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The Rahuri Sahakari Sakhar Karkhana Ltd. and Another Vs State of Maharashtra and Others

Writ Petition No. 4897 of 1984

Court: Bombay High Court

Date of Decision: Sept. 14, 1986

Acts Referred:

Constitution of India, 1950 â€" Article 13, 14, 19(G), 19(I)C, 246#Essential Commodities Act, 1955 â€" Section 3, 5, 6#Industries (Development and Regulation) Act, 1951 â€" Section 18

Citation: AIR 1987 Bom 248: (1987) 1 BOMLR 168

Hon'ble Judges: Sugla, J; Dharmadhikari, J

Bench: Division Bench

Judgement

Dharmadhikari, J.

Since allthese Writ Petitions involve common questions of law and as facts they were heard together and arebeing

disposed or by this common judgment.

2. The petitioners in these Writ Petitions, who are either co-operative sugar factories or sugarcane growers, have chellenged the order issued by the

State Government on 12th September, 1984 Known as the Maharashtra Sugar Factories (Reservation of Areas and regulation of Crusing and

Sugarcane Supply) Order, 1984 (hereinafter referred to as ""the Order"") It contended by the petitinoers that the impugned order is outside

thescope of the Essential Commodities Act or the Sugar Control Order, 196 issued by the Central Government The said order is also violative of

the petitioners fundamental rights guaranted under Arts. 14 and 19 of the constitution of India. The petitioners in Writ Petition No. 4897 of 1984

the Rahuri Sahakari Sakhar Karkhans Ltd. have also challenged Sch. 37 of the impugned order on the ground that it is not only violative of the

petitioners fundamental rights guranteed under Arts. 14 and 19 of the Constitution of India, but is also wholly arbitrary irrational and unreasonable.

The said Scheduleis also contrary to Art. 300A of the Constitution of India. It is the case of the Rahuri Sahakari Sakhar Karkhana Ltd. that the

said Schedule is also vitiated as it violates the priniciples natural justice and also suffers form totalnon-application of mind since relevant ractors

were not taken intoconsideration byte State Government while issuing thesaid order. The petitioner Karkhanahas also challenged Note (b) of the

Schedule which prohibits enrolment of the members from the villages whichare known as overlapping villagess. According to the petitioners the cut

out date prescribed in that behalf is also illegal. It had torational and is alsobehond the scope of the order issued by the Central Government. The

said Note is inconflict withand repugant to the provisions of the Maharashtra Co-operative Societies Act which is a State legislation and by issuing

anorder under the Essential Commodities Act it wasnot open to the State Government tooverride the said provisions, According to the petitions

thenote attached to the Schedule gives retrospective effect tot he impugned order, which is also illegalsince on order issued under the Essentail

Commodities Act cannot have any retrospective effect. The Rahuri Sahakari Sakhar Karkhana has also contended that Scg 37 has been issued in

mala fide exercise of the power at the behest of Shri Vikhe Patil, chariman of the Pravara Sahakari Sakhar Karkhana Ltd., Sri Vikhe Patil was a

member of the Committee consitituted by the Government and, therefore, Schedules are prepared so as to tobenefit the respondent No. 2the

Pravara Sahakari Sakhar Karkhana Ltd. It is also contended that while preparing the Schedules sofar as the Petitioner rahuri Sahakari Sakhar

Karkhana Ltd. is concerned the State Government had not taken into consideration its authorised or legal crusing capacity. Insteed, of it the whole

order is based in the licensed capacity of thesugar factory and thereby it imited form consideration the factual authorised and lawful capacity of the

Sugar Karkhana while reserving the respective areas. While preparing Schedule 37 the authorities concerned totally omitted form consideration

thefact that thepetitioner Karkhana is also running a distillery and a paper mill and the needs of the distillery an dthe paper mill are not taken

intoconsideration while preparing the Schedule or reserving theareas.

2-A. so far as the sugarance growers are concerned who are either members of the co-operative sugar factory or non-members, it is contended

that that are entitled tosell their sugar cane at the highest price a vailable. By the process of reservation of areas they are deprived of a reasonable

price and thus theorder violates Art. 19(1)(g) of the Constitution and is not saved by sub-art (6) of Art. 19(1) of the Constitution, A contention is

also raised on behalf of the non-members as well as various sugar factories that the prohibition enrolment of th emembership after the cut out date

is also violative of Art. 19(1)(c) of the Constitution and the provisions of the Maharashra Co-operative Societies Act.

3. On the other hand it is contended by the respondent State Government that the sugar industry is anagro based industry and requires sugarcance

for manufacture or sugar. Both sugarcance and sugar are declared as essential commodities under the Essential Commodaties Act, 1955 Sugar

indutry is a licensed industrial undertaking requining licence under S. 11 of the Industries (Devlopment and regulation) Act, 1951 Distributionand

movement of sugarance have been regulated under the Supreme (Controal) Order, 1966 and by notification dated 16th July 1966 the Central

Governement directed that the powers conferred out it (I,e, the Central government) By Cls. 6, 7, 8, and 9 to the said order shall be exersable

among others, also by the State of Maharashtra Sugarcane crop independent of agro Climatic conditions as also on the prices which the sugarcane

growers receive for thileir manufactured product I, e, sugar. Therefore, supply of sugar cane and its price are intimately concerted witheach other.

Whenver conditions witheach other. Whenver conditions of drough prevall and" or thesugar prices show a declining trend the production of sugar

gets reduced andit had an adverse effect on theworking of the sugar industry Thesugar industry is also subject to the cyclic ups and down in

sugarcane production in the State had adverse effect on some of the sugar fatories, particularly on the sugar factories whichare identified as sick

and financially week, It has been the experience of the government that in times of shortage of sugarcane crop, in the absence of statutory

provisions earmarking in the areas of drawal of cane, it has become difficult for certain factories toget adequate quantity of cane thereby affecting

their obligation towards the can growers for payments of cane price, towards employees and workers for payment of their salariles and wages

contribution towards provident fund etc. Insuch situation theState Government was required to assist the factories withhuge amounts forenabling

themto dischange their obligation by diverting funds with considerable strees and strain onth State Exchquer It was also the experience that while

some factories starved of sugarcane theother factories far exceeded their crushing capacity. Inorder to find out some solution tothis problem

theState government appointed a Committee as an expert Committee under government resolution dated 28th April, 1980 Thesaid Committee

was requested tomake its remmendations with regard to the following terms of reference.-

To take review of the work done in the past inregard to theformation of zones for Sugar factories.

to identify the limitations due to which the object to the formation of zones could not be achieved.

the suggest remedial measures in respect of

Overlapping areas;

Enrolment of members;

Deterioration of relations between the sugarcane acreage of the investment in the form of shares/contract;

To suggest paramaters and authority for the pooling of the argarcane produced in a given area and its distribution amoung the factories inthearea in

relation totheir crushing capacities.

