

(2008) 12 AHC CK 0113

Allahabad High Court

Case No: None

Anil Kumar Singh and others

APPELLANT

Vs

Cane Commissioner and another

RESPONDENT

Date of Decision: Dec. 11, 2008

Hon'ble Judges: Bala Krishna Narayana, J

Final Decision: Disposed Of

Judgement

B. K. Narayana, J.

Heard learned counsel for the petitioners, learned Standing Counsel for opposite party no.1 and Smt. Madhu Singh, learned counsel for the opposite party no.2.

By the instant writ petition, the petitioners have prayed for issuance of a writ, order or direction in the nature of mandamus commanding the opposite parties to treat the crushing season for seasonal clerks (workmen) as beginning from 1st October in any year and ending on 15th July of the next year and for complying with the order dated 10.04.2008 passed by Hon"ble Supreme Court in Civil Appeal No.2727 of 2008.

Learned counsel for the petitioners has placed reliance upon a judgement of the Apex Court rendered in Civil Appeal No.2727 of 2008 dated 10.04.2008, U.P.C.U.E.F. Ltd Vs. Cane Commissioner and R.C.C.S. and others wherein the U.P. Cane Union Employees Federation Ltd. had challenged the validity of the judgement and order dated 26.04.2005 passed by this Court in Civil Misc. Writ Petition No.33014 of 1993 dismissing the writ petition of the Federation filed against the orders dated 17th of May 1993 and 14th of July 1993 passed by the Cane Commissioner and Registrar Cooperative Cane Societies U.P., Lucknow and the Special Secretary, Sahkari Ganna Vikas Samiti whereby the change made in the definition of the crushing season as existing in U.P. Cane Cooperative Service Regulations, 1975 in short "the Service Regulations, 1975 was upheld by this Court. In Civil Appeal No.2727 of 2008, the Apex Court held that the change effected by the Cane Commissioner in the definition of "crushing season" which earlier stood defined as, "crushing season"

meant the period beginning from 1st October in any year and ending on 15th July next following and by virtue of the amended definition, "crushing season" means the period commencing from the date when the crushing of sugarcane in the sugar factory commences till the date when crushing ends which effected for the period for which the employees are to be paid the wages and such change being squarely covered by Clause1 of Third Schedule of the Industrial Disputes Act, 1956, it was incumbent upon the Cane Commissioner to serve notice upon the concerned workmen before effecting any change in the definition "crushing season". The Apex Court further held that the definition of crushing season could not be changed without giving any notice in compliance to Section 4I read with Clause1 of Third Schedule of the Industrial Disputes Act, 1956.

The Apex Court also held that it will be open to the respondents to amend crushing season in accordance with law.

It is not in dispute that the present case is squarely covered by the above noted judgement of the Apex Court.

Submission of the learned counsel for the petitioners is that once the amendment effected by the Cane Commissioner in the definition of crushing season has been quashed by the Apex Court, the opposite parties are under a legal obligation to treat the crushing season as having begun on 1st of October 2008 and ending on 15th of July next but the opposite parties are not adhering to the definition of crushing season as it was existing prior to its change by the Cane Commissioner by order dated 17th May 1993. It has been next submitted by the petitioners' counsel that the petitioners have already preferred a representation before the opposite party no.2 on 07.10.2008, copy whereof has been filed as Annexure No.5 to the writ petition but the same has not been decided till date.

A prayer has been made that the opposite party no.2 be directed to consider and decide the petitioners' representation and further treat the crushing season as having started on 1st October of this year in compliance with the judgement of the Apex Court given in the case of U.P.C.U.E.F. Ltd (Supra).

Learned counsel for the opposite parties do not dispute that the case in hand is squarely covered by the judgement of the Apex Court given in the case of U.P.C.U.E.F. Ltd (Supra)

Thus, for the aforesaid reasons, I am of the view that unless and until the definition of crushing season is amended by the opposite party no.2 in accordance with law, the opposite parties are under a legal obligation to adhere and follow the definition of the crushing season as it was existing prior to passing of the order dated 17th May 1993.

In view of the aforesaid, the instant writ petition is finally disposed of with a direction to the opposite party no.2 to consider and decide the petitioners'

representation dated 07.10.2008 (Annexures No.5 to the writ petition) strictly in accordance with law by a reasoned and speaking order in the light of the observation made in this judgement after affording opportunity of hearing to all concerned as expeditiously as possible preferably within a period of one month from the date of production of certified copy of this order.