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SLP(C)No. 16369 OF 2004
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2980 of 2005
(Arising out of SLP(C)No.16369/2004)

STATE OF HARYANA & ANR. ... APPELLANTS

VERSUS

SARASWATI SUGAR MILLS LTD. & ORS. ... RESPONDENTS

O R D E R

Leave granted.

The respondents filed a writ petition in the High Court of Punjab and Haryana against the present appellants challenging the imposition of control on the sale of molasses by the State Government by Notification dated 15.4.2004. According to the writ petition, by the imposition of such restriction the agreements entered into between respondent No.1, Saraswati Sugar Mills Ltd. and third parties would in fact be superseded and set at naught and that these contracts had been finalised when the policy of the State was of decontrol.

The High Court passed an interim order on 25th May, 2004 acting upon the respondents'/writ petitioners' claim

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that there were no stocks on the date of publication of the notice of control and therefore, the respondent could not be asked to supply 50% of the stock of molasses to the Government. The High Court directed that the restrictions as imposed by the State Government would only apply to the stocks which were actually available with the petitioner-sugar mills as on the date of notification, i.e, 15.4.2004 and that the appellants would permit the respondent No.1 herein to sell the stocks which were the subject matter of agreement between the respondent No.1 and the third parties entered into prior to the date of notification. It was made clear that in the event the writ petition was dismissed, the respondent No.1 would refund the excess price charged by it over and above the control price fixed by the Government to the State Government along with interest thereon.

The appellants understood this order to mean (a) determination of the amounts of molasses actually in stock with the respondent No.1 and (b) existence of agreements between the said respondent and the third parties entered into prior to 15.4.2004. An inspection was held by the appellants and on the basis of that inspection, the appellants found that the existence of the agreement relied

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upon by the respondent were in fact not established and that for those quantities covered by the agreements in fact entered into between the respondent and third parties, there was still a n amount of 1,21,807 quintals of molasses available with the respondent. Accordingly, it was ordered by the Controller of Molasses on 25.6.2004 that a proposal should be put up for allotment of 50% of this amount to the Government in terms of the Notification dated 15.4.2004. On an application for clarification before the High Court by the respondent, the High Court obser

ved that the appellants had proceeded as if the order dated 25.5.2004 had directed the appellants to hold inquiry and found that its order dated 25.5.2004 did not, in fact, contain any such direction. Accordingly, the decision of the appellants relating to the existing stock and the agreements was stayed until the disposal of the writ petition.

Being aggrieved, the appellants preferred this appeal by special leave and by an order dated 23rd August, 2004, this Court stayed the operation of the High Court's order dated 28th July, 2004, and thus the Controller of Molasses' order dated 25.6.2004 received.

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According to the appellants, there was ample provision in the East Punjab Molasses (Control) Act, 1948 (the 'Act' for short) as made applicable to the State of Haryana by the Adaptation of Laws Act, 1968 which gave the appellants power not only to control the quantum of molasses to be sold by sugar mills like the respondents, but also to actually regulate the sale and distribution of the molasses. It is also stated that if the respondent was aggrieved by the order of the appellants dated 25.6.2004 of the Controller of Molasses, the respondents had adequate remedy under the Act to question the findings of fact arrived at by the Controller.

During the pendency of the matter before this Court, the respondents have filed a counter affidavit in which it has been contended that the special leave petition had become infructuous because the subject matter of controversy had already been disposed of by the respondents in accordance with the order of the High Court dated 3rd May, 2004. The respondents have also submitted that there is no dispute relating to the subsequent assessment period, namely, 2004-2005 and that the matter is now being regulated in terms of the Notification dated 15.4.2004 issued by the appellant-authorities.

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We are of the view that the High Court should not have stayed the decision of the Controller without being satisfied (a) that it was otherwise without jurisdiction, or (b) that it was based on an unreasonable appreciation of the facts. We are prima facie satisfied that the Controller had the power dehors the order dated 25th May, 2004 to have come to a finding as to the actual existence of the molasses and the agreements alleged to have been entered into between the respondent and the third parties prior to 25.5.2004. We also cannot accept that the High Court in its order dated 25.5.2004 would have proceeded on the basis of the figures as given in the writ petition unless the High Court at least prima facie accepted the correctness of those figures. All that the appellants sought to do was to establish that the figures were incorrect. The High Court should not have stayed the Controller of Molasses' order in the manner in which it did.

We are not in a position, at this stage, to determine whether any of the stock relating to the year 2003-2004 had been disposed of between 25.6.2004 and 23.8.2004.

We accordingly dispose of the appeal by permitting the Controller to hold a fresh inquiry into the question as to whether any of existing stock in the year 2003-2004 has

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been disposed of between 25.5.2004 and 23.8.2004. It will be open to the respondents, if they are aggrieved by any such finding, to challenge the same before the revisional authority under the provisions of the Act.

If the facts are undisputed, it will also be open to the respondents to raise the issue before the High Court in the pending writ petition which we expect should be disposed of within a short period having regard to the nature of the dispute.

[RUMA PAL]J.

New Delhi, [C.K. THAKKER]J.
April 29, 2005.

ITEM No.9 Court No. 4 SECTION IVB
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.16369/2004

(From the judgment and order dated 28/07/2004 in CWP 6586/2004
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF HARYANA & ANR. Petitioner (s)

VERSUS

SARASWATI SUGAR MILLS LTD. & ORS. Respondent (s)
(With prayer for interim relief)

Date : 29/04/2005 This Petition was called on for hearing today.

CORAM :
HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner (s)
Mr. Rajiv Dutta, Sr.Adv.
Mr. T.V. George, Adv.

For Respondent (s)Mr. Rakesh Dwivedi, Sr.Adv.
Ms. Geetanjali Mohan,Adv.

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

Leave granted.
The appeal is disposed of in terms of the signed order.

Sarita (Madhu Saxena)
Court Master

(Signed order is placed on the file)