

Kichcha Sugar Company Vs Commissioner Moradabad Division

Court: Allahabad High Court

Date of Decision: Dec. 19, 2014

Acts Referred: Constitution of India, 1950 " Article 226

Essential Commodities Act, 1955 " Section 2(a), 2(b)

Limitation Act, 1963 " Section 3, 5, 7

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 " Section 282(3)

Citation: (2015) 2 ADJ 475

Hon'ble Judges: Mahesh Chandra Tripathi, J

Bench: Single Bench

Advocate: Shakti Swarup Nigam, Advocate for the Appellant; M. Ahmad and Ravindra Singh, Advocate for the Respondent

Judgement

@DELETEUPPERDATA

Mahesh Chandra Tripathi, J.

Heard Shri Shakti Swarup Nigam, learned counsel for the petitioner. Learned Standing Counsel appears for

respondent Nos. 1 and 2. Shri Ravindra Singh appears for respondent No. 3.

2. By means of present writ petition, the petitioner has prayed for quashing the order dated 26.9.2014 passed by the Commissioner, Moradabad

Division, Moradabad-respondent No. 1, and the order dated 30.7.2012 passed by the Deputy Cane Commissioner/Arbitrator, District Meerut-

respondent No. 2.

3. Brief facts, giving rise to the writ petition are that the Moradabad Sahkari Ganna Samiti Limited-respondent No. 3 filed an application under

Rule 108 of U.P. Sugarcane (Regulation of Supply & Purchase) Rules, 1954 (hereinafter referred to as Rules of 1954) for appointment of

Arbitrator. The Cane Commissioner vide his order dated 9.2.2009 appointed the respondent No. 2 as the Arbitrator. The petitioner-sugar mill

filed a detailed objection stating that during crushing season 1998-99, 24 cane purchase areas were reserved for Rampur Chinni Mills but since

they could not lift the sugarcane, the Cane Commissioner vide his order dated 24.12.1998 allotted the sugarcane of these cane purchase centres to

the petitioner-sugar mill. The weighing clerk of Cane Purchase Centre, Saihal was found guilty for not supplying the sugarcane of 1140.93 quintals

of sugarcane. The five claims have been rejected by the Consumer Forum. The respondent No. 3 filed the reply to the objections filed by the

petitioner on 5.9.2009. The petitioner filed its reply on 27.7.2011 and also submitted written argument on 20.4.2012. The respondent No. 2 vide

order dated 30.7.2012 allowed the claim of respondent No. 3 and directed the petitioner to deposit Rs. 88,992.54 as cane price. The petitioner

filed an appeal under Rule 118 of the Rules of 1954 along with an application under Section 5 of Limitation Act. The respondent No. 1 dismissed

the appeal on 19.7.2013 on the ground that the petitioner-appellant failed to point out the provision of law, under which the appeal has been

preferred and, therefore, in the aforesaid circumstances, the appeal is not maintainable. Aggrieved with the order dated 19.7.2013, the petitioner-

sugar mill filed a Writ C No. 51146 of 2013, which was allowed on 19.9.2013, and the matter was remanded back to the Appellate Authority to

decide afresh after giving an opportunity of hearing to all the parties concerned. By the order dated 26.9.2014, the respondent No. 1 again

dismissed the appeal.

4. Learned counsel for the petitioner submits that during the crushing season 1998-99, the petitioner-sugar mill received 501.80 quintals of

sugarcane and paid Rs. 39,140.40 to the respondent No. 3-society. The respondent No. 1 failed to consider that the petitioner did not receive

1140.93 quintals of sugarcane, which was misappropriated by the employees of M/s. Rampur Sugar Mills and hence the petitioner cannot be held

liable for payment of 1140.93 quintals of sugarcane. The respondent No. 3 did not make M/s. Rampur Sugar Mills and U.P. State Sugar

Corporation Ltd., Lucknow as parties in the arbitration proceedings. He submits that the petitioner-sugar mill has no record or details of the sugar

purchase as it was maintained by M/s. Rampur Sugar Mills. The order passed by the Commissioner is wholly illegal, and arbitrary. The respondent

No. 1 has illegally come to the conclusion that the petitioner-mill was having control over the affairs of the Cane Purchase Centre.

