

(2009) 05 AHC CK 0892
In the Allahabad High Court
Case No : Writ Petition No. 3355 of 2009

Gyanendra Pal Singh and others	Vs	APPELLANT
Cane Commissioner and others		RESPONDENT

Date of Decision : 29-05-2009

Acts Referred:

Uttar Pradesh Co-operative Societies Act, 1965 — Section 121, 122

Citation : (2009) 123 FLR 201

Hon'ble Judges : Narayan Shukla, J

Bench : Single Bench

Advocate : Uttam Kumar Verma, for the Appellant; Madhu Singh, for the Respondent

Final Decision : Allowed

Judgement

Shri Narayan Shukla, J.—Heard Mr. Uttam Kumar Verma, learned Counsel for the petitioners and Mrs. Madhu Singh, learned Counsel for opposite parties 2 to 4 as well as learned Standing Counsel.

The petitioners were permanent Seasonal Clerks in the office of the Respondents and their services have been illegally stopped in mid-crushing season which is in violation of the order passed by the Apex Court in Civil Appeal No. 2727 of 2008, U.P. Cane Union Employees Federation Ltd. v. Cane Commissioner & R.C.C.S. and others.

2. It is contended that the petitioners are entitled to continue in service till 15th of July, 2009 for the crushing season 2008-09 in view of the judgment rendered by the Apex Court in Civil Appeal No. 2727 of 2008, U.P. Cane Union Employees Federation Ltd. v. Cane Commissioner & R.C.C.S. and others and that the impugned order dated 6.2.2009 passed by the opposite party No. 1 is in the teeth of the judgment of the Apex Court.

3. Learned Counsel for the petitioners further submits that the U.P. Cane Cooperative Service Regulations, 1975 have been framed u/s 122 of the U.P. Co-

operative Societies Act, 1965, which came into force after its publication in extraordinary Gazette dated 18th of October, 1975 whereas the impugned order has been passed in exercise of powers purported to have been conferred u/s 121 of the U.P. Co-operative Societies Act, 1965 and that since Regulation, 1975 has been framed u/s 122, the same cannot be amended in exercise of power u/s 121 of the Act, 1965.

4. He also submits that the Registrar has passed the impugned order u/s 121 of the Act with mala fide intention only to circumvent the mandatory approval of the State Government u/s 121 under which Regulation, 1975 has been framed and that the impugned order dated 6.2.2009 amending the definition of crushing season is illegal, arbitrary and without jurisdiction.

5. It appears from the record that the impugned order dated 6.2.2009 has been passed on the basis of some amendments made by Respondent No. 1 in the definition of the crushing season. Section 2(1) of the U.P. Sugar Cane (Supply and Purchase) Act, 1953 provides that "crushing season" means the period beginning on 1st October in any year and ending the 15th of July next following. This definition has been amended as "crushing season" means the period commencing from the date when the crushing of sugar cane in concerned sugar factories commence till the date when crushing ends.

6. Since no counter affidavit has been filed till date, the grounds taken in the writ petition are taken to be correct in view of the decisions rendered in Choksi Tube Company Limited v. Union of India (1997) 2 SCC 179, Na seem Bano v. State of U.P. and others 2.

7. Under the circumstances, the writ petition is allowed and the impugned order dated 6.2.2009 is quashed. The petitioners are allowed to continue during the crushing season 2008-09 i.e. till 15th of July, 2009 as per definition given above in the Act and Regulations also.

No order as to costs.