
(2015) 04 KAR CK 0093
In the Karnataka High Court
Case No : C.C.C. No. 3322/2012 (CIVIL)

The India Sugars and Refineries Ltd.

APPELLANT

Vs

Anil Kumar Jha and Others

RESPONDENT

Date of Decision : 30-04-2015

Acts Referred:

Citation : (2015) 04 KAR CK 0093

Hon'ble Judges : B.S. Patil, J;P.S. Dinesh Kumar, J

Bench : Division Bench

Advocate : Rajesh Chanderkumar, H.N. Shashidhar and Dayanand M. Bandi, for the Appellant; S.S. Naganand, Sr. Counsel for C.S. Patil, Govt. Adv., Advocates for the Respondent

Judgement

B.S. Patil, J.—Complainant is a company registered under the provisions of the Indian Companies Act, 1956. It has established a Sugar Factory at Chitwadgi, near Hosapete in Ballari District. It filed W.P. No. 68780/2010 challenging the order dated 26.11.2010 issued by the Secretary, Commerce and Industries Department, Government of Karnataka, Bengaluru. According to the complainant, by the said order dated 26.11.2010, the complainant-Sugar Factory was directed by the State machinery to crush only two lakh metric tonnes of sugarcane during the year 2010-11 as against the standing crop of four lakh metric tonnes and that the said order was issued at the instance of political outfits and rival sugar factories. It made a grievance in the writ petition that at the instance of the local administration, illegal diversion of sugarcane was allowed from the area available to the complainant-Sugar Factory to the neighbouring sugar factories, such as M/s. Vijayanagar Sugar Pvt. Ltd., M/s. NSL Sugars (Tungabhadra) Ltd., and M/s. Davangere Sugar Co. Ltd. The farmers of the reserved area meant for the complainant were allegedly lured by paying higher sugarcane price by the neighbouring factories.

2. When W.P. No. 68780/2010 filed by the complainant was pending, the State Government, withdrew the order dated 26.11.2010 by passing another order

dated 11.01.2011. The said order was questioned by some of the representatives of the farmers in W.P. No. 60262-264/2011 and connected matters. Both these matters were referred to the Division Bench.

3. The Division Bench, after hearing the matter, by its judgment dated 15.07.2011, held that the Government order directing the Deputy Commissioner to permit sugarcane growers to export two lakh metric tonnes of sugarcane grown in the reserved area, was passed without notifying the petitioner therein. Noticing the fact that there could be disputes pending between the sugar factory and the growers regarding payment of arrears of sugarcane, etc., this Court found that if the authorities wanted to permit export of two lakh metric tonnes of sugarcane grown in the area reserved for the complainant-Sugar Factory, they must issue notice to the petitioner or factories similarly placed, by specifically stating the proposed action and reasons therein, to enable the complainant to file its counter, meet the case and then show cause as to how the proposed action was inappropriate. As, such course was not adopted, the order dated 26.11.2010 passed was found to be in violation of principles of natural justice because it adversely affected the interest of the petitioner/complainant.

4. Counsel for the sugar factory submitted before the Division Bench, as evident from paragraph 32 of the order that they were agreeable to pay the price fixed by the Central Government for the sugarcane grown by the farmers; that they would also be paying the agreed price in any prospective agreement to be entered into between the growers and the factory after negotiation; further that they were also agreeable to pay matching price offered by neighbouring sugar factories within a stipulated period. The Division Bench specifically placed on record this submission made by the Counsel for the complainant, so as to dispel any apprehension on the part of the sugarcane growers. Thereafter, the Division Bench proceeded to pass the following order. It is useful to extract paragraphs 33 to 35, which contains the directions issued. It reads as under:

"33. The material on record discloses that, this recurring problem is the creation of the State Government and its officials. They have to act in such a manner that both the sugar factory as well as sugarcane growers interest are protected. Taking sides would not solve the problem. All the concerned local political leaders should understand that though they are answerable to these cane growers, the resolution of the dispute should be within the four corners of law. Otherwise those actions are liable to be quashed as being contrary to the statutory provisions and as illegal. We get an impression from the way things have gone on for the last couple of years, nobody seems to have respect for the statutory provisions. That is the reason why even after such deliberations, negotiations, meetings, they are unable to resolve the dispute.