5. Shri Ravindra Singh has filed a counter affidavit of Shri Manoj Kumar Saxena, Accountant Incharge, Moradabad Cooperative Cane

Development Society, District Moradabad on 10.11.2014, stating in paragraph-13, that during the crushing season 1998-99 due to closure of the

Rampur Chini Mill vide reservation order dated 24.12.1998 passed by the Cane Commissioner, U.P. Lucknow, 24 cane purchase centres of the

said sugar mill were allotted to the petitioner-sugar mill. Both the sugar factories Rampur Chini Mill vis-à-vis petitioner sugar mill were under the

control and supervision of the U.P. State Sugar Corporation, Lucknow. After passing the reservation order dated 24.12.1998, the members of

respondent No. 3-society supplied the sugarcane to the petitioner-sugar mill on the aforesaid 24 allotted cane purchase centres. After allotment

order dated 24.12.1998, the petitioner-sugar mill alone was liable to purchase the sugarcane and ensure the payment as per the statutory

provisions and bonding policy. The petitioner sugar mill purchased the assigned sugarcane from the allotted purchase centres through the staffs

already employed by the Rampur Chini Mill at the allotted purchase centres. In the letter of the petitioner-sugar mill dated 18.6.1999, it has been

mentioned that 1642.73 quintal sugarcane was supplied by the respondents and the same was purchased by the petitioner-sugar mill. The said

letter mentions the details of purchased cane, date of purchase, weight sheet register number, mill parchi number, weight of weighted cane and the

name of purchase centres, which suggests that the petitioner-sugar mill had purchased 1642.73 quintal sugarcane from the allotted cane purchase

centres.

6. Shri Ravindra Singh, learned counsel for the respondent No. 3 submits that under the prevailing system of supply and purchase of sugarcane, it

is the responsibility of the occupier of the factory to provide adequate facilities for weighment and particularly adequate staff and further as per

Rule 96 of the Rules of 1954, no occupier of a factory shall purchase cane without preparing or causing to be prepared at the purchase centre a

"Parcha" in quadruplicate showing correctly the serial number of parcha, the date of purchase, the name of the person from whom the cane is

purchased, the number of requisition slip or purchi issued to the vendor, the gross weight of the cane, net weight of the cane, the rate at which the

cane is purchased, the price that has to be paid for the cane at that rate.

7. Shri Ravindra Singh submits that in the present case, the parcha was issued from the purchase centre, which was operational under the control

and supervision of the petitioner-sugar mill after assignment/allotment of the sugarcane by the Cane Commissioner vide order dated 24.12.1998,

and thus the petitioner sugar mill is liable to ensure the entire payment with statutory interest @ 15% per annum as provided under the Sugarcane

Control Order, 1966. There is no illegality either in the order passed by the Arbitrator or the Appellate Authority. When the petitioner-sugar mill

did not make the payment of balance amount, the respondent No. 3 preferred the claim petition before the Cane Commissioner, UP Lucknow,

who appointed the Deputy Cane Commissioner, Meerut as Arbitrator in the matter on 9.02.2009 and the Arbitrator passed the award on

30.7.2012. He submits that the finding arrived at by the Arbitrator has not been disputed by the petitioner sugar mill.

8. Heard rival submissions and perused the record.

9. It is also apparent that the bonding policy (Satta Niti), which is issued every year under Rule 57 of Rules of 1954, empowers the Cane

Commissioner to issue general or special instructions in connection with the sale and supply of cane by the Cane Grower's Cooperative Society

from time to time. In exercise of powers conferred by this rule, the Cane Commissioner, U.P. is issuing authority regarding the bonding policy,

laying down the detailed procedure for determination of basic quota, cane survey, cane supply, manner of cane price payment, equitable purchase

of sugarcane and compensation of sugarcane supply work etc. It is also relevant to mention at this stage that there is a Cane Implementation

Committee, in which the General Manager/Cane Manager of the concerned sugar factory is also a member.

