
(2011) 05 AHC CK 0299

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 30011 of 2011

Venus Sugar Limited

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 31-05-2011

Acts Referred:

Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 — Section 17(1)

Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Rules, 1954 — Rule 57

Citation : (2011) 7 ADJ 223

Hon'ble Judges : Sunil Ambwani, J;K.N. Pandey, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We have heard Shri Navin Sinha, Sr. Advocate assisted by Shri Yashwant Verma, learned Counsel for the Petitioner. Shri S.G. Hasnain, Addl. Advocate General and Dr. Y.K. Srivastava appear for the State-Respondents. Shri Ravindra Singh appears for the Cane Cooperative Development Unit, Chandausi, Moradabad.

2. The impleadment application is allowed.

3. The Petitioner is a public limited company. It is running a sugar mill at Chandausi, District Moradabad, manufacturing Crystal Sugar and refined sugar. By this writ petition the Petitioner is challenging the recovery certificate issued by the Cane Commissioner, U.P. for recovery of Rs. 515.94 lacs, out of which Rs. 472.97 is the balance cane price upto 20.4.2011; Rs. 7.97 lacs is interest on the delayed payment of the cane price; Rs. 34.14 lacs as balance commission to the Cane Unions and Rs. 0.86 lacs as interest on the delayed commission.

4. It is submitted that for the crushing season 2010-11 "Fair and Remunerative Price" announced by the Central Government was Rs. 139.27 per quintal, whereas the State Advice Price announced by the State Government was Rs.

205-210/-per quintal. The Petitioner was compelled to purchase sugarcane at State Advice Price. The average cane price paid by the Petitioner together with purchase tax commission and other expenses came to Rs. 218/- per quintal approximately. It is alleged that on account of the difference in the cane price and the lower price of sugarcane all around the factory, and announcement of the maximum transport rebate by the Central Government by way of Statute in the State of U.P. to Rs. 5.83 per quintals and other factors namely the purchase of Cane Centres established by the factory outside factory premise and on and over the areas reserved and assigned in its favour, sugarcane directly from the farmers making payments to them by cheques without associating cane unions in the transactions.

5. The recovery has been challenged by the Petitioner on the ground that it has paid Rs. 852.57 lacs directly to the farmers (Chandausi Rs. 505.77 lacs; Bilari Rs. 139.61 lacs and Badaun Rs. 207.19 lacs) for purchase of sugarcane by cheques and these payments can be easily verified. The Cane Commissioner has not verified these payments and has asked the Petitioner to pay Rs. 472.97 lacs, contrary to the records. Shri Navin Sinha appearing for the Petitioner submits that the Petitioner is only required to pay balance cane price of Rs. 277.74 lacs, and which he is prepared to pay. The remaining amount may be subject to reconciliation of the accounts between the sugar mill and the Respondents.

6. Learned Addl. Advocate General appearing for the State Respondents and Shri Ravindra Singh for Cane Unions have strongly opposed the prayers. It is submitted by them that the method of direct payment to farmers by cheques is contrary to the settled statutory method of payment of sugar cane price provided under the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953, and the U.P. Sugarcane (Regulation of Supply and Purchase) Rules, 1954. Section 17 (1) of the Act, 1953 provides that the occupier of a factory shall make such provision for speedy payment of the price of cane purchased by him as may be prescribed. Rule 57 of the Rules of 1954 provides that all arrangements in connection with the sowing, sale and supply of cane by Cane-growers" Cooperative Societies shall be in accordance with such general or special instructions as may be issued by the Cane Commissioner from time to time.

7. For the current year the Cane Commissioner issued notification dated 16th June, 2010, which provides in para 11 (1) to (3) the method of payment of price. The price of the cane under Para 11 (1) is required to be paid like previous year through bank by bank advice. The farmers should have accounts in the nearest possible banks and that they should avoid overcrowding their accounts in any one particular branch of the bank. In a very special circumstances, where the farmer does not open bank account, for reasons given by him, with the permission of the Cane Commissioner the payment is to be made by the account payee cheques and in no case the payment shall be made by cash. The District Cane Officer and Deputy Cane Commissioner have been made responsible to ensure these directions. The Para 11(2) provides that the copy of the every bank

advice shall be compulsorily given to the cane societies. The Secretary of the Society will examine these advices and if there is any dispute, he will immediately refer it to higher authorities. He will also ensure that all the deductions of loans and other accounts are made properly. The sugar mills will make the payment of the loan and other deductions, alongwith sugar cane price to the societies. Sub-para (3) provides that the payment will be made within fortnight of the receipt of the delivery of the sugarcane and that the cane commission will also be paid in the same manner to cane societies.

8. It is submitted by Shri Ravindra Singh appearing for the cane societies that the Petitioner-mill has illegally purchased 13 lacs tonnes of sugarcanes as against the allocated quota of 8 lac tonnes and that payments were made to the farmers directly by cheques, in violation of the statutory procedure prescribed and followed each year. He submits that the cheques of the value of Rs. 1.6 crores were dishonoured on which the payment was made by cash to such farmers. Para 11 (1) of the Statutory Notification prohibits cash payment.

9. We have considered the respective submissions and find that the Petitioner sugar mill has violated the established statutory procedure of making payment under the Act, Rules and Notification dated 16th June, 2002. The payments by cheques without any bank advice, without the name of the bank and account number, and without giving copy of Cane Unions, were not legal and valid payments.

10. Each year notifications are issued under the Act of 1953 and the Rules of 1954, before the crushing season to ensure timely payment of sugarcane price at the agreed price, under agreement with Cane Unions be it FRP by Central Government or SAP by State Government and for its recovery. Any violation on the procedure not only causes confusion and will make it extremely difficult for the authorities to ensure fair dealing with farmers.

11. We do not find that the Petitioner has disclosed any good reason to deviate from the statutory procedure for payment of cane price to the farmers by bank advice, in which the cane unions have an important role to play. The time tested method of payment of price through bank advice, has many advantages. The sugar mills are required to purchase the sugarcane under an agreement with the cane unions in the reserved areas and on the Cane Centres established by it. The payment of price through bank advice providing for all the details such as name in the bank and account numbers ensures that the farmers are not exploited in weighment and timely payments, and that Cane Unions representing them are able to avoid any preferences, discrimination and at the same time recovering the loans and advances given by the Cane Unions to the farmers for purchase of agricultural inputs in the farming. The payment by cash is strictly forbidden as it may give rise to several malpractices.

12. The Petitioner has not disclosed any sufficient reason to deviate from the standard statutory method of making payment, and further in not taking

permission of the Cane Commissioner in issuing cheques, and cash in respect of dishonoured cheques to the farmers. It may be easy for the Court to give directions to the Cane Commissioner to verify the payments made by the sugar mills directly to the farmers but that there is no good reason to do so and further any such order made by the Court will entail a long and cumbersome exercise and a bad practice to be repeated in future. The Cane Commissioner cannot be saddled with the liability to tally payments made to thousands of cane growers and to decide disputes, which are sought to be avoided by providing the method of payment by bank advices, with copies to cane unions at the beginning of the crushing season. The Petitioner may be required to make some amount twice over, but then the situation has been created by the Petitioner itself.

13. We do not find any good ground to interfere with the recovery certificate. The writ petition is dismissed.