
(1998) 11 AHC CK 0038

In the Allahabad High Court

Case No : C.M.W.P. No. 29612 of 1992 and Six other Connected Writ Petitions

Mahalakshmi Sugar Mills Co. Ltd.

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 20-11-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 2 AWC 1220

Hon'ble Judges : R.R.K. Trivedi, J; R.K. Singh, J

Bench : Division Bench

Advocate : Bharti Sapru and Sudhir Chandra Agarwala, for the Appellant; S.C., A.G., U.P., K.N. Mishra, Siddharth, Vishnu Pratap and Shashi Nandan, for the Respondent

Judgement

R.R.K. Trivedi and R.K. Singh, JJ.—We have heard Ms. Bharti Sapru, learned counsel for petitioners. Sri K.N. Mishra, learned standing counsel and Sri Siddharth, learned counsel for respondents.

2. As we were divided in opinion as to the decision to be given on three points, the questions were formulated and referred to Third Hon'ble Judge by our orders dated 6th March, 1998. By order dated 24.3.1998, Hon. the Chief Justice nominated Hon. Palok Basu. J., to hear the case. Hon. Palok Basu. J., after hearing parties, by his order dated 13th November, 1998 has expressed his concurrence with the opinion given by one of us (Hon. Mr. Justice R.R.K. Trivedi). Consequently, the writ petitions are being decided finally according to the opinion of the majority in terms of the opinion dated 6th March, 1998 given by one of us (Hon. Mr. Justice R.R.K. Trivedi).

(a) The writ petitions are allowed. The impugned orders dated 23rd July, 1992, Annexure-4 and order dated 14th August, 1992 are quashed. The respondents are directed not to take coercive action for realisation of the alleged collection charge from petitioners. They will redetermine the costs of recovery, if any, according to the processes issued. In determining this amount, they shall also

afford opportunity to petitioners.

(b) The amount already realised shall be refunded to the petitioners in the terms mentioned in the order dated 6.3.1998,

(c) This order shall govern all the writ petitions.

(d) It is also made clear that this judgment shall not effect the recovery of amount as collection charges by State in other cases prior to this judgment except the two cases, mentioned above.

There will be, however, no order as to costs.