34. Having regard to the past experience and the nature of dispute between the parties, we are of the view that the said dispute is either because of misconception of law or on wrong advice. Though these orders are passed, the orders do not spell out under what circumstances the farmers are entitled to

request for permits to export the sugarcane grown in the reserved area and they are also not told what are the consequences of not entering into the agreement well in time. Under these circumstances we deem it proper to lay down the guidelines for all the parties to follow, so that the disputes could be minimized. In this regard we are supported by a judgment of High Court of Bombay in the case of Dhyaneswar Sahakari Sakhar Karkhana Ltd., v. State of Maharashtra wherein the norms for working out the provisions contained in the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) Order 1984 was laid down. We also refer to in the judgment of the Apex Court in the case of Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd. and Others Etc. Etc. Vs. State of Maharashtra and Others, (1998) 4 AD 370 : AIR 1998 SC 1937 : (1998) 3 JT 525 : (1998) 3 SCALE 253 : (1998) 4 SCC 324 : (1998) 2 SCR 1183 : (1998) 1 UJ 761 : (1998) AIRSCW 1777 : (1998) 4 Supreme 297 , where the Apex Court was interpreting Regulation 5 of the supply of sugarcane wherein it has been laid down under what circumstances a permit or officer may allow a sugar factory to purchase cane after supply of cane or cane growers from the areas other than the area reserved for under Clause 3 came to be analysed. Broadly they have laid down the circumstances justifying such permit. We deem it appropriate to adopt the guidelines in the aforesaid two judgments, with appropriate modifications, till the authorities frame rules in this regard, and issue the following directions for compliance:--

(1) That the authorities concerned will ensure that no sugar factory enters reserved areas under clause 6 of the 1966 Order of another sugar factory, save and except on the basis of an export permit granted to such factory.

(2) That where a sugar factory has already been allotted adequate sugarcane according to the crushing licence or licences issued from time to time, no application for export permit for additional quantity will be entertained from such sugar factory.

(3) Regulation of Supply of Sugarcane--(1) A permit Officer may allow a sugar factory to purchase cane or to accept supplies of cane from cane growers from areas other than the area reserved for it under clause 3 if he is satisfied that any of the following circumstances exist namely:--

(a) In the event of production of cane in the area reserved for the factory being not adequate for enabling it to reach optimum level of crushing;

(b) In the event of surplus production of cane in the areas reserved for other factories which those factories are not able to crush during the crushing season.

(c) In the event of stoppage of nearby sugar factory due to mechanical break down, labour unrest, lock-out or any other reason.

(d) In the event of cane grower or cane growers from the area reserved for a particular factory declining to supply cane to the said factory on account of any of the following reasons, if found justified by the Permit Officer:--

- (i) Non-payment or late payment of cane price by the sugar factory; or
- (ii) Non-fulfilment of any of the obligations by the sugar factory arising out of agreement between the cane grower or cane growers and the sugar factory; or
- (iii) Discrimination by the sugar factory in harvesting of cane and thereby causing loss to the cane grower or the cane growers:

Provided that before passing any order under this sub-clause, for any of the reasons, the Permit Officer shall give the parties concerned a reasonable opportunity of being heard in person or through the authorised representative."

(4) That upon an application being made for export permit to the Permit Officer, the latter will dispose of such application within ten working days of the receipt of such application by communicating the decision in respect thereof to the parties concerned.

(5) That an application for export permit will be heard and decided after giving to all the parties affected or likely to be affected an opportunity of being heard.

(6) That the order granting or refusing the export permit will be a speaking order.

(7) That the export permit granted by the Permit Officer will be effective after an interval of three working days from the date on which the order granting the permit is served on the party affected.

(8) That if the party affected by the export permit files an appeal to the Director of Sugar against the grant of export permit within three working days from the receipt of such order, the stay of the permit will continue till the disposal of the appeal unless the Appellate authority otherwise vacates the stay.

It is made clear that these guidelines shall be prospective. It shall come into force from October 2011 season. It does not apply to arrears of dues for the period prior to October 2011 season.

