

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7508 OF 2005

WEST U.P.SUGAR MILLS ASSOCIATION & ORS. ... APPELLANT(S)

VS.

STATE OF UTTAR PRADESH & ORS. ... RESPONDENT(S)

WITH

CIVIL APPEAL NOS.7509-7510/2005, 150/2007, 2664/2007, 4026/2009, 4014-4023/2009, 4024/2009, 4025/2009, 3911-3912/2009, 3925/2009, 3996-3997/2009, 4764/2009, CONMT.PET(C)NO.169/2006 IN C.A.7508/2005, CONMT.PET(C)NO.254/2007 IN C.A.NO.7508/2005, CONMT.PET(C)NO.253/2007 IN C.A.NO.7508/2005, CONMT.PET(C)NO.263-264/2008 IN C.A.NOS.3996-3997/2009, CONMT.PET(C)NO.267-268/2008 IN C.A.NO.3996-3997/2009, CONMT.PET(C)NOS. 265-266/2008 IN C.A.NO.3996-3997/2009, S.L.P.(CIVIL)NOS.18681/2008, 19183/2008, 20206/2008, 20205/2008, 21576-21581/2008, 21585-21587/2008, 23202/2008, 26026/2008 AND T.C.(C)NO.96/2013

O R D E R

Heard learned counsel for the parties.

These civil appeals/special leave petitions/transfer case were referred to a larger Bench for decision of the following questions of law :

- (1) Whether by virtue of Article 246 read with Schedule VII List III Entry 33 of the Constitution the field is occupied by the Central legislation and hence the Central Government has the exclusive power to fix the price of sugarcane?
- (2) Whether Section 16 or any other provision of the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953 confers any power upon the State Government to fix the price at which sugarcane can be bought or sold?
- (3) If the answer to this question is in the affirmative, then whether Section 16 or the said provision of the U.P.

Sugarcane (Regulation of Supply and Purchase) Act, 1953 is repugnant to Section 3(2)(c) of the Essential Commodities Act, 1955 and Clause 3 of the Sugarcane (Control) Order, 1966 [hereinafter referred to as "1966 Order"]? And if so, the provisions of the Central enactments will prevail over the provisions of the State enactment and the State enactment to that extent would be void under Article 254 of the Constitution of India.

- (4) Whether the SAP fixed by the State Government in exercise of powers under Section 16 of the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953 is arbitrary, without any application of mind or rational basis and is therefore, invalid and illegal?
- (5) Does the State Advised Price (for short "SAP") constitute a statutory fixation of price? If so, is it within the legislative competence of the State?
- (6) Whether the power to fix the price of sugarcane is without any guidelines and suffers from conferment of arbitrary and uncanalised power which is violative of Articles 14 and 19(1)(g) of the Constitution of India?

A Five-Judge Constitution Bench of this Court in Civil Appeal No.7508 of 2005 (*West U.P. Sugar Mills Association & Ors. vs. The State of Uttar Pradesh & Ors.*) and batch of matters, has answered the aforesaid questions as under :

- “23. xxx xxx xxx
- a. By virtue of Entries 33 and 34 List III of seventh Schedule, both the Central Government as well as the State Government have the power to fix the price of sugarcane. The Central Government having exercised the power and fixed the “minimum price”, the State Government cannot fix the “minimum price” of sugarcane. However, at the same time, it is always open for the State Government to fix the “advised price” which is always higher than the “minimum price”, in view of the relevant provisions of the Sugarcane (Control) Order, 1966, which has been issued in exercise of powers under Section 16 of the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953;
 - b. The Sugarcane (Control) Order, 1966 which has been issued under Section 16 of the U.P. Sugarcane (Regulation of Supply and Purchase Act, 1953 confers power upon the State

Government to fix the remunerative/advised price at which sugarcane can be bought or sold which shall always be higher than the minimum price fixed by the Central Government;

c. Section 16 of the U.P. Sugarcane (Regulation of Supply and Purchase Act, 1953 is not repugnant to Section 3(2)(c) of the Essential Commodities Act, 1955 and Clause 3 of the Sugarcane (Control) Order, 1966 as, as observed hereinabove, the price which is fixed by the Central Government is the “minimum price” and the price which is fixed by the State Government is the “advised price” which is always higher than the “minimum price” fixed by the Central Government and therefore, there is no conflict. It is only in a case where the “advised price” fixed by the State Government is lower than the “minimum price” fixed by the Central Government, the provisions of the Central enactments will prevail and the “minimum price” fixed by the Central Government would prevail. So long as the “advised price” fixed by the State Government is higher than the “minimum price” fixed by the Central Government, the same cannot be said to be void under Article 254 of the Constitution of India.

d. The view taken by the Constitution Bench of this Court in the case of U.P. Cooperative Cane Unions Federations vs. West U.P. Sugar Mills Association and Others is the correct law.

In terms of the aforesaid judgment of the Constitution Bench, these Civil Appeals/Special Leave Petitions/transfer case are disposed of and the Contempt petitions are closed.

Pending applications, if any, shall also stand disposed of.

.....J.
[S.ABDUL NAZEER]

.....J.
[SANJIV KHANNA]

**New Delhi;
December 9, 2020.**

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 7508/2005

WEST U.P. SUGAR MILLS ASSOCIATION & ORS.