10. In the Constitution Bench judgment of Hon"ble Apex Court, in case of U.P. Co-operative Cane Unions Federations Vs. West U.P. Sugar

Mills Association and Others etc. etc., , Hon"ble Apex Court has upheld the fixation of SAP by the State Government as well as the statutory

agreement and purchase of cane on the statutory parcha under Rule 96 of the Rules of 1954. While deciding the issue Hon"ble Apex Court had

clearly held that the sugar factories are bound by the statutory agreement executed between the parties. The relevant paras are reproduced herein

below:--

10. Before advertng to the contentions raised at the Bar it is necessary to keep in mind that sugarcane is the main raw material for manufacture of

sugar as it is the sugarcane juice which is ultimately converted into crystals which becomes a marketable commodity. Sugarcane, unlike coal or ore

of minerals is not available under the surface of the earth which may be extracted and stored and may be used as and when required. It is a

product of agriculture which has to be grown in fields like any other agricultural crop and requires inputs and hard labour for its production and it

dries within a short time of its harvesting and becomes virtually useless. The sugar factories do not have an unlimited capacity to crush sugarcane

but have a fixed capacity and, therefore, they require fresh sugarcane in a limited quantity everyday during the entire crushing season. Sugar

factories in the State of U.P. generally commence crushing in the month of November and continue upto the end of April or sometimes middle of

May i.e. for about six months. In order to ensure proper and continuous supply of sugarcane to sugar factory throughout the crushing season, the

harvesting of crop has to be done in limited quantity (according to crushing capacity and requirement of the sugar factory) everyday and not in one

stretch. In view of this peculiar requirement of sugar factory the position of sugarcane growers becomes entirely different from those who grow

other crops like wheat or paddy which can be harvested in one go and can be sold later on at the convenience of the farmer at the opportune time.

In order to achieve the proper balance viz. to ensure a continuous supply of adequate quantity of sugarcane to the sugar factory and proper

remuneration to the cane grower for the cane supplied by him, various enactments have been made which we will presently refer to.

11. The Central Legislature initially enacted Sugarcane Act, 1934 and the Statement of Objects and Reasons, amongst others, said that the

initiative in the matter of fixing prices for cane must be left to Provincial Governments so as to suit local conditions. Section 3 of this Act

empowered the Provincial Government, by notification in the official gazette, to declare any area as controlled area, to fix a minimum price or

minimum prices for the purchase in any controlled area of sugarcane intended for use in any factory and to prohibit in any controlled area the

purchase of sugarcane intended for use in any factory otherwise than from the grower of the sugarcane or from a person licensed to act as a

purchasing agent. The purchase of sugarcane intended for use in factory in any controlled area at a price less than the minimum price notified was

made an offence under Section 5. Section 7 of the Act conferred wide powers on the Provincial Government to make rules for the purpose of

carrying into effect the objects of the Act. The U.P. Legislature thereafter enacted the U.P. Sugar Factories Control Act, 1938 (U.P. Act No. 1 of

1938) which repealed the Sugarcane Act, 1934 in its application in the province of U.P. Section 2(a) of E.C. Act defines essential commodities

and in view of Section 2(b) of the said Act "food crops" includes crops of sugarcane. The Central Government exercising powers under Section 3

of the E.C. Act made the Sugarcane Control Order, 1955. Clause 3(a) of this Order laid down that the Central Government may, after

consultation with such authorities, bodies or associations as it may deem fit, by notification in the Official Gazette, fix in respect of an area the price

or the minimum price to be paid by producers of sugar for sugarcane purchased by him. This order was repealed by the Sugarcane (Control)

Order, 1966 (for short "1966 Order") and Clause 2(g) and (i) and sub-clauses (1),(2),(3) of Clause 3 thereof are being reproduced below:

2(g) "price" means the price or the minimum price fixed by the Central Government, from time to time, for sugarcane delivered -

(i) to a sugar factory at the gate of the factory or at a sugarcane purchasing center; or

(ii) to a khansari unit;

(i) "producer of sugar" means a person carrying on the business of manufacturing sugar by vacuum pan process