35. For the reasons aforesaid we quash the order dated 26/11/2010 as per Annexure-A in W.P. No. 68780/2010 as well as the order dated 11/01/2011 as per Annexure-F in W.P. Nos. 60262-60264/2011 and 67107-67108/2009 and reserve the liberty to the authorities to issue notice to the petitioner if they chose to propose to issue permits for exporting the sugarcane grown in the reserved area after complying with the procedure prescribed. No Cost."

5. The present contempt petition is filed contending inter alia that the complainant-Sugar Factory was ready to start the crushing operations from the third week of October 2012 and called upon the farmers of the reserved area to come forward and register their cane and thereafter enter into an agreement with the complainant to schedule its crushing operations as per the maturity of the sugarcane grown in its reserved area. However, till the date of initiation of contempt petition (17.11.2012), none of the farmers had come forward to register their cane and enter into agreement with the complainant-Sugar Factory,

which was in blatant violation of the statutory provision. It is alleged that the farmers were illegally diverting sugarcane to M/s. Vijayanagar Sugar Pvt. Ltd., Mundargi, M/s. NSL Sugars (Tungabhadra) Ltd., Ballari; and M/s. Davangere Sugar Co. Ltd., Davangere. The allegation is that illegal diversion of sugarcane was at the instance of the respondent-authorities which had been going on unabated since the sugar season 2008-09. In spite of repeated requests to the farmers to enter into agreement, they did not come forward and as usual the neighbouring sugar factories started luring the farmers of the reserved area of the complainant by offering higher price. The letters written by the complainant in this regard to the authorities did not yield any result, as is clear from the fact that no action was taken by the district administration. In the meanwhile, in the sugar season 2012-13, the issue of fixing sugarcane price over and above the FRP again cropped up though the complainant was ready to pay Rs. 2,200/- per metric tonne (Gate Cane) as indicated by the Government of Karnataka and was ready to pay arrears to the farmers of the reserved area. The illegal diversion of sugarcane by the farmers continued. Though the Deputy Commissioner had seized the vehicles carrying sugarcane illegally to other sugar factories, the trucks were ordered to be released when the talks with the farmers failed. No action was taken against the farmers and the rival sugar factories. Attention of the Court is drawn to various representations made to the authorities in this regard.

6. It is mainly contended by the learned Counsel Mr. Rajesh Chander Kumar and Mr. H.N. Shashidhar appearing for the complainant that no action has been taken by the respondent-accused authorities to ensure implementation of the direction issued by this Court. Learned Counsel have taken us through the various orders passed in the past, particularly the order dated 24.07.2013. In the said order, this Court having referred to the affidavit filed by the Deputy Commissioner-accused No. 3, found that it was clear from the materials available before the Court that in spite of several actions initiated by the Deputy Commissioner, efforts made by him did not yield any positive result. The Government was also a party to the said order. Therefore, it was duty bound to stand by the Deputy Commissioner and to extend all the support to say that the direction by the Court was complied with. This Court, has also held that though the Deputy Commissioner had dismissed all the applications filed by the farmers of the reserved area seeking permit to export sugarcane although no such direction had been issued by the court, the fact remained that out of four lakh tonnes of sugarcane grown, only 80,000 tonnes of sugarcane was supplied to the complainant and the remaining 3,20,000 tonnes of sugarcane was unaccounted for. It also found that the required quantity of sugarcane did not reach the complainant. Therefore, it found that prima facie there was non-compliance of the directions issued by the Court and hence, it was a case for framing the charge. Thereafter, affidavit was filed by the State authorities explaining the steps taken to implement the order. After hearing the parties and on perusal of the said affidavit, the Court passed an order dated 07.08.2013 stating that if

really the respondents did not intend to continue the disobedience, an opportunity shall be given to them to obey the order atleast in the subsequent year to show their bona fides. It was made clear that further proceedings in the matter would be taken up after taking note of the conduct of accused-respondents and progress demonstrated by them in complying with the directions in the prospective period. Thus, the application filed to recall the earlier order dated 24.07.2013 was directed to be considered after hearing the parties on the affidavit filed before the Court.

