

(1997) 08 AHC CK 0040
In the Allahabad High Court
Case No : Writ Petition No. 2103 (M/S) of 1997

S.I.E.L. Ltd., Titawi, Muzaffarnagar	Vs	APPELLANT
State of U.P. and others		RESPONDENT

Date of Decision : 22-08-1997

Acts Referred:

Constitution of India, 1950 — Article 226
Defence of India Rules, 1962 — Rule 125B
Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 — Section 15, 15(4), 16, 16(1), 16(2)(d)

Citation : (1998) 1 AWC 298

Hon'ble Judges : R.H. Zaidi, J

Bench : Single Bench

Advocate : Sudhir Pandey, for the Appellant; C.S.C., P.K. Choudhary and R.P. Mehrotra, for the Respondent

Final Decision : Dismissed

Judgement

R.H. Zaidi, J.—Heard learned counsel for the parties and perused the record.

2. By means of the instant writ petition under Article 226 of the Constitution of India, the petitioner prays for issuance of a writ, order or direction in the nature of certiorari quashing the order dated 21.5.97, passed by the Special Secretary (Sugar). State of U. P. Lucknow dismissing the appeal filed by the petitioner against the order dated 19.11.96, passed by the Cane Commissioner, U. P., Lucknow and allowing the appeal filed by the respondent No. 3 against the order dated 9.11.96 under U. P. Sugarcane (Regulation of Supply and Purchase) Act, 1953 (for short the Act).

3. It appears that the Cane Commissioner. U. P. Lucknow vide his order dated 9.11.96 in exercise of power u/s 15 of the Sugarcane Act reserved area including purchase centres, i.e., Bhora Kalan, Hadauti, Bhora Khurd and Sisouli/Mundbhar of Distt. Muzaffarnagar, U. P. to the respondent No. 3. Vide order dated 19.11.96, the Cane Commissioner permitted the petitioner to purchase sugarcane from the

said centres from willing cane growers which were situated in the reserved area of respondent No. 3. The petitioner filed an appeal challenging the validity of the order dated 9.11.96 while respondent No. 3 filed an appeal challenging the validity of the order dated 19.11.96 under sub-section (4) of Section 15 of the Act. Since the parties and subject-matter in dispute were common, both the aforesaid appeals were consolidated and heard together. The appeal filed by the respondent No. 3 was allowed and appeal filed by the petitioner was dismissed by the respondent No. 1 vide its order dated 21.5.97 challenging the validity of the said order as stated above, present writ petition has been filed by the petitioner.

4. Learned counsel for the petitioner vehemently urged that the crushing capacity of the petitioner's Titawi Sugar Factory was 5,000 T.C.D. The aforesaid cane purchase centres were situated near the petitioner's Titawi Sugar Factory. Therefore, there is no justification for respondent No. 1 to dismiss the appeal filed by the petitioner and to allow the appeal filed by the respondent No. 3. It was urged that the factors/guidelines for determination of the reserved/assigned area were not taken into consideration by the respondent No. 1 and the appeal filed by the respondent No. 3 was arbitrarily allowed.

5. On the other hand, counsel appearing for the contesting respondents supported the validity of the impugned order. It was urged that more sugarcane than crushing capacity of the petitioner's Titawi Sugar Factory is being supplied to it as is evident from the material on the record. The supply of the sugarcane to the respondent No. 3 was much lesser than that its requirements. Therefore, the respondent No. 1 has rightly allowed the appeal by the respondent No. 3.

6. I have considered the rival submissions made by the learned counsel for the parties and I have also perused the record.

7. It may be noted that the copy of the order passed by the Cane Commissioner, U. P., Lucknow, dated 9.11.96 has not been placed on the record of the case challenging the order against which an appeal was filed by the petitioner before respondent No. 1. ,

8. The terms "assigned" and "reserved" have been defined in the Act as under:

2. Definitions.--In this Act unless there is anything repugnant in the subject or context,

(a) "assigned area" shall mean the area reserved for a factory under an order for reservation of sugarcane areas made under Rule 125B of the Defence of India Rules, 1962, and when no such order is in force, the area specified in an order made u/s 15.

9. Section 15 of the Act is also relevant which is quoted below :

"15. Declaration of reserved area and assigned area.--(1) Without prejudice to any order made under clause (d) of sub-section (2) of Section 16, the Cane

Commissioner may, after consulting the Factory Canegrowers' Cooperative Society in the manner to be prescribed-

(a) reserve any area (hereinafter called the reserved area), and

(b) assign any area (hereinafter called an assigned area),

For the purposes of the supply of cane to a factory in accordance with the provisions of Section 16 during (one or more crushing seasons as may be specified) and may likewise at any time cancel such order or alter the boundaries of an area so reserved or assigned.

(2) Where any area has been declared as reserved area for a factory, the occupier of such factory shall, if so directed by the Cane Commissioner, purchase all the cane grown in that area, which is offered for sale to the factory.

(3) Where any area has been declared as assigned area for a factory, the occupier of such factory shall purchase such quantity of cane grown in that area and offered for sale to the factory, as may be determined by the Cane Commissioner.

(4) An appeal shall lie to the State Government against the order of the Cane Commissioner passed under sub-section (1).

10. From reading of the aforesaid statutory provisions, it is clear that where any area has been declared as reserved area for a factory, the occupier of such factory shall, if so directed by the Cane Commissioner, purchase all the sugarcane grown in that area, which is offered for sale to the factory.

11. Learned counsel for the petitioner in support of his submissions that crushing capacity of petitioner's Titawi Sugar Factory was 5,000 T. C. D. (tonnes crushed per day), therefore, there is no justification for respondent No. 1 to reject the claim/appeal filed by the petitioner, placed reliance on the statements of fact made in paragraphs 14 and 16 of the writ petition. The contents in the said paragraphs have been sworn on the legal advice. Learned counsel for the petitioner failed to place anything on the record in support of his submissions that in the year 1994-95 and 1995-96, the crushing capacity of petitioner's Titawi Sugar Factory was enhanced to 5,000 T. C. D. Respondent No. 1 found that in the year 1994-95 and 1995-96 the demand of respondent No. 3 was 180 lac quintals sugarcane, but only 108 lac quintals and 166 lac quintals sugarcane respectively, was supplied to it while in the year 1995-96 as against 70 lac quintals sugarcane. 86 lac quintals sugarcane was supplied to the petitioner and that sugarcane much more than its requirement was available to the petitioner while there was shortage of supply of sugarcane to respondent No. 3.

12. After perusing the material on the record with respect to the crushing capacity of petitioner's Titawi Sugar Factory as well as of respondent No. 3, the respondent No. 1 recorded the following findings :

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13. The aforesaid findings are based on material on the record. The petitioner failed to produce anything to challenge the aforesaid findings recorded by the respondent No. 1.

14. Further, the Cane Purchase Centres--Bhora Kalan, Sisauli, Mundbhar. Bohra Khurd and Hadauli were situated in the reserved area, of respondent No. 3, therefore, there was no justification for respondent No. 2, the Cane Commissioner to permit the petitioner to purchase sugarcane from the said centres.

15. I have also perused the order dated 19,11.96 passed by the Cane Commissioner, U. P., Lucknow. The said order is contained in Annexure No. 4 to the writ petition which is a non-speaking order. The said order has been passed in violation of the provisions of the Act and the Rules. No reason has been recorded in the same. Therefore, respondent No, 1 committed no error of law in setting aside the said order and allowing the appeal filed by the respondent No. 3.

16. In view of the aforesaid discussions, no case for interference under Article 226 of the Constitution of India is made out. The writ petition fails and is dismissed in limine.