To suggest parameters for recommending expansion inthecrushing capacities of theexisting factories.

to suggest definite procedures having statutory support for enforcing drawal of sugarcana form the specified areas; and

to suggest a co-ordingated programme of sugarcane devlopment in the areas of sugar fatories.

4. the said Committee was headed by the Director of Sugar, Maharashtra State and consisted of other memebrs representing the Sugar Industry

both in the Co-operative Sector and in the Joint Stock Sector, It also Member of technical or ganisations such as (1) the Directorate of

Agiculture. Maharashtra State. (2) The Agricultural, Pune (4) the Irrigation Department. Maharashtra State, (5) The Maharashtra State Co-

operative Bank. (6) The Maharashtra State Co-operative Bank Ltd. and (7) rthe reserve Bank of India. The Committee issued a deterial pro forma

to the Sugar factories in the State and had collected data onseveral relevant aspects. The data received formthe sugar factories was made available

to the Members of the committee. The Committee held in all 18 meetings and submitted its unanimous report on 26th October, 1983 to the State

Government. This report was submitted by the Committee after considering the data furnished by the various Sugar factories and after

considerable deliberataion. The report made is unanimous. After carefully considering the said report the State Government issued theimpugned

order intheinterest of the Sugar Industry in the State of Maharashtra. The respondents have denied the various allegation made about the mala

fideexercise of the power The Pravara Sahakari Sakhar Karkhana Ltd. had denied all adverse allegations made against their Chairman Shri. Vikhe

Patil It is contended by the respondents that the allegations of mala fides as made are not only vague. But the petitioners have failed to establish

even prima facie any of the allegations. In this context according to the respondent it cannot be forgotten that after examing thedata placed before it

theCommittee came totheconclusion that it would not be possible to follow the uniform principles for application to all the factories and therefore

decided to examine each case with reference tot he guidelines enumerated intheReport. Therefore, having regard to thefacts and circumstances

prevailling the Committee decided that the licenced capacity of the factory should be adopted as the basis for arriving at the requrement of cane of

the factory. The surplus cane remaining after calculating on the basis of the licensed capacity as far as possible tobe equitably distributed. The

crushing days of 160 fixed as per the norms of Bureau of Industrial Costs and Prices Governement of India, were considered tobe acceptable for

calculation of requirment of sugarcane of these factories. The recommendations of the Ccommitteewhich are in accordance with the guidelines

framed inthat behalf and the Schedules prepared are, therefore perfectly equitable and legal being in tune with recommendations made by the

Committee. On the basis of the guidelines framed bythe Committee eventhe requirement of the petitioner Rahuri Sahakari Sakhar Karkhana was

considered and then Schedule 37 was prepared.

5. The respondents have demed thefact that the authorised capactiy of the Rahuri Sahakari Sakhar Karkhana was increased by 25% which was

permissible under the government of India,s liberalised policy. According to the respondents the licenced capacity of thesaid sugar factory

continues to be the same andwhatever improvements. If any way be the siad sugar factory are wholly unauthorised the illegal While framing

Schedule 37 thesaid 25% increase could not have been taken into consideration because thecreiteria adopted by the Committee was thelicensed

capacity of sugar factory and admittedly the licensed capacity as such Is not altered.

6. so far as the challenge based on the breach of the prniciples of natural justice is cercerned it is contended by the respondents that thesaid

principle have no application to the impugned order, which is in thenature of a statue. The priniciples of natural justice do no apply to the Legislative

function. Even otherwise the information supplied bythe petitioner to the Committee was duly considered and the Committee had also given a

personal hearing to the officer of the petitioner factory on 25-11-1981.

so far as the prohibition of the enrolment of the membership is concerned it is contended by the respondent state that unless such a provision was

made the equitable distribution of sugarcane would have become impossible. The prohibition on further enrolment of members is an integal part of

the equiltable distribution of the sugarcane and therefore, such a footnote had been put below. Schedule 37 relating to thereserved area for the

Rahuri Sahakari Sakhar Karkhana Ltd,. Due toinadvertence such a note was not incorporated below Schedule 39 relating to the pravata Sahakari

Sakhar Karkhana Ltd. However, immediately instructions have been issued to the saidKarkhana not to enrol members formthe overlapping

villages andaction is being taken in include sucha not inrespect of the said Karkhana also. The respondent is have denied that Shri Vivhe Patil or an

body else had exercised any influence and because of it preferential treatment was given to the Pravara Sahakari Sakhar Karkhana Ltd. Thus, in

substance it is thecase of the respondents that after considering the report of the respondents that after considering thereport of the Export

Committee theimpugned order came tobe passed by the State government in the interest of the Sugar Industry in the State of Maharashtra, the said

order is covered by Art. 39(b) of the constitution and, therefore, enjoys theprotective umberella of Art. 31C of the Constitution. Even otherwise

theimpugned order is not violative of Art. 31C of the Constitution. Even otherwise the impugned order is not violative of Art. 14 or Art. 19 of the

constitution of India on any count whatever. The said order is also within the four corners of the order issued bythe Central government in 1966.

Thus, all the averments andcententions raised in the petitioners are denied bythe respondents.

for properly appreciating the controversy raised before us it will be worthwhile if a reference is made to the relevant provisions of the Act and the

Order issued by the Central government on 16th July. 1966. Section 3 of the Essential Commodities Act confers powers up the Central

Government to issue an order to control production supply distribution etc. of essential commodities By s. 5 the Central government is authorised to

delegate its powers Then by S. 6 it is declared that any order made under S. 3 shallhave effect notwithstanding anything inconsistent therewith

contained inany enactment other thanthis Act or anyinstrument having effect by virtue of any enactment other than this Act. In substance anorder

issued under the Essential Commodities Act is given an overriding effect In exercise of the powers conferred by the Essential Commodities Act,

the Central Government issued an order, 1966. By Cl. 6 of the said order it was provided that the Central Government may by order notified in

the Official Gazette, regulate the distribution movement of the Sugarcane. Cl. 11 of the said Order provides for the delegation of powers to the

other authorities. Including the State government In pursuance of these powers confered upon the State Government the impugned order came to

be pased on 12 the September, 1984. The Prembale to the said order reads as under.

Whereas the Government of Maharashtra had in the year 1980 appointed a Committee of Experts for making recommendations for formation of

zones for drawalof sugarcane by the Sugar Factories in the State.

And whereas the State Government has received the recommendations of the said Expert Committee.