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

WITH

C.A. Nos. 7509-7510/2005, 150/2007, 2664/2007, 4026/2009, 4014-4023/2009, 4024/2009, 4025/2009, 3911-3912/2009, 3925/2009, 3996-3997/2009, 4764/2009

CONMT.PET.(C) No. 169/2006 In C.A. No. 7508/2005

CONMT.PET.(C) No. 254/2007 In C.A. No. 7508/2005

CONMT.PET.(C) No. 253/2007 In C.A. No. 7508/2005

CONMT.PET.(C) No. 263-264/2008 In C.A. No. 3996-3997/2009

CONMT.PET.(C) No. 267-268/2008 In C.A. No. 3996-3997/2009

CONMT.PET.(C) No. 265-266/2008 In C.A. No. 3996-3997/2009

SLP(C) Nos. 18681/2008, 19183/2008, 20206/2008, 20205/2008,

21576-21581/2008, 21585-21587/2008, 23202/2008, 26026/2008

and T.C.(C) No. 96/2013

Date : 09-12-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER

HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s)

Mr. Krishnan Venugopal, Sr. Adv.

Mr. Rohit K. Singh, AOR

Ms. Deepanshi Ishar, Adv.

Mr. Shivendra Singh, Adv.

Mr. Narender Singh, Adv.

Mr. Vikas Mehta, AOR

Mr. Narinder Kr. Verma, Adv.

Mr. Rajat Sehgal, Adv.

Ms. Anushree Menon, Adv.

Mr. Mahesh Agarwal, Adv.

Mr. Ankur Saigal, Adv.

Mr. Rohan Talway, Adv.

Mr. E. C. Agrawala, AOR

M/S. Ap & J Chambers, AOR

Mr. Parijat Sinha, AOR

Mr. Navpreet Singh Ahluwalia, Adv.
Mr. Salil Seth, Adv.
Mr. Adhish Sharma, Adv.
Mr. Umesh Kumar Khaitan, AOR

Mr. Vishwajit Singh, AOR

Petitioner-in-person

Mr. P.K.Bhalla, Adv.
Mr. Praveen Kumar, AOR
Ms. Sunaina Kumar, Adv.

Mrs. Manik Karanjawala, AOR

Mr. Y. Raja Gopala Rao, AOR
Ms. Y.Vismai Rao, Adv.
Mr. K.Pramod Kumar, Adv.

Mr. Syed Shahid Hussain Rizvi, AOR
Mr. Sanjeev Kumar Singh, Adv.
Ms. Zeeshan Rizvi, Adv.
Mr. Anas Zaidi, Adv.

Mr. P. N. Gupta, AOR

Mr. Vishnu Sharma, AOR

Mr. Akshat Kumar, AOR

Mr. Sameer Parekh, Adv.
Mr. Sumit Goel, Adv.
Mr. Ishan Nagar, Adv.
Mr. Manu Bajaj, Adv.
Mr. Raghav Bansal, Adv.
Ms. Nitika Pandey, Adv.
For M/S. Parekh & Co., AOR

Mr. Gaurav Agrawal, AOR

Mr. Pankaj Gupta, AOR

For Respondent(s)

Mr. Nikhil Rohatgi, Adv.
Mr. D.L.Chidananda, Adv.
Ms. Binu Tamta, Adv.
Mr. Piyush Beriwal, Adv.
Mr. Raj Bahadur Yadav, AOR

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Rohit K. Singh, AOR
Ms. Deepanshi Ishar, Adv.
Mr. Shivendra Singh, Adv.
Mr. Narender Singh, Adv.

Mr. Jatinder Kumar Bhatia, AOR

Mrs. Manik Karanjawala, AOR

Mr. Pradeep Misra, AOR

Mrs. Bina Gupta, AOR

Mr. Ardhendumauli Kumar Prasad, AOR

Mr. Vishwajit Singh, AOR

Mr. Vikas Mehta, AOR

Mr. Narinder Kr.Verma, Adv.

Mr. Rajat Sehgal, Adv.

Ms. Anushree Menon, Adv.

Mr. Ravi Prakash Mehrotra, AOR

Mr. Ambhoj Kumar Sinha, AOR

Mr. T. Mahipal, AOR

Mrs. Anil Katiyar, AOR

Mr. P.K.Bhalla, Adv.

Mr. Praveen Kumar, AOR

Ms. Sunaina Kumar, Adv.

Mr. K. R. Sasiprabhu, AOR

Mr. Vishnu Sharma, AOR

Mr. Ritesh Agrawal, AOR

Mr. Punit Dutt Tyagi, AOR

Mr. Syed Shahid Hussain Rizvi, AOR

Mr. Sanjeev Kumar Singh, Adv.

Ms. Zeeshan Rizvi, Adv.

Mr. Anas Zaidi, Adv.

Mrs. V. D. Khanna, AOR

Mr. Navpreet Singh Ahluwalia, Adv.

Mr. Salil Seth, Adv.

Mr. Adhish Sharma, Adv.

Mr. Umesh Kumar Khaitan, AOR

M/S. Ap & J Chambers, AOR

Mr. Siddhartha Chowdhury, AOR

Ms. C. K. Sucharita, AOR

Mr. Prashant Kumar, AOR

Mr. Bimal Roy Jad, AOR

Mr. Akshat Kumar, AOR

Mr. P. I. Jose, AOR

Mr. P. N. Gupta, AOR

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

Heard learned counsel for the parties.

The Civil Appeals/Special Leave
Petitions/Transferred Case are disposed of and the
Contempt Petitions are closed in terms of the signed
order.

Pending application, if any, shall also stand
disposed of.

(ANITA MALHOTRA)
COURT MASTER

(KAMLESH RAWAT)
COURT MASTER

(Signed order is placed on the file.)