7. Thereafter, on 16.12.2013, another order was passed, wherein the learned Counsel for the complainant is stated to have urged that should there be any disobedience of the order dated 15.07.2011 during the crushing season 2013-14, the complainants would implead the persons/officers who were holding charge of the Secretary, Commerce and Industries Department, the Commissioner of Cane and Director of Sugar in Karnataka, and the Assistant Commissioner, Hosapete Taluk, as accused. This submission of the complainant was made in response to the contention urged by the Counsel for respondents 1, 2 and 4 that they were no longer holding their respective positions which they held at the relevant time and therefore, it would be difficult for them to ensure obedience of the guidelines/directions issued vide order dated 15.07.2011. The Division Bench made it clear that it would not like to express any opinion on the submissions made by the Counsel for the parties though it had some reservations as to whether the respondents could be stated to have willfully disobeyed the order dated 15.07.2011.

8. Later on, on an interlocutory application filed in IA-2/2014 seeking interim stay of order passed by Deputy Commissioner, Ballari, permitting export of cane came up before the Court on 08.01.2014 and an interim order of stay was granted and the Deputy Commissioner, Ballad, was directed to be present on 27.01.2014. The order dated 24.07.2013 and 08.01.2014 on IA-2/2014 was challenged in S.L.P. Nos. 2187-88/2014 which came up before the Apex Court on 22.08.2014. The Apex Court set aside the interim stay granted by this Court with the following observations:

"While assailing the impugned order, learned counsel appearing for the petitioners submit that the order passed by the High Court has been complied with. However, in the present case, we are not inclined to decide whether the order passed by the High Court has been complied with in letter and spirit. The petitioners may bring the aforesaid fact to the notice of the High Court. However, if the order of the High Court has not been complied with in letter and spirit and petitioners intend to comply with the order to purge themselves from contempt and at present they are not holding the posts having transferred, they may file a petition for impleading the present officials as party to the case, the High Court may implead the persons, who may implement the judgment and order of the High Court."

9. In the light of the said order passed by the Apex Court, this Court on

22.01.2015 by referring to the order of the Apex Court held that the respondents in the contempt petition were entitled to show to the Court that the order passed on 15.07.2011 has been fully complied with, in which event, further proceedings in the contempt petition will come to an end. Otherwise, disobedience would continue and charges may have to be framed. The status report filed by the respondents was taken on record. It is thereafter that the matter has come up before us on couple of occasions.

10. We have heard the learned Counsel for both parties at length. Indeed, on 30.03.2015, status report along with the affidavit of one Mr. Sameer Shukla S/o K.K. Shukla, the incumbent Deputy Commissioner, Ballari, was filed. As Mr. Shukla was not a party to the contempt proceedings, he was permitted to file an application seeking leave to place the report on record. Similarly, the incumbent Cane Commissioner who was non-party to the proceedings in personal capacity filed a similar status report in his official capacity and he was also directed to place the report on record along with an application.

11. On 08.04.2015, at the request of the Counsel for the complainant, time was granted to the complainant to file objections to the status report. Subsequently, the complainant has filed objections to the status report and argued the case.

12. The Deputy Commissioner, Ballari, in his affidavit filed on 30.03.2015 has narrated the steps taken by him after he assumed charge on 05.06.2014. He has stated that during the sugar season 2013-14, the complainant started sugarcane crushing operation on 22.12.2013 and closed on 30.04.2014. The crushing capacity of the factory was 2,500 TCD and the factory has crushed sugarcane for 119 days and 2,38,514 MTs of sugarcane had been crushed during 2013-14 as against 80,000 MTs crushed during 2012-13, which discloses that there was adequate supply of sugarcane to the factory. For the sugar season 2014-15, crushing operation started on 18.12.2014, whereas the neighbouring sugar factories such as Vijayanagar Sugars started crushing on 10.10.2014, NSL (Tungabhadra) Sugars, Deshanur on 14.10.2014, and Davangere Sugars and Shamanuru Sugars on 13.10.2014. Thus, there was delay of more than two months for the complainant to commence the crushing operations as against the neighbouring factories. If the standing cane was not harvested within the time limit, the farmers as well as the factory would be at loss as recovery of sugar in the sugarcane would decline. As representations were made by the farmers with regard to the delay on the part of the complainant in starting crushing operations, the Assistant Commissioner, Hosapete, convened a meeting on 17.10.2014 to facilitate the commencement of the crushing operations in time, but the complainant refused to attend the meeting. Thereafter, the Deputy Commissioner convened a meeting on 07.11.2014 which was attended by the complainant. In the said meeting, the complainant and the farmers were requested by the district administration to amicably resolve issues by mutual agreement. But the complainant flatly refused to discuss any issues with the farmers. Because of this standoff and situation of uncertainty, only with further