And whereas the Government of India had granted Letters of Intent for establishment of new sugar factories and has stipulated therein that the

conversation of the Letters of Intent into Industrial Licencesshall inter alia depend on the Stat Government notiying the zones for

sugarcane by the new factories;

And whereas it is apprehended that intheevent of non-availability of sugarcane to meet therequirement of the sugar factories in the State. The

economic viability of large number of sugar ractories is likely tobe adversely affected, resulting inserious financial crises and socio-economic

problems among others, such as-

the factories mayincur heavy losses;

the factories may not pay theminimum statutory prices for the sugarcane;

the sugarcane grower may suffer serious econmic consequences:

The factories may not discharge their liabilities towards various financial institutions and other creditors;

The factoires may not discharge their liabliities towards Government:

(vi) the employees of the factories may not get their salarties and wages.

The seasonal employment of large section of population in rural areas may be adversely affected.

A large section of population and institution directly or indirectly dependent on the factories will suferr form serious economic consequences.

And whereas the government of Maharashtra is of the opinion that for avoiding theaforesaid apprehended financial crisis and socio/economic

problesmand also for fulfilling the condition stipulated by the Government of India for converting Letters of Intent of new sugar factories it has

become expedient in the public interest ot make an order for the purposes mentioned hereinbelow namely.

reserving areas for drawal of sugarcane for each factory in the State having regard to thecrusing capacity of each in the factories the availbility of

sugarcane in the reserved areas and need for production of sugar enabling each of the factories topurchase the quentity of sugar cane required by

it.

manufacturing sugar from sugarcane onlyin accordance with the conditions specified in the licence issued in that behalf.

prohibiting or restricting or otherwise regulating the export of sugarcane from any reserved area except under and inaccordance with a permit

issued inthat behalf and

empowering the Director of Sugar, Pune to call for information for securing compliance with the provisions of Order of tosatisfy himself that the

Order is complied with:

Now therefore in exercise of the powers conferred by paras (a) (c) and (f) of sub-cl. (1) of Cl. 6 and sub-cl. (a) of Cl. 9 of the Sugarcane

(Control) order. 1966 read with the Notification of thegovernemnent of India, Ministry of food, Agriculture, Community Development and Co-

operation (Department of food) No, GSR-1127/BSS. Com/Sugar cane dated the 16thJuly 1966 and of all other powers enabling in ti this behalf

the government of Maharashtra makes the follwing Order. Namely:--

The expression ""reserved area"" is defined to mean the area reserved for a factory as specified in the Scdule pertaining tothat factory. The term

Schedule"" is defined to mean a schedule appended to the Order and shall include footnotes appearing thereunder, which shallalso form part of the

Schedule Cl.4 deals with the grant of licence for crusing cane. Bythis clause it is provied that a separte licence shall be necessary for each crushing

season and the application for a licensing for crusing cane shallbe made tothelicensing authority by 30 theSeptember of eachyear in the prescribed

form. The licensing authority is obliged to grant thelicence applied for in form B and in the case or refusal it is further obliged tocommunicate the

reasons. The grant of licence cannot be refused unless the applicant had been given an opportunity tosho cause against such refusal. As to what will

be taken into consideration while granting thelicence is also provided by Cl. 4. Then comes Cl. 5 which deals the with regulation of supply of

sugarcane The said caluse reads as under;--

5 Regulation of Supply of Sugarcance;

A permit officer may allow a sugar factory to purchase cane or to accept supplies of cane from cane growers form areas other than the areas

reserved for it under CI, 3 if he is satisfied that any of the following circumstances exist namely;

in theevent of production of cane in thearea reserved for the factory being out adequate for enabling ti toreach optimum level of crusing;

in the evnt of surplus production of cane in the areas reserved for other factories which those factories are not able tocrush during thecrushing

season.

in theeventof stoppage of nearbly sugar factory due tomechanical break down labour unrest lock out or any other reason.

in the event of cane grower or cane growers from the area sreserved for particular factory declintg tosupply cane to thesaid factory onaccount of

any of thefollowing reasons If found justified by the permit Officer;--

Non-payment or late payment of cane price by the sugar factory or

Non-fulfilement of any of the oblifations by the sugar factory arising out of agreement between the cane grower or cane growers and the sugar

factory; orthe order is covered by the provisions of Art. 39(b) of the Constitution of India and therefore, enjoys and protective umbrela of Art.

31C. then obviously thechallenge based onthese Artices will not be available tothepetitioners, However it is contended by Shri Paranjape the

learned Counsel appearing for thepetitioners that Art. 31C is not retrospective in nature and therefore the provisions of the Essential Commodities

Act, 1955 are not covered by Art. 31C. The Essential Commodities Act is a controlled legislation and it is used in times of scarcity obviously

tosecure maintenance supply and distribution of the essential commodities. Art. 39(b) will not cover such a legislation or an order issued thereunder

The object or the Essential Commodities Act is not distribution of onwership and the expression (Control) used in Art. 39(b) is akin toe onwership

and cannot take in tis impoet anything less thanowership. The present order is only meant for regulating the distribution of sugarcane and by his

order no control is acquirted byth State Government even in the metter of distribution of supply. We find it difficult toaccept the contention of Shri

paranjape in that behalf.

the scope of Art. 39(b) is bynow well-settled In this context reference could usefully be made tot he decisions of the Supreme Court in Sanjeev

Coke Mfg. Co. v. Bharat coking Coal Ltd. AIR 1983 Sc 329 . The State of Karnataka and Another Vs. Shri Ranganatha Reddy and Another,

and the latest decision of the Supreme Court inState of State of Maharashtra and Another Vs. Basantibai Mohanlal Khetan and Others, (It was

rightly contended by Shri Singhavi and the view of the scarcity of non- availability of sugarcane for securing theequitable distribution and supply of

sugarcane the impugned order came to be issued by the State Government The ultimate object of the order is to control the essential commodaties

viz., the sugar and sugarcane. Areas are reserved qua each factory for setting this object of supply of the essential commodity and the provisions of

Art. 39(b) which deals with the ownership and control of the material resources of the country and their distribution as best to.

Discrimination by the Sugar factory in harvesting of cane and thereby causing loss to the cane grower orthe cane growers;

Provided that before passing any order undr this sub-clause. For anyof the above reasons. The Permit Officer shallgive the parties converned a

reasonable opportunity of being heard inperson or through the authorised representative.

