

Neutral Citation: 2024:AHC-LKO:715

Reserved: 22.12.2023

Pronounced: 04.01.2024

Court No. - 12

Case :- WRIT - C No. - 11219 of 2023

Petitioner :- Kesar Enterprises Ltd. Bareilly Thru. Its Occupier
Sharat Mishra

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Sugar
Industries And Cane Development, Lko. And 3 Others

Counsel for Petitioner :- Ajay Kishor Pandey

Counsel for Respondent :- C.S.C., Paramanand
Asthana, Sudhanshu Chauhan

Hon'ble Pankaj Bhatia, J.

1. Present petition has been filed challenging the order dated 15.12.2023 passed by the appellate authority in Order/Appeal No.46/2023-2024 in exercise of powers under Section 15(4) of the The Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953.

2. The facts, in brief, are that the petitioner is a Company incorporated under the Companies Act and is running a sugar factory at Baheri-Bareilly. It is pleaded that the Cane Commissioner assessing the requirement based upon the capacity of 7200 TCD passed a reservation order dated 03.11.2023 for the crushing season 2023 - 24 reserving 124.41 Lakh Quintal of sugarcane to the petitioner mill. Similarly, a reservation order came to be passed on 03.11.2023 in favour of respondent no.4 reserving 154.80 Lakh Quintal of sugar.

3. It is argued that respondent no.4, aggrieved against the reservation order for seven centres, preferred an appeal under Section 15(4) of The Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 (hereinafter referred to as 'the 1953 Act') challenging the reservation order to the extent of assigning of cane purchase centers of Baheri in favour of the petitioners. The said appeal came to be partly allowed wherein two

cane centres which were initially assigned to the petitioners were assigned to respondent no.4, the said two being Sharif Nagar and Balli-Lakhimpur-I. The said order is under challenge.

4. Shri Satish Chandra Mishra, learned Senior Advocate appearing on behalf of the petitioner argues that the allotment of reserved area and assigning is essentially governed by the 1953 Act and the Rules framed thereunder known as The Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Rules, 1954 (hereinafter referred to as 'the 1954 Rules'). He states that Cane Commissioner is empowered under Section 12 to draw an estimate of the quantity of the cane which may be required by a factory for the purposes of passing an order under Section 15 and based upon the requirement specified by the occupier, an estimate is to be published. Section 15 of the said Act empowers the Cane Commissioner to reserve any area and assign any area in accordance with the mandate of the Act. He further argues that for the enforcement of the mandate under Section 12 and 15, the 1954 Rules - particularly Rule 22 - prescribes the manner in which the power under Section 15 is to be exercised. He argues that despite the allotment in favour of the petitioner, the appellate authority without recording any reasons whatsoever proceeded to assign two cane purchase centres to respondent no.4 to the detriment of the petitioner.

5. It is argued that the petitioner had developed the areas and had been purchasing the cane from the centres which are now the bone of contention and which have been allocated/assigned to respondent no.4. He further argues that the appellate authority has misdirected itself in not even considering the requirements including the fact that the petitioner was purchasing cane from the areas and substantial cane was also purchased, and in the midst of the cane season, now the centres are assigned to respondent no.4. He argues on the technical side that the appeal was preferred by a

Company known as Dhampur Bio Organics Limited whereas in terms of an order passed by NCLT, the sugar mill was being run by its demerged company Mirganj Sugar and thus, the appeal at the instance of the demerged company was not maintainable. He places reliance on the following judgments:

L.H. Sugar Factories Ltd. vs. State of U.P. and Others; 2017 (2) AWC 1388

Govind Nagar Sugar Ltd., Walterganj, Basti and etc., vs. State of U.P. and Others: 2000 SCC OnLine All 1166

Diwan Sugars Ltd., v. Appellate Authority and Others; 2004 SCC OnLine All 1452

Mohinder Singh Gill and Another v. The Chief Election Commissioner, New Delhi and Others; (1978) 1 SCC 405

6. To further buttress his submission, he draws my attention to the fact that the distance of respondent no.4 from the allocated/assigned cane centres is far more than the distance of the petitioner mill from the assigned centres and thus, in terms of the mandate of Rule 22 of the 1954 Rules, the distance would be a valid criteria for assigning the centres which has clearly been violated.

