
(1978) 09 MP CK 0008

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 139/77

Jaora Sugar Mills Limited

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 01-09-1978

Acts Referred:

Madhya Pradesh Land Revenue Code, 1959 — Section 146

Citation : (1979) MPLJ 368

Hon'ble Judges : G.L. Oza, J;G.G.Sohani, J

Bench : Division Bench

Advocate : A.M. Mathur and K.C. Gangrade, for the Appellant; K.L. Goyal, Addl. Govt. Advocate for State, for the Respondent

Final Decision : Allowed

Judgement

G.L. Oza, J.

This is a petition filed by the petitioner seeking to quash a demand issued u/s 146 of the M. P. Land Revenue Code 1959 for an amount of Rs. 271004-06 p. with regard to price of sugarcane and interest.

It is alleged by the petitioner that during the cane season of 1976-77 the petitioner purchased sugarcane from the cane growers and the petitioner paid the price as fixed by the Central Government. It is alleged that section 3A which has been added in the Sugarcane (Control) Order, 1966 by an amendment dated 24th September 1976 provides for the payment of either the minimum price of the price agreed to between the producer or his agent and the sugarcane grower or the sugarcane growers co-operative society. But it is contended by the petitioner that there is no agreed price fixed between the petitioner and the sugarcane growers. Consequently, this could not be recoverable as price of sugarcane u/s 20 of the M. P. Sugarcane (Regulation of Supply and Purchase) Act, 1958.

Learned Additional Government Advocate contended that this price is being

recovered on the basis of the minutes of a meeting and is being recovered as the agreed price recoverable under clause 3A inserted by an amendment in the Sugarcane (Control) Order 1966, with effect from 24-9-1976. The minutes of the meeting held on 13-12-1976 and 14-12-1976 indicate that the representatives of Jaora Zone of Cane-growers were not represented in the meeting and even in the return filed by the State in paragraph 11 it is stated:

Though growers representative of Jaora Zone were not present but cane growers of other Zones in the State and the State Government's representative attended the meeting and safe-guarded the interest of cane growers of Jaora Sugar factory zone as well.

It is therefore not in dispute that when this price was fixed nobody representing the cane growers of the zone of Jaora Sugar Factory was present.

Under clause 3A of the Sugarcane (Control) Order 1966 what could be recovered as agreed price is:

3A. A producer of sugar or his agent shall pay, for the sugarcane purchased by him, to the sugarcane grower or the sugarcane growers' co-operative society, either the minimum price of sugarcane fixed under clause 3 or the price agreed to between the producer or his agent and the sugarcane grower or the sugarcane growers' co-operative society, as the case may be (hereinafter referred to as the agreed price.)

It is clear from this provision that the price agreed to between the producer or his agent and the sugarcane grower or the sugarcane growers' co-operative society will be payable. Apparently therefore, the agreed price could be the one agreed between the producer, i.e. the petitioner on the one hand and the sugarcane grower on the other, or the sugarcane growers' co-operative society. The portion of the return quoted above does not indicate that there was any agreement between the petitioner and the cane growers of Jaora Zone or the petitioner and the cane growers' co-operative society of the zone. Apparently therefore, there is no agreed price which could be said to be recoverable under clause 3A quoted above.

Under section 20 of the M. P. Sugarcane (Regulation of Supply and Purchase) Act, 1958 what is recoverable is the price. Admittedly, price has not been defined in any of the provisions of this Act but has only been defined in clause 2 (g) of the Sugarcane (Control) Order 1966.

2(g) Price means the price or the minimum price fixed by the Central Government from time to time for sugarcane delivered--

(i) to a sugar factory at the gate of the factory or at a sugarcane purchasing centre or

(ii) to a khandsari unit.

This definition clearly indicates that price means price or the minimum price fixed

by the Central Government. The minimum price has been fixed by the Central Government under clause 3 of the Order and there is no dispute about it. Under clause 3A the Central Government fixed a price which will be the agreed price and it could only be recovered as price if it falls within the ambit of the provision contained in clause 3A. Learned Additional Government Advocate attempted to contend that even if clause 3 A was not enacted, agreed price would fall within the ambit of the definition of "price" in clause 2 (g) as according to him the minimum price alone is governed by the phrase "fixed by the Central Government." The word "price" is not controlled by the said phrase. A reading of clause 2 (g) clearly indicates that the words "price" or "minimum price" both shall be governed by the Phrase "fixed by the Central Government" and it is for this reason, it appears, that where the Central Government intended that the agreed price should fall within the ambit of the definition of Price under clause 2 (g) they enacted clause 3 A of the Order because without it it could not be said that it was a price fixed by the Central Government. But as discussed above, the facts stated in the return clearly go to show that there was no agreement between the parties about the price and it could not therefore be said to be the agreed price fixed between the parties. In absence of such an agreement there could be no agreed price and it could not be said to be recoverable under clause 3A of the Sugarcane (Control) Order, 1966. Consequently, it could not be recovered u/s 20 of the M. P. Sugarcane (Regulation of Supply and Purchase) Act, 1958.

The petition is therefore allowed. The demand issued against the petitioner dated nil (Annexure "C") is hereby quashed. The petitioner shall be entitled to costs of this petition. Counsel fee Rs. 250 (two hundred fifty) if certified. Security amount be refunded to petitioner after verification.