Clause 6 provides for application for Export Permit, fess and security deposit, therefore Clauses 7 and 8 dealwith the issue of Export Permit of its

refusal, Cluses 10 deals with the revocation of Permit and return of the security depositor its forfeiture, By Cl. 12 and appeal is provided by a

person aggrieved by any order of the licensing authority including any order refusing to issue thelicence or of revoking thepermit or forfeiting

thesecurity deposit etc. Clause 13 deals with the power of the Director Of sugar in respect of entry search seizure etc. If thesaid clauses are read

with the relevant clauses of th sugarcane (Control Order 1966 issued by the Central government it is quiete obvious that they are similar innature. It

is also admitted position that peior to issuing the Maharashtra Sugar factories (Reservation of Area and regulation of crushin and Sugarcane

Supply) Order in 1984, an Expert committee and consituted by the State of Maharashtra and the order in basedin the unanious recommendations

made by the Expert Committee, Therefore, after considering thedata collected by the Export Committee and its recommendations, inexercise of

the powers conferrd upon it by the Sugarcane (Control) Order, 1966 read with the provisions of the Essential Commodities Act, theimpugned

order came to be issued by the State government. The provisions of the Essential Commodities Act or the parent order viz the sugarcane (Control)

Order, 1966 are not challenged befor us. The challenge in these Writ Petitions is limited to the order issued by the State Government in

September, 1984.

7. the main challenge to the orde is based in Art. 14 and Art. 19(1) (c) and (g) of the Constitution of India. If the contention raised by shri singhavi

is accepted viz., thatsubserve thecommon good. In our view it is not necessary todeal with the aspect of the matter any further and indetails inview

of the decision of the Supreme Court in Laxmi Khandsari and Others Vs. State of U.P. and Others, In that case the Supreme Court was concerned

with the Sugarcane (Control) Order, 1966 While nagaticane (Control) Order, 1966, While negativing the contention of the learned Counsel therein

ultimately this is what the supreme Court obseved in para 34 of judgment;--

In the instant case, however it the argument of the Attorney General is to be accepted there is no violation of the Directive Priciples because the

main object sought tobe achieved by a temporary suspension of thesbusiness of the petitoiners is to ensure large scale production of white sugar

and to make it availbel to the consumers at reasonable rates which is an implementation rater then a contravention of the Directive Principles

particularly cls. (b) and (c) of Art. 39....."

Clause 9b) of Art. 39 is to be widely construed. The expression "material resources would include raw materials as well as agricultural resources.

So also the words ""distribute and control"" used in Art. 39(b) cannot to construed in the restricted sence. These words are used inthewide sence so

as totake in allmethods of control over the distribution of material resources. The distribution could be areawise of factorywise. Sugarcane is an

essential commodity and over the years it has become a scarce commodity. Therefore in public interest it became necessary to control and regulate

its equtable distribution. To achieve this object the impuned order was issued. In such matters the approach of the Court should not be dotrinaric

and ultimarely the government is thebest judge of the sitationn. By the impugned order the Government has assumed control over the distribution of

sugarcen. An areas isreserved for thefactory as specified in te Schedule. A provision for grant of licence for crusing sugarcane is made by Clause 4

of theOrder. A separate licence is necessary of each crusing season, Cl. 5 provides for regulation of supply sugarcane form the area other than the

reserved area. Thus an overall control is taken over in the matter of equitable distribution of sugarcane which is an essential commodity. Therefore,

it can safely be held that the impugned orderhas geen issued for sercring the control of thematerial resurces, so as todistribute it equitably to

subserve the common good. This equtable distribution is also contemplated so as to aviod unhealthy comption and concentration of sugarcane in

the hands of few. Therefore, it is quite obvious that the Sugarcane (Control) order is covered by Art. 39(b). If this is so then Art. 31C will squarely

apply tosuch a piece of legislation. Relying upon the provisions of other Articles and particularly the expressions used in Art. 31A and 31B of the

Constitution it was contended by Shri Paranjape that Art, 31C is not retorospective and will therefore, not cover thepast enactments. In our view

such a narrow interpretation cannot be put in the said Article. The expression ""deemed"" as used in Art. 31C clearly indicates that it covers both the

past and future enactments. In this context out attention was drawn by Shri Singhavi to the following observation of the Suprme Court in Waman

Rao and Others Vs. Union of India (UOI) and Others, and particularly para 44 thereof.

The fourthe reason is theone cited by Shri Tarkunde that on principle rules like a strae dicissis should not be invoked for upholding constitutions

devices like Arts 31A. 31B and 31C whichare designed toprotect not only past laws but future lawsalso.

Further it cannot be forgotten that thte present order was issued is September 1984 I,e. much after the amendment totheConstitution. Since it is a

statutory order it is a law within the meaning of Art. 13 as well as Sec. 2(29) of he general Clauses Act read withArt. 367 of the Constitution of

India. Therefore, it is equarely convered by the portective umbrella of Art. 31C and hence the challenges based of Arts. 14 and 19 of

hteConstitution are not available of the petitoners.

Apart form this if the preamble of the order is read as whole together with the substantive clauses, thenit is quite clear tous that the said order was

issued inthinterest of thegeneral public and could therefore, be decribed as a reasonable restriction within the contemplation of sub-article (6) of

Art. 19 of the Constitution of India. Laxmi Khandsari and Others Vs. State of U.P. and Others, the Supreme Court has made following

observations about thereasonable restriction, which read asunder;--

It, is absundantly clear that fundamental rights enshrined in Part III of the Constitution are neither absolute nor nulimed which but are subjevt

toreasonable restrictions which maybe imposed by the State in public interest under Cls. 2 to 6 of Art. 19. As to what are reasonable restrictions

would natrually depend on the natrue and circumstance of thecase the character of the status theobject whichit seeks toserve the existing

circumstatnces theextent of theevil sought tobe remedied as alsot the nature of restraint or restriction placed on the rights of thecitizen. It is diffucult

to lay down any hard or fast rule of universal application but this court has ocnstendly held that inimposing such restrictions the state must adopt

anobective statdard amounting toasocial control byrestricting therights of the citizens where the necessities of the situation demand. It is manifest

that in adopting the social control one of the primary considerations which should weigh with the court is that as the directive principles contanied in

the Constitution aim at theestablishment of an egalitarian society so as to to being about a welfar state within the farmework of the Constitution

these principles alsohsould be kept in mind in judging thequestion as to whether or not therestrictions are reasonable. If the restrictions imposed

appear tobe consistant with the directive principles of State policy they wouldhave tohbe upheldas the same would be in public interest and

manifestly reasonable.

If the provisions of the impugned order are tested on the touchstaone of the well setted priniciples therestrictions put can by nomeans be said to be

unreasonable. They are regulatory innature and are meant of achieving the object of equitable distribution of essential commodity of subserve the

common good of prudecer manufacturer and theconsumer.