efforts made by the district administration, the parties could be persuaded to come to an understanding so that the crushing operation could be started. Accordingly, the Deputy Commissioner held further meetings on 07.11.2014 and 24.11.2014, wherein the complainant is said to have reiterated its grievance that cane growers in its reserved area were transporting cane uninterruptedly to other factories, but no effort was made to address its grievances nor any complaints were lodged before the police against erring farmers or their leaders or their associations. The Deputy Commissioner further points out that though the complainant-sugar factory was requested to convene the meeting of all the farmers and open the channel of communication to increase the mutual trust and confidence, the complainant flatly refused to have any discussion with the farmers directly.

13. The Deputy Commissioner has further placed on record the efforts made to ensure that sugarcane grown in the reserved area meant for the complainant was not diverted or transported to other factories by the farmers illegally. In paragraph 7 of the affidavit, steps taken have been narrated. It is stated by him that three teams were formed headed by senior district level officers who in turn inspected the factories and submitted detailed reports. The inspection team for M/s. Davanagere Sugars, Kukkuwada, Davanagere District, and M/s. Shamanur Sugars, Duggavathi, Davangere District, comprised of (1) Additional Deputy Commissioner, Davanagere, (2) Additional Deputy Commissioner, Ballari, (3) Deputy Director, Food and Civil Supplies, Davanagere. This team submitted its report on 06.12.2014. As regards, Vijayanagar Sugars Ltd., Gangapura, Gadag District, (1) Additional Deputy Commissioner, Gadag, (2) Deputy Director, Food and Civil Supplies, Gadag and Ballari, (3) Tahasildar, Mundargi, constituted the inspection team. The said team submitted its report on 30.12.2014. In respect of NSL Sugars, Deshnur, Siruguppa Taluk, Ballad District, (1) Commissioner, BUDA, Ballad, (2) Tahasildar, Siruguppa, constituted the inspection team. The said team submitted its report on 31.12.2014.

14. It is stated in the affidavit that the inspection teams visited the concerned sugar factories and verified their records in the background of the allegations made by the complainant. The Deputy Commissioner further states that the reports submitted by the inspection teams reveal that there was no substance in the allegations made by the complainant. In fact, these reports are placed on record along with the status report at Annexures-D1 to D3. The other step that the Deputy Commissioner has taken has been detailed in paragraph 7(2) of the affidavit. It is stated therein that letters were written to the Superintendent of Police, Ballad, RTO, Ballad and Hosapete, Assistant Commissioner, Ballari and Hosapete and jurisdictional Tahsildars of the reserved area were asked to watch for movement of lorries/trucks alleged to be passing through and illegally carrying sugarcane from the reserved area of the complainant, with a direction to take all necessary measures to ensure that no illegal transportation of sugarcane took place. Copies of these letters are also placed on record as Annexures-E1 to E4. It is further stated in paragraph 7(3) of the affidavit that the Tahsildar,

Hosapete, has vide his letter dated 10.11.2014 opened check posts in four places viz., (a) Hosapete-T.B. Dam Circle check post, (b) Kampli-Ramsagara check post, (c) Opp. Mariyammanahalli Nadakacheri, (d) Near Shaneswara Temple. It is stated that no illegal transportation of sugarcane had been reported from these check posts.

15. Apart the above, it is stated in the affidavit that various teams at Taluka, Hobli and Village levels were formed giving clear directions to ensure that no illegal transportation of cane took place. To evidence this, proceedings of the team formation drawn on 18.11.2014 is placed on record as Annexure-F2.

