

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 5955 OF 2005

LAKSHMI SUGAR MILL,UTTARANCHAL

Appellant (s)

VERSUS

STATE OF U.P. AND ORS.

Respondent(s)

WITH Civil Appeal NO. 5956 of 2005

Civil Appeal NO. 5957 of 2005

Civil Appeal NO. 5958 of 2005

Date: 05/04/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. Rakesh Dwivedi, Sr. Adv.  
Mr. Vishwajit Singh, Adv.  
Mr. Abhindra Maheshwari, Adv.  
Mr. Nikhil Sharma, Adv.  
M/S. Parekh & Co. ,Adv  
Ms. Niranjana Singh  
Ms. Rachana Srivastava

For Respondent(s) Mr. Sudhir Chandr, Sr. Adv.  
Mr. Jayant Bhushan, Sr. Adv.  
Mr. Sanjeev Anand, Adv.  
Mr. Vikram Singh, Adv.  
Mr. Dibya Nishant, Adv.  
  
Mr. Shail Kumar Dwivedi, AAG.  
Mr. Ravi Prakash Mehrotra ,Adv  
Mr. Mukesh Verma, Adv.  
Mr. Vibha Tiwari, Adv.

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

Let the papers of this case be placed before  
Hon'ble the Chief Justice of India for constituting a  
larger Bench.

-1-

-2-

As regards the interim order passed in this case  
anyone who is aggrieved by that order may approach  
the larger Bench for modifying or vacating the order.

(Deepak Joshi)  
Sr. P. A.

(Indu Satija)  
Court Master

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 5955 OF 2005

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Civil Appeal NO. 5956 of 2005  
Civil Appeal NO. 5957 of 2005  
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O R D E R

Heard Learned counsel for the parties.

This appeal has been filed against the impugned judgment and order dated 11.05.2005 in CMWP No. 9105 of the High Court of Judicature at Allahabad.

The short question in this case is that where the sugar cane area is in U.P. but the factory is in Uttaranchal, can the Cane Commissioner, U.P. or State of U.P. reserve that area in U.P. for a factory in Uttaranchal, and vice-versa.

Mr. Rakesh Diwedi, learned counsel for the appellant relied upon a two Judge decision of this Court in The Purtabpore Co. Ltd. vs. Cane Commissioner of Bihar and others, 1969 (1) SCC 308 in which it has been stated  
:1:

:2:

in para 23 that the Cane Commissioner of Bihar can make a reservation of an area in Bihar for a factory in U.P. We have some reservations about the correctness of this view.

It may be noticed that in the Sugar Cane (Control) Order, 1966 which has been passed by the Central Government under the Essential Commodities Act it is provided in clause 6 that the Central Government may reserve a Sugar cane area for a particular factory. Clause 11 of that order permits delegation of that power of the Central Government to the State Government.

We are prima facie of the opinion that if a factory is in one State and sugarcane area is in another State then the person who wants reservation for his factory should approach the Central Government and not to the State Government to which power may have been delegated under Clause 11. In our prima facie opinion it will create chaos if it is held that the State Government of one State can reserve an area in its own State when the factory for which the reservation is done is in another State.

It may be noted that Section 15 of the U. P. Sugarcane (Regulation of Supply and Purchase) Act, 1953 uses the words 'factory' and not 'factory in U.P.' Similarly, it uses the words 'any area' and not 'any area in U.P.' However, in our prima facie opinion it is implicit that these words mean factory and area in U. P., otherwise there may be chaos.

:3:

However, this is only our tentative opinion. We are of the opinion that the aforesaid two Judge Bench decision of this Court requires reconsideration.

Let the papers of this case be placed before Hon'ble the Chief Justice of India for constituting a larger Bench.

As regards the interim order passed in this case  
anyone who is aggrieved by that order may approach the  
larger Bench for modifying or vacating the order.

.....J.  
[MARKANDEY KATJU]

.....J.  
[GYAN SUDHA MISRA]

NEW DELHI;  
APRIL 05, 2011