3. Minimum price of sugarcane payable by producer of sugar -(1) The Central Government may, after consultation with the authorities, bodies or

associations as it may deem fit, by notification in the official Gazette, from time to time, fix the minimum price of sugarcane to be paid by producers

of sugar or their agents for the sugarcane purchased by them, having regard to -

(a) the cost of production of sugarcane;

(b) the return to the grower from alternative crops and the general trend of prices of agricultural commodities;

(c) the availability of sugar to the consumers at a fair price;

(d) the price at which sugar produced from sugarcane is sold by producers of sugar; and

(e) the recovery of sugar from sugarcane:

Provided that the Central Government or, with the approval of the Central Government, the State Government, may, in such circumstances and

subject to such conditions as specified in Clause 3-A, allow a suitable rebate in the price so fixed.

Explanation - (1) Different prices may be fixed for different areas or different qualities or varieties of sugarcane.

(2) No person shall sell or agree to sell sugarcane to a producer of sugar or his agent, and no such producer or agent shall purchase or agree to

purchase sugarcane, at a price lower than that fixed under sub-clause (1).

(3) Where a producer of sugar purchases any sugarcane from a grower of sugarcane or from a sugarcane grower's co-operative society, the

producer shall, unless there is an agreement in writing to the contrary between the parties, pay within fourteen days from the date of delivery of

sugarcane to the seller or tender to him the price of the cane sold at the rate agreed to between the producer and the sugarcane grower or

sugarcane growers' cooperative society or that fixed under sub-clause (1), as the case may be, either at the gate of factory or at the cane collection

center or transfer or deposit the necessary amount in the Bank account of the seller or the cooperative society, as the case may be.

12. The 1966 Order has been amended several times by the Central Government. Sub-clause 3 of Clause 3 was substituted on 18.5.1968, Clause

3-A relating to rebate that can be deducted from the price paid for the sugarcane was inserted on 24.9.1976 and Clause 5-A was inserted on

25.9.1974. The definition of "price" given in Clause 2(g) shows that it can either be the price or the minimum price fixed by the Central

Government. Clause 3(3) deals with payment of the price of the cane sold at the rate agreed to between the producer and the sugarcane grower or

sugarcane growers' co-operative society or that fixed under sub-clause (1) as the case may be. Clause 3-A which deals with rebate that can be

deducted from the price paid for sugarcane also refers to either the minimum price of sugarcane fixed under Clause 3 or the price agreed to

between the producer and the sugarcane grower or the sugarcane growers" co-operative society. So far as the power of the Central Government

is concerned, under Clause 3(1) it can fix only the "minimum price" of sugarcane to be paid by producers of sugar for the sugarcane purchased by

them. This is the lowest permissible rate. The effect of Clause 3(2) is that a producer of sugar can under no circumstances purchase sugarcane at a

price lower than the minimum price fixed under Clause 3(1) and there is a similar prohibition on the cane grower and he cannot sell or agree to sell

sugarcane to a producer of a sugar below the said price. But the 1966 Order, in view of definition of "price" given in Clause 2(g) and also the

language used in Clauses 3 and 3-A, clearly contemplates that there can be a price other than the "minimum price" of sugarcane fixed under Clause

3(1), namely, the "price agreed to between the producer and the sugarcane grower or the sugarcane growers" co-operative society". Clause 5-A

lays down that where a producer of sugar purchases sugarcane from a grower of sugarcane during each sugar year, he shall in addition to the

minimum sugarcane price fixed under Clause 3 pay to the sugarcane grower an additional price, if found due in accordance with the provisions of

the Second Schedule This additional price is to be calculated in accordance with the formula given in Second Schedule and is dependent upon the

value of the sugar produced and the profits made and in effect it is a sharing of profits. Sub-clause (5) of Clause 5-A lays down that no additional

price determined under sub-clause (2) shall become payable by a producer of sugar who pays a price higher than the "minimum sugarcane price

fixed under Clause 3 to the sugarcane grower, if the same is not less than the total of the price fixed under Clause 3(1) and additional price

determined under Clause 5-A (2). This provision again contemplates payment of price higher than the minimum price fixed under Clause 3 (1). A

whole reading of the 1966 Order would, therefore, show that the Central Government shall fix the minimum price of sugarcane but there can be a

price higher than the minimum price which may be in the nature of agreed price between the producer of sugar and the sugarcane grower or the

sugarcane growers" co-operative society. So the field for a price higher than the minimum price is clearly left open in the 1966 Order made by the

Central Government.