16. The Superintendent of Police, Ballari, has also opened six check posts and he reiterated the same to the Deputy Commissioner vide letter dated 06.12.2014 informing that the matter was being monitored regularly and the persons incharge of the check post were functioning round the clock. This letter is placed on record at Annexure-G1. It is further stated that police personnel were posted in the check post and they were made to work on rotation. In addition to the check post, one flying squad was formed headed by Police Inspector, Hosapete Rural. He was assisted by three PSIs viz., PSI, Hosapete Rural, PSI, T.B. Dam and PSI, Hosapete, to ensure that illegal transportation of sugarcane was detected and dealt with. The report of the Superintendent of Police submitted on 02.12.2014 to the Deputy Commissioner has been placed on record as Annexure-G2, to contend that no transportation of sugarcane had taken place and sugarcane loaded lorries were passing outside the reserved area meant for the complainant. The Deputy Commissioner has also obtained report from the Tahsildar, Hosapete, wherein he has stated that action had been taken against two lorries bearing No. KA-32-8306 and KA-12-A-1912 by the PSI, Hampi, and cases had been registered under the Karnataka Sugarcane Regulation (Purchase and Supply) Act, 2013, when it was noticed that these lorries were carrying cane on 28.12.2014 from Kaddirampura village. Similarly, a case has been registered against lorry bearing No. KA-21-3863 for carrying sugarcane unauthorizedly from Kamalapura village and lorry bearing No. KA-06-C-8194 carrying sugarcane which was moving towards Siruguppa has been seized and case has been registered in Crime No. 0014/2015, and against lorry bearing No. KA-21-3863 which was carrying on sugarcane in T.B. Dam Circle. Truck bearing No. KA-35-T-6599 and trolley No. AAD1476 intercepted and it was noticed that sugarcane was transported to a jaggery unit at Bukkasagara and an FIR in this regard was registered in F.I.R. No. 10/2015 on 09.02.2015. Materials in this regard are produced along with the affidavit at Annexures-H, I1 and I2, J1 and J2, K1 &K2.

17. It is further stated by the Deputy Commissioner that the Superintendent of Police, Ballari, in his report dated 14.01.2015 has stated that some of the farmers who had grown sugarcane in the reserved area meant for the complainant had cut the cane without valid permits and had made a request for taking action against persons shown in the list enclosed. Out of 68 cases enquired into by the Deputy Superintendent of Police, on verification by the

Deputy Commissioner, survey numbers as mentioned in the letter of the Deputy Superintendent of Police could not be ascertained in respect of 24 cases as no such survey numbers were found. In two cases, no sugarcane had been grown in the lands. In 11 cases, sugarcane crop still existed in the land as on 06.01.2015 and in 31 cases out of 68, sugarcane had been cut. The Deputy Commissioner, thus, points out that complaints were made before the police by the complainant without verifying the true facts. The Deputy Commissioner further stated that the Deputy Director of Food and Civil Supplies, was directed to initiate appropriate action in the matter as against the violators who had illegally cut the sugarcane. So also, the Tahsildar, Hosapete and H.B. Halli had been instructed to depute the concerned Revenue Inspectors to inspect each and every survey number and look for each and every person indulged in unauthorized cutting of sugarcane and to report in the matter besides initiating action in coordination with the Deputy Director of Food and Civil Supplies, Ballari, in accordance with law. Letter written in this regard are placed at Annexures-M and N. The communications issued to the Deputy Commissioner, Gadag and Davangere, to monitor the situation with a request not to allow any lorries carrying sugarcane grown in the reserved area to the factories situated in their districts are placed on record for perusal of the Court at Annexures-O and P. Letters issued to the neighbouring sugar factories not to accept any cane from outside the reserved area are placed on record vide Annexures-Q1 and Q5 and copies of the complaints made by the complainant have also been forwarded to the neighbouring factories.

18. The Deputy Commissioner has further stated in his affidavit that in addition to the regular check posts, the Superintendent of Police, Ballari, has formed two mobile squads in response to the letter written by the CEO of the complainant-factory. These two mobile squads are headed by Police Sub-Inspectors. The CEO of the complainant-factory had agreed to send his factory representatives with the squads to increase effective supervision and to help in identifying illegal diversion, if any. The said flying squads are said to have worked from 16.01.2015 to 18.01.2015 and a lorry was caught leading to registration of a case. However, with effect from 19.01.2015, the complainant-factory stopped sending their staff. Despite the same, the mobile squad kept on working till 02.02.2015, during which period no diversion was reported. Though a request was made to the complainant-factory to send their representative, they expressed their inability to send any such representative with the squads stating that there was threat, without however mentioning the details of such threat or incident in their letter. Though the complainant was asked to give the details of such threat, no reply had been furnished.