So far as the challenge bsed on Art. 19(1)(c) is concerned the argumed advanced before us is twofold, It is ocntended by the petitioners that he

foot note attached to Schedule 37 which prohibits membership after the cut out date is directly infonflict with theprovisions of he Maharashtra Co-

operative Societies Act. The Maharashtra Co-operative Societies Act has been enated by the State Legislature in vies of Entry 32 of List II which is

a State list. The Essential Commodities Act is enacted under Entry 33 of the Concurrrent List Entry 43 of List I i. e, the Union List in specific terms

excludes Co-operative Socities. Thus the Parliament is not compentnt toenact a legislation dealing with Co-operative Societies which is whooly a

State subject. By theimpugned order what is not permitted directly is being sought tobe achieved indirectly by laying down a prohibition on

enrolment of members qua theCo-operative Societies after the cut out date. Thus, that said provision being wholly repugant of the provisions of he

Maharashtra Co-operative Socities Act and particularly Ss. 2 and 23 thereof the said provision is ultra vires and violation of Art.

19(1)(c) of the Constitution of India. We find it difficult to accept this contention. Inour view, thenote under Schedule 37 cannot be read as a total

prohibition for enrolment of new membership after thecut-outdate, What the note provides is the protection totheexisting memebrs as on 30th June

1981 in the Expert Committee it is clear that a person couldbecome amember of more that one Co-operative Sugar Factory. After the formation

of the Expert Committee and with the sole object that inthemean while there should be no complimenting the report of the Expert Committee on

16-5-1981 directing all the Co-operative Sugar Factories not to enrol and new members without his permission andthis is thereaosn why 30-6-

1981 was chown as the cut-out date. This theimpugned order and cannot be ocnsidered to total prohibition for enrolmetn of the members. The

members enrolled are entitled toenjoy all otherbenefits of membership. If only means that in case new members are enrolled after 30-6-1981 the

sugarcane grow by them would be allocated and diretributed as per of the privisions of he impugned order, not with standing the agreements or the

contract between the parties or the byelaws. As observed by the Supreme Court in Babaji Kondaji Garad Vs. Nasik Merchants Co-operative

Bank Ltd., Nasik and Others, the bye laws of the Co-operative Society framed in pursuance of theprovisions of the relevant Act, cannot toe

heldot be law or have the force of law. they areneither statutory incharacter nor they have statutory glavour so as to be raised to thestatus oflaw.

When aquestion was put to Shri Singhavi the learned Counsel appearing for the Resspendent. State ast how the sugarcen of these members will be

dealt withit is conceded by Shri Singhavi that in some Karkhanas new members have beenenrolled after 30-6-1981 without the permission of the

Director of Sugar and despite the instructions dated 16-5-1981. However, while allocating sugarcane to the concerned fatories the sugarcne

of such new members linked to the share holding wil be allotted to that factory provided the such supply does not exceed the requirement based

onthelicensed capacity. In our view , this makes the whole position clear. The contention that the directions issued by the Director of Sugar orthe

note appended to the schedule also prohibit the trasfer of interest inthedeath of the member as per the provisions of Sec. 30 of the Maharashtra Co-

operative Socities Act is not well founded. The said section does not deal with the transfer of interest ofhe existing member of his death.

Therefore., such a trasdfer of share or interest of the deceased member to a person or persons enumerated and inaccordance with the rule is not

covered by the said not or restriction. It cannot be overlooked that it is thepith the substance of the legislation which is materialfor deciding the

question of conflict or regugnancy. In the this ocntext Shri singahave has placed reliance upon the decision of the Supreme Court in Kerala State

Electricity Board Vs. The Indian Aluminium Co. Ltd., wherin it is observed by the Suprem Court that for diciding under which entry a particular

elegislation falls the theory of ""Pith and substance"" has been evolved by the Court. If inpith and substance a legislation falls within one List of the

order but some portion of he subject matter of that legislation accidentally treches upon and might come tofallunde another List, the Act as a whole

would be valid notwithstatding such indicdental treaching There is no doubt about the exclusive jurisdiction of the State legislature tolegislate on the

subject I, e, Co-operative Societies. Similarlythere is no doubt about the juridiction of the Parliament of legislate inrespect of production supply

and distribution of foodstruffs. Inour view in pity the substnace the present orderwhich is issued undr the essential Commodities. Act relates to the

suplyand distribution of sugarcane, which is a goodstuff. The impugned provisions are madefor the distribution of theessential commodity.

Therefore, the impugned order cannot beheld tobe unconsititutional meraly because there is an incidental encroachment(if any) on the rights of

heCo-operative Societies or their members. This position is further clear formthenon obstance clause used in Art. 246 of the Constitution. This is

more soinview of the provisions of S, 6 of the Essential Commodities Act which give an overruing effect to anyorder madeunder section 8 of the

Act. Therefore, it is not possible for us toaccept this contention of thepetitioners. To saytheleast after reading the foot note in its context it is quite

obvious that there is no total prohibition on enrolment ofmembers as contended by the petitioners but thefootnote is only meant of regulting

distribitonof sugarcanequa differeent factories. That was absolutely necessary for giving effect tothedistribution order Otherwise as rightly

contended by the respondents thevery purpose of the provision would have been gurstrated. This is part and parcel of the contro contemplated by

the order for the supply and distribution of the sugarcane which is an essential commodity.

We also donot find any substance in the contention raised by the Petitioner the rahuri Sahakari Sakhar Karkhana Ltd. that while preparting the

schedule its increased capacity ought of have been takenintoconsideration instead of tis licensed capacity. It is the contention of the petitioner that

their application for an increase in the licensed capacityis stil pending consideration before the Central Governement. In the meantime, relying upon

the policy of liberalisation they have increased their capacity by 25% whichwas wholly permissible under the said Circular. The Circular provied

for installation. The Circular provided for installation of machinery for balancing purpose. The petitioners have installed the machinery for balancing

purpose withhelp of the Decan Sugar Institute. Thereafter they submitted the necessary data to the concerned authorities. This clearly shows that an

increase in the licensed capacity by 25% was legally permissible and hence authorised. It is the capacity which ought tohave been taken into

consideration by the Expert Committee as well as Goernment while preparing the schedule. The agerment and allegations made by the Rahuri

Sahakari Sakhar Karkhana Ltd. in the behalf aredenied byt erespondents. It is the case of he respondents that this increasedcapacity was whooly

unauthorised and illegal. It is thecase of he respondents theat all througheven in the application for secring licence under the ompugned orde orin

the Annual reports, thelicensedcapacity of he factory is shown as 3250 MTPD. In support of this the respondents have also relied upon the

admisssions of the Sugar Factory as made in theapplication as well as in the rejoinder. The petitioner the rahuri Sahakari Sakhar Karkhana I td.