13. The U.P. legislature enacted the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953 (for short "the 1953 Act") which was

published in Gazette on 9.10.1953. Sections 2(a), 2(n), 15 and 16 of this Act read as under:--

Section 2(a) "assigned area" means an area assigned to a factory under Section 15;

Section 2(n) ""Reserved area"" shall mean the area reserved for a factory under an Order for reservation of Sugarcane areas made under Rule 125-

B of the Defence of India Rules, 1962, and when no such order is in force, the area specified in an order made under Section 15.

15. Declaration of reserved area and assigned area - (1) Without prejudice to any order made under Clause (d) of sub-section (2) of Section 16,

the Cane Commissioner may, after consulting the Factory and Cane-growers Co-operative Society in the manner to be prescribed -

(a) reserve any area (hereinafter called the reserved area), and

(b) assign any area (hereinafter called an assigned area), for the purposes of the supply of cane to a factory in accordance with the provisions of

Section 16 during one or more crushing seasons as may be specified and may likewise at any time cancel such order or alter the boundaries of an

area so reserved or assigned.

(2) Where any area has been declared as reserved area for a factory, the occupier of such factory shall, if so directed by the Cane Commissioner,

purchase all the cane grown in that area, which is offered for sale to the factory.

(3) Where any area has been declared as assigned area for a factory, the occupier of such factory shall purchase such quantity of cane grown in

that area and offered for sale to the factory, as may be determined by the Cane Commissioner.

(4) An appeal shall lie to the State Government against the order of the Cane Commissioner passed under sub-section (1).

16. Regulation of purchase and supply of cane in the reserved and assigned areas - (1) The State Government may, for maintaining supplies, by

order, regulate -

(a) the distribution, sale or purchase of any cane in any reserved or assigned area; and

(b) purchase of cane in any area other than a reserved or assigned area.

(2) Without prejudice to the generality of the foregoing powers such order may provide for -

(a) the quantity of cane to be supplied by each Cane-grower or Cane-growers" Cooperative Society in such area to the factory for which the area

has so been reserved or assigned;

(b) the manner in which cane grown in the reserved area or the assigned area, shall be purchased by the factory for which the area has been so

reserved or assigned and the circumstance in which the cane grown by a cane-grower shall not be purchased except through a Cane-growers"

Cooperative Society;

(c) the form and the terms and conditions of the agreement to be executed by the occupier or manager of the factory for which an area is reserved

or assigned for the purchase of cane offered for sale;

(d) the circumstances under which permission may be granted -

(i) for the purchase of cane grown in reserved or assigned area by a Gur, Rab or Khandsari Manufacturing Units or any person or factory other

than the factory for which area has been reserved or assigned; and

(ii) for the sale of cane grown in a reserved or assigned area to a Gur, Rab or Khandsari Manufacturing Unit or any person or factory other than

the factory for which the area is reserved or assigned;

(e) such incidental and consequential matters as may appear to be necessary or desirable for this purposes.

14. In exercise of the power conferred by Section 28 of the 1953 Act, the State Government has made U.P. (Regulation of Supply and Purchase)

Rules, 1954 (for short "the Rules"). Rule 21 lays down that the occupier of a factory shall by August 31, each year, apply to the Cane

Commissioner in Form I, Appendix III, for the reservation or assignment of an area for supply of cane to the factory during the ensuing crushing

season. There is a specific column viz. Item No. 6 in Form I Appendix III wherein details of purchases, if any, made at more than the minimum

cane price during the last crushing season have to be given. Here the occupier has to fill in the quantity of sugarcane which was purchased at a

price more than the minimum price and also the amount of increase over and above the minimum price. Thus payment of higher price and quantum

of sugarcane so purchased is a factor which is taken into consideration while reserving or assigning an area in favour of a sugar factory. Rule 38-A

enjoins that at every purchasing centre at least one weighment clerk shall be appointed and deputed by the occupier of a factory who is required to

weigh the sugarcane and calculate the cane price correctly. Similarly under sub-rule (4) of this Rule the cane growers co-operative society is

required to appoint one society clerk at every purchasing centre who has to carefully watch and check the weighment of cane and also examine the

parcha in which weight and price of cane are recorded. Rule 94(b) requires occupier of a factory to put up at each purchasing centre a notice in