19. The affidavit further discloses that the farmers of the area through their Society and Associations have complained on 29.01.2015 that cane dues for the crushing season 2013-14 and also for the ongoing crushing season had not been paid by the complainant-factory. A sum of Rs. 9,08,45,989/- had remained unpaid by the factory. Pursuant to the recovery proceedings initiated, the complainant-factory, it is alleged, had moved this Court and this Court issued

directions on 16.12.2014 to deposit 25% of the arrears amount on or before 31.12.2014. Reference is made in this regard to the order passed in W.A. No. 100807-809/2014. Another 25% arrears was ordered to be deposited on or before 15.01.2015. It is stated that the complainant-factory has not complied with the said direction of this Court. The Deputy Commissioner further states that the farmers in the reserved area of the complainant-factory had submitted a memorandum on 02.03.2015 stating that the complainant-factory was not making payments as per FRP and within the time frame fixed. An agitation was carried out in front of the Deputy Commissioner's office. In view of the same, a meeting was called by the Assistant Commissioner, Hosapete and in the said meeting, complainant initially stated that they were ready to pay Rs. 1,800/- per tonne as initial payment and the remaining amount of Rs. 490/- per tonne would be paid later on. The farmers, however, rejected the said offer. They demanded that full payment as per FRP be paid that too within the time frame stipulated i.e., within 14 days. The complainant was asked to comply with the same by paying the full amount of FRP as stipulated in law and as agreed upon by the complainant vide agreement entered into with the farmers. Though the representatives of the complainant tentatively agreed to make the payment as demanded by the farmers, it is stated that no such payment to the farmers has been made since 13.01.2015.

20. The Deputy Commissioner has made it clear in the affidavit that he has taken all possible steps and measures under his command to ensure supply of sugarcane grown in the reserved area of the complainant to the factory as per the provisions of the Cane Control Order and the Karnataka Sugarcane (Regulation of Purchase and Supply) Act, 2013 with utmost reverence to the orders passed by this Court.

21. On careful perusal of the averments made in the affidavit which are probablised by various supporting documents enclosed, we are of the clear view that the Deputy Commissioner has taken all possible measures with all sincerity to enforce the directions issued by this Court to ensure that the cane grown in the reserved area is supplied to the complainant-factory.

22. Indeed, the present Commissioner for Cane Development and Director of Sugar, Bengaluru Mr. M.K. Aiyappa has also filed an affidavit by way of status report on 22.01.2015 regarding the action taken by the authorities. The said status report reiterates the assertions made by the Deputy Commissioner in his status report. Though the Cane Commissioner is not arrayed as party to the proceedings, he has filed an application seeking permission to produce the status report. He has been permitted to place the status report which discloses the steps taken by him from the date he assumed charge as Commissioner for Cane Development and Director of Sugar on 30.08.2014. He has also stated that the complainant-sugar factory started its crushing operations more than two months after the neighbouring sugar factories commenced their operations. He has stated that there are 63 sugar factories in the State of Karnataka who started

crushing operation during 2014-15. Out of them, the complainant -factory was the last factory to have commenced crushing operations for the year 2014-15. He has detailed the steps taken by him to prevent the movement of sugarcane from the reserved area of the complainant by forming a Committee which has been directed to go over to verify the records of the neighbouring sugar factories with regard to the purchase of sugar from the reserved area of the complainant. He has reiterated the steps taken by the District Administration by enclosing relevant documents. He has reiterated the steps taken by the Deputy Commissioner and the District Administration to check the movement of sugarcane to other factories. He has also adverted to the meeting convened by the Deputy Commissioner on 24.11.2014 of the farmers and their representatives, wherein the Deputy Commissioner informed the farmers that the factory would pay Fair and Remunerative Price as per Sugarcane Control Order and the farmers should supply their sugarcane to the complainant -sugar factory only. However, the farmers were not ready to supply sugarcane to complainant-Sugar Factory unless the complainant factory changed the agreement format and fulfilled their demands. The issue regarding cane price was discussed with the Management of the complainant factory and the complainant factory informed that they were ready to pay FRP and the price fixed by the Government. Further in the meeting held on 01.12.2014, the factory agreed to pay Rs. 2,290/- per tonne. He has thus stated that while steps have been initiated to ensure that sugarcane grown in the reserved area of the complainant is supplied to the complainant-sugar factory, efforts had to be made by the complainant-sugar factory to inspire confidence among the farmers, so that the complainant-factory will not have any grievance to make in future.