7. Shri J N Mathur, learned Senior Advocate appearing on behalf of respondent no.4 on the other hand, tries to justify the order by arguing that the allotment/assignment of the cane centres and the power of the Cane Commissioner in that regard are essentially to be guided in terms of Rule 22 of the 1954 Rules and is dependent on the facts of each case; there is no formula or weightage to be given to each of the criterias mentioned in Rule 22. He further argues that one of the main criterias under Rule 22 of the 1954 Rules being Clause (e), (f) & (g) would be a valid criteria and which has been rightly taken into consideration while passing the appellate order. He further argues that it is the admitted

fact and on record that the petitioner company is a defaulter to a substantial extent and has defaulted in payment of the cane dues for the last cane crushing year and has also defaulted in the present year, whereas admittedly, the respondent no.4 has cleared off all the dues for the last financial year and their payments with regard to cane purchase are up to date and thus, even in terms of the views expressed by the Cane-growers' Co-operative Society of the area, a preference has been exercised in favour of respondent no.4. He argues that in pursuance to the appellate order, respondent no.4 has continued to purchase cane from the cane farmers of the assigned centres and has set up cane purchase centres for the convenience of cane growers and thus, to that extent the argument of the petitioner relating to the issue of distance and the facility of transport, loses significance.

8. He argues that all these factors were duly considered by the appellate authority and thus, the order does not require any interference. He draws my attention to the chart contained in Page – 36 to argue that Baheri (Sharif Nagar) cane centre was reserved for Semi Kheda Mill; as the said mill was not running properly, the same stands assigned to respondent no.4 in terms of mandate of Section 15 of the 1953 Act. As regards to Baheri (Balli Lakhimpur-I), he argues that the said area was reserved for respondent no.4 and was assigned to the petitioner, thus, it is the respondent no.4 who should have the first right of assigning of Baheri (Lakhimpur-I) in view of the fact that requirements of respondent no.4 are more than that of the petitioner.

9. He further argues that the argument of the petitioner that the appeal was not maintainable at the instance of the Dhampur Bio Organics loses relevance as Mirganj unit is a demerged unit of Dhampur Bio Organics in terms of the orders passed by the NCLT and which is on record as Annexure - SCA 1. He places heavy reliance on the judgment in the case of ***L.H. Sugar Factories Ltd.***

vs. State of U.P. and Others; 2017 (2) AWC 1388, in the case of ***Simbhaoli Sugars Ltd. v. State of U.P & Ors.; 2011 (2) AWC 1744 (LB)*** as well as in the case of ***M/S J.H.V. Sugar Ltd. v. State of U.P. & 4 Ors.; Writ - C No.38530 of 2019*** decided on ***17.12.2019***.

10. During the course of hearing, learned counsel appearing on behalf of the Cane-growers' Cooperative Development Society, Baheri, the respondent no.3, through their counsel Shri P.N. Asthana argues that the cane growers have expressed their view to stay with respondent no.4; a document dated 20.11.2023 has been extended across the Bar, which is taken on record.

11. In the light of the pleadings recorded above, the issue to be decided is whether the appellate order is justified in the facts and circumstances or not?

12. Admitted facts by both the parties in respect of reservation, their capacity are as under:

Respondent No.4 estimated requirement assessed at 154.80 Lakh Quintal for the period 05.11.2022 to 12.04.2023. Respondent No.4 has worked for 159 days and has crushed the sugarcane to the extent of 105.49 Lakh Quintal out of the total available cane in the area at 159.92 Lakh Quintal, whereas in the case of the petitioner, the cane requirement was assessed at 124.41 Lakh Quintal for the period 31.10.2022 up to 26.04.2023. The petitioner company worked for 178 days and for the cane in the reserved area at 210.26 Lakh Quintal, they had crushed the cane quantified at 115.99 Lakh Quintal.

It also bears from record that the petitioner has partly defaulted in payment of their cane dues for the last year and are also in default in the present year, whereas, the respondent no.4 has not defaulted.