has admitted thay they have applied for increased licensed capacity and thesaid applications are pending. On the kbasis of thematerial placed

before us, it is not possible for us tocome to difinite conclusion that there is anincrease inthelicensed capacity or the 25% increase is either

authorised or legal. The say the least, theis is seriously disputed before us by the respondents and the reapondents are wholly justified in relying

upon the admissions of the Karkhana as made in Annual reports or applications made to the concerned authorities. It is not disputed befor us by

Shar Paranjape that thesaid increase of 25% (ir any) cannot be eqated with thesanctioned licensed capacity. The Export Committee as well as the

government have taken as criteria or guideline only the licensed capacity of the factories and in our vies thesaid guideline can safely be termed as

reasonable. The licensed capacity is determined by the license granted by the Central Government under the provisional of the Industries

(Development) and Act Nobody is to unilaterally increase the said capacity without the permission of thelicensing authority, The

licensing capacity is determined by the competent authority and that can be treated as sage creiteria for the distribution of the sugarcane which is an

essential commodity. For calcuting the requiremtn of sugarcane a creiteria of 160 days is fixed in view of the norms fixed by the Bureau of

Industrial Costs and prices government of india. Therefore, if the State government had chosen thesaid creiteria fordeciding thequestion of equtable

distribution of sugarcne it cannot be said that the criteria chosedn is either unreasonable or arbitary of is not based on the relevant consdieration.

Therefore, wedonot find any substance intheis contention also.

the question of the by-products or there factories viz., distillery and paper mill is also intrinsically connected with the licensed capacity of he sugar

factory. Therefore, it the distribution of the sugarcane is based on the licensed capacity it cannot be said that while preparing theschedule the

relevant criteria was not taken into consderatin either by the Expert Committee or by the Government.

So far ast heaverments of mala fides are cencerned apart form the fact the burdenheavily lies upon theperson who mades suchan allegation

wefind that the allegations made are not only vague but they are also without any substance. It is well-established that it is very easy tomake

allegations of mala fides, but it is very diffucult toprove them. In theinstant case, it is thecase of the petitioners-the rahuri Saharkari Sakhar

Karkhana_that because the Chariman of the Pravara Shakari Sakhar Karkhana Shri Vikhe Patil was on the Expert Committee

preferentialtreatment has been giventothe said factory. We do not find any substance inthis allegation. The allegations of mala fide are denied by

the reapondent. It is the case of the respondents that after taking intoconsideration the various representations received and the data collected. The

Committee laid down thegeneralguidelines and the Schedules were prepared in furtherance of the Said Guidelines. Shri Vikhe Peitl was not the

....... Member of the Committee. The Expert Committee consisted of the independent members. The recommendations made by the Committee

were unanimous. The petitioners whosek toinvalidate the Schedule must establish the charge of bad faith or bias against the Expert Committee as

such. We are unable to hold from the materialon record that the committee or the Director of Sugar acted withimproper the Schedule at thebehest

of Shri Vikhe Patil. To say the least there is prima facie materialon recored to show that the rahuri Sahakari Sakhar Karkahana has surplus

sugarcane which it supplied to Pravara SahakariSakhar Karkhana itself. There fore, it is not possible forus toaccept the contention that Schedule

37 is vitated either by mala fides or bias or was prepared oncolourable exercise of the power.

the contention that Schedule 37 is also vitiated since the priciples of natural justice were not followed is also withoutany substance It is not disputed

by Shri paranjape, nor it could be disputed that the order was issued inexercise of the Legislative function and interms the principles of natural justice

will not apply toit see AIR 1981 1127 (SC), T. Venkata Reddy and Others Vs. State of Andhra Pradesh, and K. Nagaraj and Others Vs. State

of Andhra Pradesh and Another, . Howerver, it was contended by Shri Paranjape that if an opportunity of being heard is given to the party thenit

ought of have been given toe the petitioner Rahuri Sahakari Sakhar Karkhans Lte. Also. As already observed the representative of the Rahuri

Karkhana was heardby th export Committee. The relevant data was also considered before preparting the relavant Schedule and, therefore, it

cannot be siad that thesaid Schedule is nay way viod as theprinciples of natural justice were not follwed.

It is also possible for us to accept the contention that impugned order travels beyond the scope of th Sugarcane (Contorl) Order, 1966, issued by

the Central Government. Inour view the impugned order is practically in tune with theorder issued bythe Central Government. The object of the

order is made clear by the Preamble as well ast he substantive clused. The object of th present order is th distribution of the saugarcane which is an

essential commodity andthay is wholly covered by the parent Order of 1966 as well as the substantive provisions of the Essential Commodies Act.

8. The complaint made that the impugned order is violative of Art. 14 of the constitution being arbitrary unreasonable or discriminatory is also

without any substance. After laying down the criteria or the guidelies the Export committee considered the case of each and every sugar factory. The

complanit of the non-members of he Co-operative Societies that by this order they are obliged tosupplysugarcene to a factoryor are prohibited

formbecoming members of the Co-operative Sugar Factory in the ovelaping areas and therefore, the order is unreasonable orarbitrary cannot also

be accepted. Ultimateluy for the equitable distribution of he sugarcane resercation of areas qua each factory was contemplated. After preparing the

Schedules inthat behalf a provision is made in the orde for the Export Permits, this Export Permit takes care of he demands of the respective

factories limked withtheir licensed capacity. The surplus sugarcane is distributed under these Export Permits. Normally the price paid to the

member of a Co-operative Sugar factory is also paid to a non-member. While regulating the essential commodity, some restrictions are inherent in

the very process is not below the minumum fixed by the competent authority appointed by the Central Government Ultimately the price of the

sugarcane is determined by a Committee appointed by the State Government. With the soleintention of avoiding cut throat competion between

the different sugar factories as well as the sugarcane growers, the impugned order has been issued Inthis Context, It cannnot be forgetten that the

Cooperative Societies Act has been enacted keeping inview the Directive Principles and the State Policy as enshrined in the constitution. The co-

operative movement in the ulitmate analysis is socio- economis can moralmovement. It is a part of the scheme of decentralisation of wealth the

power. co-operative capitalism is nnneither co-operative nor socialism. On the other hand co-operation is a substitute for self-interest of an

individual or groups of indivisuals for the benefit of the whole society, Wealth has no meaning it if is concentrated infew hands. In the absence of

decentralisation or equitavle distribution of wealth or property it becomes improperty. Therefore, equitable distribution is theessentce of egality. If

for achieving this object the impugned order has been issued under the powers conferred by the Essential Commodities Act and the Sugarcane

(Control) Order, 196, than it cannot be said that this equitable distribution results in inequity or arbitrariness. Inour view the criteria adopted and

the guidelines laid down are reasonable. They have a nexus with the object sought tobe achieved. Without reserving areas qua each factory and

regulation the supply of sugarcane ot the members of non-members the object of distribution of he essential commodity viz., the sugarcane would

not have been achieved. Therefore, we find it difficult toaccept the challenge raised by the petitioners which is based on Art. 14 of the Constitution

of India.