23. The contention of the counsel for the complainant is that in view of the order passed by the Supreme Court in SLP Nos. 2187/2014 and 2188/2014, the accused are required to establish the compliance of the orders of this Court in letter and spirit and despite the same, they have not followed the directions of the Apex Court and in order to purge themselves from contempt, it is for the accused to file appropriate application and implead the present incumbent officers namely the Deputy Commissioner and the Cane Commissioner and without getting themselves impleaded the status report filed by the present incumbents of the office of Deputy Commissioner and the Cane Commissioner cannot be considered by this Court. This contention of the counsel for the complainant is untenable. The present incumbents have voluntarily appeared before the Court. Having filed application seeking permission to place the actual steps taken by them. In view of the order of the Supreme Court passed on 08.01.2014, this Court has permitted them to place the materials. Pursuant to which the Deputy Commissioner has filed a detailed affidavit. The steps taken which have been narrated in detail in the said affidavit make it very clear that all sincere efforts have been made by the District Administration to comply with the direction of this Court. The complainant seems to think that it is not required to discharge its part of the duties by infusing trust and confidence in the farmers by

entering into necessary agreement with them and pay the dues for the cane supplied periodically and by starting crushing operations in time, so that the farmers are not put to undue hardship. It is borne out on record that for the sugar season 2014-15 they have commenced crushing operations two months after the other factories commenced operations. It has also been stated in the affidavit filed by the Deputy Commissioner that the complainant-factory initially did not agree for payment of the price as stipulated and agreed upon. The problems concerning the farmers being a sensitive issue, the same has to be tackled by the joint efforts to be made by the complainant and the District Administration as also the State Authorities. The interest of the farmers cannot be sacrificed.

24. In the statement of objections filed on 30.03.2015, it is stated that for the sugar season 2014-15, in the reserved area of the complainant, the factory has received only 170000 metric tonnes of sugarcane and the remaining 230000 metric tonnes of sugarcane was allowed to be transported illegally to the neighbouring sugar factories though no permits had been issued to export sugarcane from the reserved area of the complainant sugar factory. On 22.04.2015 also, the complainant has filed statement of additional facts and objections to the status report submitted by Mr. Sameer Shukla, Deputy Commissioner, Ballari, wherein it is stated that the direction issued by this Court have not been complied with. It is stated that the complainant-sugar factory has taken photographs and videos evidencing movement of sugarcane from the reserved area of the complainant-sugar factory during the sugar season 2014-15. The said photographs and CD have been enclosed to the statement of objections, which according to the complainant, will clearly establish the conduct of the authorities and false assertions made by them before this Court. Though allegations are made contending that deliberately at the instance of the powerful people with oblique motives the authorities have conspired to supply sugarcane illegally to the neighbouring factories, in particular to M/s. NSL (Tungabhadra) Sugars Limited, M/s. Vijayanagar Sugars Private Limited and M/s. Davangere Sugars, these allegations cannot be accepted having regard to the various steps taken by the Deputy Commissioner and District Administration by establishing check posts and mobile squads to prevent such illegalities committed by the farmers as described in his affidavit.

25. The inspection team constituted by the Deputy Commissioner have visited different factories and verified the records. All possible steps have been taken by the authorities. Indeed as this problem is an ongoing problem faced by the complainant, the authorities are required to ensure that steps put in place are continued until such time, the farmers are convinced about their obligation to supply the cane grown by them in the reserved area to the complainant sugar factory. The authorities are also required to continue the measures initiated by reinforcing the same with greater vigor to keep a vigil on the neighbouring factories from illegally encouraging and receiving supply of cane grown by the farmers in the reserved area meant for the complainant as directed by this Court.

26. As of now, we find that the authorities namely, the Deputy Commissioner, the Cane Commissioner and all the concerned authorities in the District Administration have done their best to comply with the directions of this Court. In our view, having regard to the bonafide and sincere efforts made by the authorities, we are satisfied that this proceeding deserves to be dropped. We are of the view that there is no intentional or deliberate violation of any of the directions issued by this Court on 15.07.2011. Hence, the contempt proceedings are dropped.