Devnagri script, showing the minimum price of cane fixed by Government and also the rates at which cane is being purchased at the centre. Rule

96(1)(i)(j) lays down that no occupier of a factory shall purchase cane without preparing or causing to be prepared at the purchasing centre a

parcha in quadruplicate showing correctly the rate at which the sugarcane is purchased and the price that has to be paid for the sugarcane at that

rate. Rule 100 requires an occupier of a factory to maintain in respect of each sugarcane grower (except in respect of cane purchased through a

cane growers" co-operative society) a detailed account containing several items including the net weight of cane purchased and the rate per quintal

paid for sugarcane.

15. In exercise of power conferred by Section 16 of the Act, the State Government has made UP Sugarcane (Regulation of Supply and Purchase)

Order, 1954 (hereinafter referred to as 1954 Order). Clause 3-A of this Order provides for purchase of cane in reserved area and Clause 4

provides for purchase of cane in an assigned area. Clause 3(2) lays down that a cane grower or a cane growers" co-operative society may within

14 days of the issue of an order reserving an area for a factory, offer to supply cane grown in the reserved area to the occupier of the factory in

Form A of the Appendix. Clause 3(3) and Clause 4(1) lay down that the occupier of the factory for which an area has been reserved or assigned

shall within fourteen days of the receipt of the order enter into an agreement in Form B or Form C of the Appendix, with the cane grower or the

cane growers" cooperative society, as the case may be, in respect of the cane offered. Clause 5 (1) lays down that cane grown in the reserved or

assigned area shall not, except with the permission of the Cane Commissioner, be purchased by any person without the previous issue of

requisition slips and identification cards to the growers by the occupier of the factory. Sub-clauses (2) and (3) of Clause 5 mandate that the

requisition slips and identification cards to the members of cane growers" co-operative society shall not be issued except by such society and

records of the same have to be maintained by the occupier of the factory and also by the cane growers" co-operative society. Clause 5(4) lays

down that purchase of cane shall be spread over the entire crushing season in an equitable manner and Clause 5(7) lays down that no person shall

transfer or abet the transfer of requisition slips for the cane of a grower to another person.

16. The proforma of the agreement regarding sale and purchase of cane which is to be executed between a cane grower and the occupier of a

factory is given in Form B and that between cane growers" co-operative society and the occupier of a factory is given in Form C and they mention

the terms thereof. Para 1 of Form B contains the agreement of the sugarcane grower to sell his sugarcane crop (giving details of area and

approximate yield) to the occupier of the factory at the minimum price notified by the Government and on such dates as may be specified in

requisition slips issued by the said occupier. Para 2 provides that the cane shall be taken by the factory in installments equitably spread over the

whole working period of factory. Para 3 provides that in the event of willful failure to supply at least 85 per cent of the agreed quantity of

sugarcane, the cane grower shall be liable to pay the factory compensation at the rate not exceeding thirty-three naya paise per quintal on such

deficit. Para 4 provides that in case the cane grower willfully fails to supply sugarcane to the factory on three consecutive occasions according to

the requisition made by the factory, he shall cease to have a claim to sell cane to the factory. Para 6 is important and it provides that in the event of

a break down at the factory or of other circumstances due to natural causes, calamities, accident beyond human control arising to show that the

factory will not be able to purchase the cane it has agreed to purchase, the cane grower, after giving a week's notice to the occupier of the factory

and with the previous permission of the Cane Commissioner shall have the option of making other arrangements for the disposal of the cane and in

such case no compensation shall be payable by either party to the other.

11. As per Section 17(1) of the Act of 1953, the occupier of a factory is required to make such provisions, which enable speedy payment of the

price of the cane purchased by the mill as may be prescribed. Section 17(2) of the Act of 1953 further provides that the occupier of the factory,

upon the delivery of cane, shall be liable to pay immediately the price of the cane so supplied together with all other sums connected therewith.

