitted to sell the sugar in the open market, they would have no resource to clear the dues. He has invited my attention to Section 43(7) of the Bihar Sugar (Regulation of Supply & Purchase) Act, 1981, which, in his submission, completely prohibits attachment of sugar in execution of a certificate. He has also invited my attention to the Division Bench judgment of this Court reported in 1994(1) PUR 508 which, in his submission, lays the property of the certificate-debtor can be resorted to only after a period of six months from the date of disposal of the objection of the certificate-debtor expires. Learned Counsel for the Petitioner lastly submitted with his usual fairness that the Petitioner company is prepared to clear the entire dues within the foreseeable future, and has placed before me the following schedule of payment provided the impugned order is set aside and the Petitioner is allowed to sell the sugar:

Payment of cane price for the year 1998-99, amount dues approximately Rs. 2 crores till day, payment schedule of arrears of cane price

(A) Rs. 20,00000 (Rs. twenty lacs only) 24th Dec. to 31st Dec. 1999

(B) Rs. 20,00000 (Rs. twenty lacs only) 1st Jan. to 7th Jan. 2000

(C) Rs. 20,00000 (Rs. twenty lacs only) 8th Jan. to 23rd Jan. 2000

(D) Rs. 20,00000 (Rs. twenty lacs only) 16th Jan. to 23rd Jan. 2000

(E) Rs. 20,00000 (Rs. twenty lacs only) 24th Jan. to 31st Jan. 2000

(F) Rs. 20,00000 (Rs. twenty lacs only) 1st Feb. to 7th Feb. 2000

(G) Rs. 20,00000 (Rs. twenty lacs only) 8th Feb. to 15th Feb. 2000

(H) Rs. 20,00000 (Rs. twenty lacs only) 16th Feb. to 23rd Feb. 2000

(I) Rs. 20,00000 (Rs. twenty lacs only) 24th Feb. to 2nd March, 2000

(J) Rs. 20,00000 (Rs. twenty lacs only) 3rd March to 10th March, 2000

4. Mr. V.N. Sinha, learned G.P. IX, has no objection to the same.

5. Having considered the rival submission of the parties, I am of the view that this writ petition has to be allowed on the terms indicated hereinbelow. The impugned order dated 14.12.99 (Annexure 1) is hereby set aside with the condition that the Petitioner shall adhere to the aforesaid schedule of payment punctiliously. Let it be recorded that the aforesaid schedule of payment is with respect to the arrears of dues and the current dues are not the subject matter of

this writ petition.

6. In the result, the impugned order dated 14.12.99, as contained in Annexure 1 to the writ petition, is hereby set aside on the aforesaid terms and conditions. It goes without saying that in view of the fact that the impugned order has been set aside, the Petitioner company shall be entitled to sell the sugar manufactured by them which has to be in tandem with the directions of this Court in CWJC No. 10102 of 1999. After the aforesaid payments have been made, it will be open to the Certificate Officer to make the final calculation.