(2012) 01 AHC CK 0525

In the Allahabad High Court

Case No : Misc. Single No. 471 of 2012

M/S Dhampur Sugar Mills Ltd. Thorough Its Authorized Sig. APPELLANT

Vs

The Chief Director, Ministry of Consumer Affairs and Public RESPONDENT

Date of Decision : 20-01-2012

Acts Referred:

Constitution of India, 1950 — Article 19
Essential Commodities Act, 1955 — Section 3

Citation : (2012) 01 AHC CK 0525

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon''ble Rajiv Sharma, J.—It has been informed at the Bar that Advocates are abstaining from judicial work.

2. However, an officer of petitioner''s sugar mill appeared in person and submits that as the matter is very urgent and as such, it may be heard.

3. It has been stated that due to excessive and arbitrary fixation of State Advised Cane Price along with low sugar realisation, the financial condition of the petitioner''s company has deteriorated and has resulted in serious liquidity crunch. The sugar release order dated 29.12.2011 passed by the respondent was inadequate as in the said release order, the petitioner has prayed for release of 25,000 MT of sugar per month in addition to the normal release, but the opposite parties while passing the release order dated 29.12.2011 has only allowed release of 5316.1 MT of sugar for the entire units of the petitioner''s company, which is inadequate.

4. It has further been stated that a reference was made by the petitioner''s company to the opposite party, who is designated as Prescribed Authority under the Essential Commodities Act, 1955 but the opposite parties are sitting tight over the reference and is imposing the restriction from selling the free sale sugar,

despite the fact that this Court in the case of Shakumbari Sugar & Allied Industries Ltd. Vs. Union of India & others held that the restriction placed on the producer of sugar to sell free-sale sugar beyond the quota is illegal and violative of Article 19 (1) (g).

5. It has also been pointed out that in Civil Appeal No. 7508 of 2005 [West U.P. Sugar Mills Association & others Versus State of Uttar Pradesh and others] along with connected appeals, Hon''ble Apex Court, vide order and judgment dated 17.1.2012, has directed the sugar factories to pay the balance outstanding principal amount to the cane growers or to the co-operative societies according to SAP of the relevant crushing seasons and as such, on account of non-availability of the funds, petitioner is not in a position to pay the outstanding amount to the cane growers. Therefore, petitioner preferred a representation with reference to Section 3 (e) of the Essential Commodities Act, 1955 read with Sugarcane (Control) Order, 1966, praying therein to allow the petitioner to sell 25000 MT per month of sugar from the current year''s production apart from the general sugar release order.

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8. Considering the peculiar facts and circumstances of the case, prima facie, a case for interim relief is made out.

9. Admit.

10. Issue notice to opposite party returnable at an early date.

11. List after service.

12. In the meantime, it is provided that the petitioner shall be permitted to sale 2.5 lakhs M.T. sugar including the stock of sugar season 20102011 as also current sugar season over and above the normal release order. The Central Government shall issue release order accordingly in respect of free sale sugar within a period of 10 days from the date of receipt of a certified copy of this order, failing which the petitioner shall be at liberty to sale the above quantity of free sale sugar in the open market on his own because of non issuance of the release order, the petitioner shall intimate about the sale and place of sale to the concerned District Magistrate.

13. Officer of the petitioner''s sugar mill, who is present today, undertakes that the amount so received from the sale of the aforesaid quantity of sugar, the same shall be paid to the cane growers being arrears of sugarcane dues within one week from the date of sale and the petitioner will inform about the same to the concerned District Magistrate. In case the petitioner fails to clear cane dues out of the aforesaid amount so received, it will be open for the District Magistrate to recover the same and make payment to the sugarcane growers towards the sugarcane dues.

14. The petitioner is directed not to divert the aforesaid amount towards any other dues except the cane dues to be payable to the cane growers. It is clarified that the amount out of the sale of sugar shall be utilized for clearing the dues of the farmers and it is only after clearing the dues of the farmers, if the excess amount is available then it should be utilized towards the payment of statutory liabilities.