A brief Chart is as under:

Sl.No.	Particular	Respondent-mill	Petitioner-mill
1.	Days	159	178
2.	Cane Crushed	105.49	115.99
3.	Cane Production	159.92	210.26
4.	Crushing Rate	65.49 %	55.16 %

13. In the light of the said arguments, as recorded above, it is essential to note the scheme of the Act and the Rules framed thereunder. The 1953 Act was enacted with an object to regulate the supply and purchase of sugarcane required for use in sugar factories. By enacting the said Act, the State had to balance the industrial growth of sugar factories with the interest of the sugarcane growers, the farmers, so as to achieve a healthy balance. With the said purpose and object, Section 12 provided for estimation of the requirement of cane for a particular crushing season and thereafter, reserving the areas and assigning the areas to sugarcane factory as per the mandate of Section 16. Section 12, Section 15 and Rule 22 of the 1954 Rules are quoted herein below:

Section 12.
Estimates of requirements.

- (1) The Cane Commissioner, may for purposes of Section 15, by order, require the occupier of any factory to furnish in the manner and by the date specified in the order to the Cane Commissioner an estimate of the quantity of cane which will be required by the factory during such crushing season or crushing seasons as may be specified in the order.*
- (2) The Cane Commissioner shall examine every such estimate and shall publish the same with such modifications, if any, as he may make.*

Section 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).

Rule 22. *In reserving an area for or assigning an area to a factory or determining the quantity of cane to be purchased from an area by a factory, under Section 15, the Cane Commissioner may take into consideration-*

- (a) the distance of the area from the factory,*
- (b) facilities for transport of cane from the area,*
- (c) the quantity of cane supplied from the area to the factory in previous year.*
- (d) previous reservation and assignment orders,*
- (e) the quantity of cane to be crushed in factory,*
- (f) the arrangements made by the factory in previous years for payment of cess, cane price and commission,*
- (g) the views of the Cane-growers' Co-operative Society of the area.*
- (h) efforts made by the factory in developing the reserved or assigned area.*
- (i) efforts made by the factory to provide information to the farmers pertaining to survey, supply tickets, weighment, payment etc. through the use of website, Short Messaging Service (SMS), Interactive Voice Response System (IVRS), Hand Held Computer (HHC), Global Positioning System (GPS), electronic weighbridge etc.*

14. A plain reading of the mandate of Section 15, makes it clear that while passing the orders of reserving and assigning areas to the factories, one of the important factors to be considered is the benefit of the Cane-growers' Co-operative Society, as such, there is a mandate of consultation with the factory and the Cane-growers.

15. Rule 22 of the 1954 Rules, provides guidelines for the Cane Commissioner who has to take a decision for reserving any area, which power is to be exercised in a balanced manner and can vary

from fact to fact as is also admitted by this Court in the case of ***L.H. Sugar Factories Ltd. (supra)*** wherein the Court has recorded as under:

“31. In Triveni Engineering and Industries Limited v. State of UP and ors (supra) this Court held that the Act and Rules show in unmistakable terms that the order for assignment or reservation of an area has to be passed after taking into consideration various factors and it cannot be based upon one solitary consideration. May be in a given case, one single factor may far outweigh, the effect of all other remaining factors must be considered. The distance factor alone can be taken into consideration for assigning or reserving the area. It is for the authorities, who are experts in the field, to take into consideration all the factors and after balancing them pass appropriate orders which may best serve the interest of the sugar factory and the cane-growers.”

16. A similar view after analyzing the provision was expressed in ***Simbhaoli Sugars Ltd. (supra)*** case which held that Clause (f) to (h) of Rule 22 are a part and parcel of the extended fundamental right guaranteed under Art. 21 of the Constitution of India. The relevant observations are contained in Para 53, 56, 57 & 63 and conclusion is recorded in Para 66, which are as under:

“53. Rule 22 specifically provides that while considering the question with regard to allocation of cane purchase centres, the Cane shall take into account various factors out of which the most important is arrangement made by the factory in previous years for payment of cess, cane price and commission as well as the efforts made by the factory in developing the reserved or as- signed area coupled with the views of the cane-growers and cane-growers' Cooperative Society. Clause (f) (g) (h) of Rule 22 directly relates to the cane-growers and the cane-growers' Cooperative Society. Hence while considering an application for reserved and assigned area, the Cane Commissioner as well as the State Government must consider these factors in public interest with utmost carefulness and scrutiny. In case a sugar mill is defaulter in payment of cane-growers price, then such sugar mill should not be assigned new areas or cane purchase centres and the re- served or assigned area of such sugar mill may be reduced. No addition of cane purchase centres (area) should be made in case there is substantial outstanding dues against sugar mill payable to cane-growers or cane-growers' Cooperative Society.