Section 17(4) of the Act of 1953 provides for recovery of cane price plus interest as arrears of land revenue by the Collector. There is no bar to

recover the cane dues as arrears of land revenue as per Section 282(3) of UP Zamindari Abolition and Land Reforms Act, 1950. It is worth to

mention here that as per provisions of Sugarcane (Control) Order, 1966, wherein by virtue of Clause 3 (3-A) it is provided that where a producer

of sugar or his agent fails to make payment for the sugarcane purchased within 14 days of the date of delivery, he shall pay interest on the amount

due at the rate of 15% per annum for the period of such delay beyond 14 days. Hon^{ble} Apex Court, in case of State of Madhya Pradesh Vs.

Jaora Sugar Mills Ltd., and others etc., , held that if the producer of sugar or his agent fails to make payment for the sugarcane purchased within

14 days of the date of delivery, it shall pay interest on the amount due at the rate of 15% per annum for the period of such delay beyond 14 days.

Rule 45 of the Rules of 1954 also provides that all arrears of cane price shall be remitted to the cane growers cooperative society concerned

within fifteen days of the close of factory. Similar feature has also been incorporated in Clause-3 (8) of the Control Order 1966, which also

provides for issuance of recovery certificate, where any producer of sugar or his agent has defaulted in furnishing information under Clause-9 of the

Control Order, 1966 or has defaulted in payment the whole or any part of the price of sugarcane to a grower of a sugarcane or a sugarcane

growers cooperative society within 14 days from the delivery of the sugarcane.

12. The question of fixation of price of sugarcane, which has been supplied by the farmers, has also been referred by Hon"ble Apex Court in Civil

Appeal No. 7508 of 2005 (West U.P. Sugar Mills Association & others v. State of Uttar Pradesh & others) to a larger bench. While referring to

the larger bench, Hon"ble Apex Court, however, had observed and directed for payment of interest at the rate of 18% in case the sugar mills failed

to make the payment within three months" time. The relevant paragraph of the order passed by Hon"ble Apex Court are reproduced herein

below:--

13. However, in the peculiar facts and circumstances of these cases, we direct the sugar factories to pay the balance outstanding principal amount

to the cane growers or to the cooperative societies according to the SAP of the relevant crushing seasons. In other words, in all those cases where

the sugar factories and other buyers have not paid the balance outstanding principal amount to the cane growers or to the cooperative societies

because of the stay orders obtained by them from this Court or from the High Court, they are now directed to pay the balance outstanding

principal amount according to the SAP as fixed by the State Government from time to time. All the stay orders granted by this court or by the High

Court are modified/vacated in the aforesaid terms. Let the balance outstanding principal amount be paid by the sugar factories within three months

from the date of this judgment.

14. In case the balance outstanding principal amount, as directed by this Court, is not paid within three months from the date of this judgment then

the sugar factories/buyers would be liable to pay interest at the rate of 18% per annum on the delayed payment to the cane growers or to the

cooperative societies, as the case may be.

15. It is made clear that the payment of the balance outstanding principal amount by the sugar factories is of course without prejudice to the main

submissions advanced by them (sugar factories) that the State Government lack legislative competence to impose the SAP.

16. It may be pertinent to mention that all these cases are covered by separate individual agreements where the sugar factories had undertaken to

pay the SAP to the cane growers. We are not examining the veracity of these agreements.

17. It may be relevant to note that the SAP has been continuously increasing every year. In all those cases, where for any reason, the SAP was not

fixed in a particular year, then, the sugar factories/buyers would be liable to pay the balance outstanding principal amount to the cane growers at

the rate of the SAP of the previous year. On consideration of all the facts and circumstances of these cases, we request Hon"ble the Chief Justice

of India to refer these matters to a larger Bench, preferably to a Bench consisting of seven Judges.