Apart formthe general challenge certain challenges qua a particular Schedule or factory were also raised before us. One of the challenges raised

wast hat though a foot-note relating to the prohibition of new membership is incorported in Schedule 37, sucha foot not is not there in Schedule 39

whichdeals with pravara Sahakari Sakhar Karkhana Ltd, On behalf of the respondents it is candidly and as soon as it came to the notice of the

tuthorities directions have been issued to the Pravara Sahakari Sakhar Karkahana Ltd that it sholuld not entol members in the areas in the three

overlapping villages of rahuri taluka. It is clear that this direction cannot be equated with the footnote incorporated in the Schedule and hence it will

be necessary to correct this inadvertant error by amending the Schedule Wedo not propose to deal with these indivitual grievanes in detain

because inany legilation it is impossible to satisfy everybody. Once care is taken in the matter of equtable distribution of the essential commodity

and it is held that the order is reasonble than individual grievances could be settled and carved out under the relevant provisionns of the order. Even

otherwise only because in a given case there maybe some hardship of that count the whole order cannot be held as invalid or violative of Art. 14.

A grievance was made that a grower had no forun for putting forward his grievance. Under proviso to Cl. 5 it is specifically land down that while

deciding the question covered bythis Sub-clause the Petmit officer shall give totheparties concerned a reasonable opportunity of ebing heard in

person or through an authorised representatives. The expression ""parile granting the Export Permit it is only the concerned sugar factories that are

heard and the sugarcane grower had no say in the matter. It/. Cls/. (6) and (7) are read to gether it is quite clear that in the process of issuance of

Expert Permit the sugarcane grower is also vitally concerned We are infomed that when of factory applies for Export Permit a copy of the contract

entered into with the concerned sugarcane grower is attached to such an application. if such a permit is garnted or refused and a sugar cane grower

is aggieved by it thanunder CL. 12 he had a right tofile and appeal. In cl. 12 the expresssions used is "" any person aggrived by any order of the

Permit Officer. "" This must take in tis sweep the sugarcane grower if he is aggrived by the order of the Permit Officer, If the application filed ofr

Export Permit is not accompanied by the relevantcontract with the sugarcane grower thenobviouslybefore issuing such a permite the gower will

have to beheard. No order could be passed qua the sugarcane owned and grown wil have to behind his back, if he has not consented for it, unles

he is heard. Therefore, by necessary implication in the veryprocess of issuance of the export Permit insome formor other the sugarcane grower will

have tobe heard. To say theleast this is implicit, It he is aggrieved by theorder passed by the Permit Officer, he has a right tofile and appeal under

clause 12 of the order It is true that no time limit had been precribed for deciding applications for Export Permits or appeals under caluse 12. It

was rightly pointed out by the Counsel for the petitioners that time is the essence of the whole scheme. The working of factories is seaconal one.

Therefore, if the applications for Export permits or the appeas are not decided expeditionuslythen the provision willlost its efficayand will become

illusory. However wer are informed by Shri Singhavi that the State Government will immemdiatelyi issue direction to the officers concerned todecide

the applications for Export Permits or appeals under Cl. 12 within a perio fo 15 days form thedate of the presentation of the application or appeal

as the case may be. Shri Singhavi has also filed before us a Note stating as towhat precedure the respondents propose to follow to remove the

individual grievances. The said Note reads as under:--

1. Supply of sugarcane by non-members in overlapping areas.

The non-members in th overlapping areas are entitled to enter intocontracts for supply of sugarcane withany factory in their area. The factory does

not have to obtain an export permite for obtaining sugarcan from non-members. However, when an application is made by a particular factory for

grant of curshing licence, it has togive the details of thecontracts entered intoby it with the non-members. While allotting the esugarcane the licensing

authorities will normally allow such contracted sugarcane to be taken by that foactory unless it exceeds the requirement based on the licensed

capacity and the working days. For instance if a grower of sugarcane say X" falls in the overlapping ares of factory "Y" and he isnot a members of

any of the factories plies formthe non-members like "X" in accordance with the contracts. While considering thesupply of sugarcane by the non-

members his areas, he enters intocontract with factory "Y" While alloting sugarcane of the factory "Y" the director of sugar willfirst take into

consideration the sugarcane supplied to the factory "Y" by its members andthere after thewill consider the suprs the Director of Sugar will normally

allos the supplies according to the contracts unless these supplies exceed the requirement of the said factory based on its licensed capacity

multiplied by working days.

2. Price tobe paid tothenon-members in overlapping areas.

Since non-memebers and entitled toentry intocontracts with any of he factories in their areas they will naturally either into the most profitable

contracts. Since there is inadquate supply of sugarcane the factories would naturally try to attract the sugarcane growers to supplycane to them at

least at the price on which they obtain sugarcane form therei memebrs Inany case, the non-members, while entering into the contraact can expressly

lay down a condition in the contract that the will be paid the same price as paid to the memebrs finally onprofit sharing basis. In thecase of the joint

stock companes the general pratife is that in order to attract sugarcane growers to supply sugarcane to them, they apy an average price of ten

nearby two-three co-operative sugar factories and sucha clause invariably finds a place in their contracts. It is therefore, in the interest of non-

members in th overlapping areas to allowe them to enter into contrats with factories of their own choice.

3. Membership after 30th June 1981.

In some of the Karkhanas, nes members have been enrolled after 30-6-1981 without the permision of the Director of sugar despite the instructions

dated 16-5-1981. Even is such cases while allocating sugarcane to the concerned fatory the sugarcen of such new memberslinked to the share

holdings maybe allowed to theat factory provided such supply does not exceed the requirement based on its licensed capacity.

4. Reading down the note below the Schedule regaridng prohibition of enreollingmembers inoverlapping areas aftet 30-16-1981.:

The prohibition regarding membership after 30-6-1981 has been imposed mainly with a vies toprevent factories formdrawing excess sugarcane

ontheplea that they are obliged to take the sugarcane of their members. In take the sugarcane of their members. In case the not below the Schedule

is read down tomean that the concerened co-operative sugar factory is allowed to enrolmembers and confer on them all the rights of member

except theright tosupplythe sugarcane to that factory and that the sugarcene grown bythem could be allocated under th control and direction of he

licensing authority. State should have no objection.

5. correction of Errors in various Schedules;

The intention of the impugned order is toprohibit themembership in the overlapping villages but due toinadvertence insome cases membership had

been prohibited even inexclusive areas. The will be corrected by an appropriate amendment to the Schedule.

