

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Contempt Petition (Civil) Nos. 400-401/1998 in I.A. Nos. 5 & 6
in Civil Appeal Nos.122-123/1981

In the matter of :@@
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MALAPRABHA COOP SUGAR FACTORY LTD. Appellant (s)

VERSUS

U.O.I. & ANR Respondent (s)

and@@
CCC

INDIAN SUGAR MILLS ASSOCIATION & ANR. Petitioner(s)

VERSUS

U.O.I. & ANR Respondent(s)

Date : 16/11/2000 These Petitions were called on for hearing today.

CORAM :

- HON'BLE MR. JUSTICE B.N. KIRPAL
- HON'BLE MR. JUSTICE N. SANTOSH HEGDE
- HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner(s)

- Mr. Ashok H Desai, Sr. Adv.
- Mr. Gaurab Banerjee, Mr. Sameer Parekh,
- Mr. E R Kumar, Ms. Deepa Mala Ranganathan and
- Mr. P H Parekh, Adv.
- Mr. Ranjit Kumar, Adv.
- Ms. Binu Tamta, Adv.
- (for National Federation of Co-op. Sugar Factories).

For Respondent(s)

- Mr. Soli J Sorabjee, Attorney General
- Mr. Kirit N Raval, Addl. Solicitor General
- Ms. Indra Sawhney, Mr. Manish Singhvi,
- Mr. S Wasim A Qadri and Mr. B V Balram Das, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

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The contempt petitions are dismissed in terms of the signed order. No costs.

(D.P. Walia)
Court Master

(S.L. Goyal)
Court Master

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NOS.400-401 OF 1998@@
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IN@@

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I.A. NOS. 5-6@@

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IN@@

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CIVIL APPEAL NOS. 122-123 OF 1981@@
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In the matter of:@@
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Malaprabha Co-op. Sugar Factory Ltd. ..Appellant

vs.

Union of India & Anr. ..Respondents

and@@

CCC

Indian Sugar Mills Association & Anr. ..Petitioners

vs.

Union of India & Anr. ..Respondents

O R D E R@@

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These are the applications in which it is stated that the decision of this Court in Shri Malaprabha Coop. Sugar@ Factory Ltd. vs. Union of India and Another, 1994 (1) SCC@ 648, followed by the direction reported in 1997 (10) SCC 216, has not been complied with.

The question involved is with regard to the determination of levy price of sugar in respect of the years 1974-75 to 1979-80. Earlier this Court in 1994 (1) SCC 648 had given a direction that the levy price be re-fixed keeping in mind the provisions of Section 3(3C) of the Essential Commodities Act. The review application filed by the Government was dismissed and similar was the fate which was met by a clarification application, also filed by the Government.

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When notifications were issued fixing the revised price, the petitioners herein filed a fresh application contending, inter alia, that the provisions of Clause 5A of@ the Sugarcane Control Order have not been taken into consideration while determining the levy price. The

contention was that under the said Clause 5A additional price for sugarcane had to be paid to the grower and this is an outgoing which should be added and taken into consideration while determining the price.

This Court for the reasons contained in the said decisions directed a fresh notification to be issued after taking into consideration the payment required to be made to the sugarcane grower under Clause 5A of the Sugarcane Control Order. The notifications have now been issued as a result of which in respect of levy price for the year 1974-75 and for the subsequent years revised levy price has been fixed at a figure higher than that what was determined earlier.

In the present applications, it is contended that the petitioners were entitled to an increase in the levy price to the full extent of the amount paid under Clause 5A. For example, for West U.P., the levy price fixed on 22nd February, 1995 was Rs.163.780 and the revised levy price fixed by the Government, and impugned in these applications, is Rs.172.430. According to the data furnished, the payment made under Clause 5A comes to Rs.22.050. The contention of the petitioners is that this amount of Rs.22.050 should have been added to the aforesaid amount of Rs.163.780 and the final price which should have been fixed was Rs.185.83.

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We have heard the learned counsel for the parties. The explanation given by the respondents is that prior to 1974 the entire excess realisation of the sale price of sugar at the end of the sugar year used to be taken by the Government. As a result of the Bhargava Committee's Report, Clause 5A was incorporated in the Sugarcane Control Order, the result of which was that instead of 100 per cent of the excess amount being taken by the Government 50 per cent of the excess went to the cane grower and 50 per cent was allowed to be retained by the sugar manufacturer. In this way the sugar manufacturer benefited by retaining at least 50 per cent of the excess realisation whereas prior to 1974 the entire excess realisation used to go to the Government.

This Court in the aforesaid two decisions has said that the retention of 50 per cent is a factor which can be taken into consideration in determining the element (d) in Section 3(3C) of the Essential Commodities Act. The working statement given before us shows that this has been done, not to the extent as desired by the petitioners, but the result of this is that the levy price fixed at Rs.163.780 in respect of West U.P. has gone up to Rs.172.430. In our opinion, the said fixation is in accordance with law and the directions given by this Court have been complied with. Neither a case for contempt has been made out nor is there any justification, in our opinion, for giving any direction to the Government to

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refix the levy price under Section 3(3C) of the Essential Commodities Act.

The contempt petitions are, accordingly, dismissed. No costs.

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.....J.
(B.N. KIRPAL)

.....J.
(N. SANTOSH HEGDE)

.....J.
(DORAISWAMY RAJU)

New Delhi;
November 16, 2000.