13. The Arbitrator/Deputy Cane Commissioner, Meerut has recorded a categorical finding that subject suit relates to crushing season 1998-99,

and the dispute of payment of commission is pending since the year 1998-99. At that time the petitioner-sugar mill was in the State of UP and both

Rampur Chini Mill and petitioner-sugar mill were units of State Sugar and Sugarcane Development Corporation. After closure of Rampur Sugar

Mill, its 24 purchase centres were allotted to the petitioner-sugar mill on 24.12.1998, and under Rule 15 of Rules of 1954 and Bonding Policy, it is

the responsibility of the petitioner-sugar mill to purchase the sugarcane on these purchase centres. Since both Sugar Mill Rampur and the

petitioner-sugar mill were owned and controlled by the U.P. State Sugar Corporation Ltd., Lucknow, the employees of the petitioner-sugar mill

were not posted on these 24 purchase centres and the employees of Rampur Sugar Mill carried out the work of purchase of sugarcane and its

weighment . This arrangement, completely between the two units of U.P. State Sugar Corporation Ltd., was temporary arrangement and as a

result, on these 24 purchase centres, the employees of Rampur Sugar Mill were carrying the work of weighing sugarcane on behalf of the

petitioner-sugar mill. If Shri Girdhari Singh, an employee of Rampur Sugar Mill did not send the sugarcane after weighing the sugarcane to the

petitioner-sugar mill and sent the same to elsewhere, it is the responsibility of the petitioner-sugar mill to get proceeding initiated against Shri

Girdhari Singh and recovery for the sugarcane, which were sent to elsewhere, made but the petitioner-sugar mill did not take any step against him

and if the authorised representative after weighing the sugarcane, did not supply the petitioner-sugar mill, the member of the respondent No. 3

society, to whom parchi has been issued, cannot be blamed. The weighment clerk was the authorised representative of the petitioner-sugar mill,

and he had issued parchi to the member of the respondent No. 3 as per rule and if the petitioner-sugar mill did not receive complete sugarcane, it is

the internal matter of the petitioner-sugar mill and its authorised representative. On these findings the Deputy Cane Commissioner, Meerut directed

the petitioner-sugar mill to pay Rs. 88,992.54 towards the payment of sugarcane price and commission to the respondent No. 3.

14. The Appellate Authority observed in the order dated 26.9.2014 that on perusal of the record, it appeared that the said purchase centre was

established by the petitioner-sugar mill and the said purchase centre was run by the weighing clerk on the order of the authorised representative of

the petitioner-sugar mill. The farmers believed that the said purchase centre was run by the petitioner-sugar mill and on this belief, the sugarcane

was supplied but the petitioner-sugar mill did not make the payment violating the trust of the farmers. The purchase centres are run by the sugar

mill, which is purchasing the sugarcane. In the order dated 24.12.1998, 24 purchase centres of Rampur Sugar Mill were allotted to the petitioner-

sugar mill including Goat/Sehal purchase centre. The Appellate Authority did not find any infirmity in the order of the Deputy Cane Commissioner

because the supply of sugarcane was taken from the area of Moradabad Ganna Sahkari Samiti and on this ground the Reorganisation of State of

Uttarakhand did not affect the subject matter because the then sugar mill was in the State of UP and it was under the control of U.P. State Sugar

Corporation and the unit of Rampur sugar mill was also under the control of UP State Sugar Corporation. On account of nonfunctional of Rampur

Sugar Mill, the subject purchase centre was run under the petitioner-sugar mill and it was the responsibility of the petitioner sugar mill to look after

and control the subject purchase centre. In this matter the farmers were issued parchi on supply of sugarcane from the sugarcane purchase centre

and they are entitled to receive the reasonable amount of the sugarcane through the Krishak Sahkari Samiti. Non-payment of dues of sugarcane is

a serious matter. In these facts and circumstances the Appellate Authority did not admit the appeal and directed the petitioner-sugar mill to pay the

reasonable price of the sugarcane to the Sahkari Society and if the payment is not made within 15 days, a criminal case should be registered

against the petitioner sugar mill on account of criminal breach of trust.

15. In the aforesaid facts and circumstances, the Court is not inclined to interfere in the matter under Article 226 of Constitution of India.

16. The writ petition lacks merit and is accordingly dismissed.