In some cases some villages have beeb given exclusively totwo or more factories when they should have beenoverlapping According to the State

on a true construction of schedule this could mean overlapping villages. But to make things amplyclear the concerned suhedules will be amended

tomake suchvillage overlapping.

In the Schudle 39, realted toPravara Shakari Sakhar Karkhana Ltd, a foot not prohibiting the said Karkhand, form enrolling members in the areas

of three overlpping villages of Rajuri Taluka, had remained to beincluded inadvertently. Inorder tocorrect this mistake, a direction was issued to

pravara Sahakari Sakhar Karkhana Ltd. on 10-11-1984 prohibiting it form enrolling members form these overlapping viilages and Pravara

Sahakari Sakhar Karkhana Ltd. has decided by the said direction. A suitable foot-note would be added below this Schedule No, 39 of Prayara

Sahakari Sakhar Karkhana Ltd.

6. Review of Reservations of Areas mentioned in clause.

The review of reservations of areas mentioned in Clause 3 of the impugned order will be taken after every three years. That means thenext review

will be after September 1987.

7. Grievances of the growers:

While exercising the powers under Cl. 5 (1) (d) of the impugned order the Permit Officer had tohear cane-=grower or growers withregard ot non-

payment or late payment of the sugarcane bythefactory ornon-fulfilmentof any of the obligations bythe sugar factory arising out of the agreement

between the cane-grower or cane-growers and the sugar factory or any discrimination bythesugar factoy inharvesting of the sugarcane thereby

causing loss to the sugarcane growers. Incase of any adverse order being passed by the Permit Offiecer the concerned cane-grower can appeal

totheDirector of Sugar under Cl 12 (2), Thus the sugar cane grower will havefull opportunity toget his grievances redressed.

This note will have tobe read inaddition to the observations or the findings recorded hereinbefore. In our vies inal fairness if the State Government

intends to followe this procedure to remove the grievances of the individual sugar factories or cane-growers it will be in the fitness of things to

incorporate theminthe order amending theorder as so to given it statutory sanction.

Many of the grievances made before us could surely be taken care of in a revies of the reservation of areas mentioned inClause 8 of the Order is

taken after everythree years. The period of threeyears is reasonable inview of the cyclic ups and downs in sutarcane productioninthe State. The

main grievane of he petitioners in all these petitioers is qua the reservation of areas. As per the note submitted by Shr Singhavi, the next review wil

be after September 1987 I, e. after the period of three years form the issuance of the impugned order. The grievance made about the distribution

of the a sugarcane to the vaious factories on the care of by Caluse 4 whichdelas witht eh grantof licence for crusing cane. The factory is obliged to

filed anapplication to the licensing authority every years by 30th September in From "A"" The from the application is a detailed one and before

granting a cruding licence the data supplied by the individual sugar factory is tove considered byt helicensing authority. The details prescribed in the

from of application such as thename of the agriculturise members cane as on 30-6-1981, contracted cane etc. clearly mean that while furnishing

such information theapplicant factory must supply thename of each agricultrules the details as towhether he is amember or a non-member and the

contract entered into with him etc. On the basis of this information ultimately a decision is tobe taken bythelicensing authority. Form A-1 under Cl.

6 9a) (I) of the order whichis the form of the apploication by a sugar factory for grant of an Export Permit for export of sugarcane form seheduled

areas requires each factory togive various particulars. While giving particulars about the quantitly of cane tobe exported form each village

theapplicant for Export Permit will have to disclose the name of the grower of growers anddetails about the contract entered into etc. We are

informed that such a procudure is being followed by the authorities concerned. If this is the requrement for making an application forgranting of

license every year of for grant of an Export Permit under clause 6,then in our view, the procedure prescribed is wholly reasonble andcannot be

termed as arbitrary.

Shri Pradhan the learned counsel apperaing for the petitioner in Wirt Petition No. 4819 of 18974 contends before us that by the note appended to

the Schedule, even new membership qua exclusive area is also prohibited. In our view that is not he import of the said not. The prohibition

contemplated is quat the overlapping villages. If an aras if exclusively reserved for a sugare factry andit falls within teharea of operation of the said

Co-operative Suage factory thenthere cannot be any prohibition or restriction of enrolment of anymembership withregard to the exclusive area.

The position is conceded by Shri Singhavi the learned counsel appearing for the respondents.

9. So far as Writ petition No. 708 of 1986 is concerned apart fromthegeneral submissions a contention is also raised regarding the price apid by

the vinauaka Sajakair Sakhar Karkhana whichis practically a sick unit. However inview of the ocncessions made by the respondents incorporated

in the judgment hereinbefore, it is not necessary todeal with this aspect of the matter any further and the petitioners will be at liberty toapproach the

appropriate authorities in that behalf. We hope that if suchas approach is made the authorities cancerned will dicide the matter in accordance with

law keeping in view the concessions made by therespondents. It was also contended that while making payments unreasonable and unwarranted

decutions. Are made. It is quite obvious that the deductions which are not permited by law could not be made form the said price while making

payments to the sugarcane growers. If any scuh deductions are made then the cane growers are entitled to approach the Director of Sugar or some

other competent authority inthat behalf and the said authorities are obliged to look intothematter. As observed by the supreme Court in Narendra

Madivalapa Kheni Vs. Manikrao Patil and Others, " "Civil services have a high commitment to therule of law. regardless of convert commands

andindirect importunies of bosses inside and outsider the Government Lord Chesham said in the House of Lords in 1958, ""He is answerabl tolaw

alone and not toany public authority. ""A complaint was also made bythe growers that they have no say infixing the price of sugarcane nor they are

represented on the Committee constituted bythe government. The juge profits earned by distilleries etc. are never shared. According to them the

interest of sugar factories only are looked after and they are left in thelurch or at the mercy of the sugar factories owners. In the afffivit filed inreply

theunder Secretary to the Government of Maharashtra has explainted as tohow the committee is ocnstituted and what factors are taken

intoconsderation for fixing the price, We hope that the government and the said committee shall take intoconsideration the grievance made by the

cane growers about the price paid to them as well as the illegal deductions made by the factory owners. So far ast heother grievance made in theis

Writ Petition is concerned it has become academic at this stage and hence we do not propose todeal with it.

10. In the view whichwe have taken the Writ Petitions are partily allowed. The respondents are directed to carry outnecrssary amendements in the

Maharashtra Sugar Factories (reservation of Areas and regulation of Crushing and Sugarcane Supply) Order, 1984 as well as the Schedules intune

with the obsecations made in this judgment, Howerver in the circumstances of the casse, ther will be no order as to costs.

11. Petitioner partly allowed.