56. Clause (f), and (h) of Rule 22 is a part and partial of fundamental rights guaranteed under the Constitution of India. Accordingly, in case sugar mill does not meet out the requirements of clause (f) and (h) of Rule 22, it shall amount to violating of

fundamental rights of the cane-growers and, no new cane centre should be allotted and, the area should be reduced by allocating the same to other sugar mill which is discharging its obligations in terms of clause (f) and (h) of Rule 22.

57. In none of the cases of Hon'ble Supreme Court, referred by both sides, the question with regard to fundamental rights available to cane-growers under Article 21 of the Constitution of India has been considered. Without considering the rights protected under Article 21 of the Constitution of India, Rule 22, has been observed as guidelines, seems to be per incuriam to law settled by Hon'ble Supreme Court.

63. In view of the above, the right, flowing from Rule 22 (f) and (h) of Rule 22, protects the fundamental rights of cane-growers available under Article 21 of the Constitution of India, and is binding. Non-compliance of provisions contained in clause (f) and (h) of Rule 22 (supra;), by the sugar mills, shall disentitle the sugar mills to claim allotment of new sugar cane centres and also to continue with old one. It shall be obligatory on the part of the Cane Commissioner and the Government not to allot or reserve or assign any new cane purchase centres (area) to the sugar mills which are in due of cane price and not worked for developing the assigned or reserved area. The cane purchase area may be reduced and transferred to other sugar mills which are not in due of cane price and discharge their obligations in developing the reserved or assigned area."

17. The said judgment in the case of ***Simbhaoli Sugars Ltd. (supra)*** was approved in a Division Bench judgment of this Court in the case of ***M/S J.H.V. Sugar Ltd. (supra)***. Another Single Judge Bench in the case of ***Govind Nagar Sugar Ltd., (supra)*** also analyzed the scheme of the Act and the Rules, and framed the following question in Para 2:

i) whether the estimate of sugarcane as determined under Section 12 of the Act is conclusive and final for the purpose of Reservation and assignment of area for purchase of sugarcane by the sugar factory?

ii) Whether there can be an order of joint purchase of sugarcane in favour of two or more sugar factories in respect of one reserved area?

And after analyzing the scheme of the Act, by making the following observation in Para 27, 29, 30, 31, 33, 38 answered the same in Para 43 as under:

27. A duty has been caste upon the Cane Commissioner to require the occupier of each factory to furnish in the manner and by the date specified in an order issued by the Cane Commissioner, an estimate of quantity of cane which would be required

by a factory during such crushing season or seasons as may be specified in the order. The Cane Commissioner, therefore, has to issue an order by means of which he would make the occupier of every factory to furnish the estimated quantity of cane as per requirement of the sugar factory for a particular crushing season or seasons which should be done in a manner and by the date specified by the Cane Commissioner. The Cane Commissioner again is obliged to examine every such estimate and has the liberty to modify the same and with such modification, if any, the publication of the estimate is done for the purpose of making it known to all sugar factories that the estimate prepared by them for the requisite quantity of sugarcane for a particular crushing season or seasons has been accepted by the Cane Commissioner with or without any modification. In case any sugar factory is not satisfied with the estimate so modified or otherwise may file a revision before the Prescribed Authority. It has been stated that the State Government is the Prescribed Authority under Rule 23-A of U.P. Sugarcane [Regulation of Supply and Purchase] Rules, 1954 [hereinafter referred to as the Rules for short] and the period for filing such revision is 14 days. After estimates are published, the survey etc. shall be made under S. 18 for the purpose of S. 15. It is inherent that while making an area reserved for sugar factory the total yield of sugarcane which is likely to occur in that area is to be taken into consideration. The areas are reserved basically for continuous and proper supply of sugarcane to every sugar factory so that it may run smoothly throughout the crushing season with the best possible recovery.

29. A combined reading of Ss. 12 and 15 would lead to a conclusion that at the time of declaration of reserved and assigned area under S. 15 the estimate as published under S. 12 shall be the basis for consideration by the Cane Commissioner for the purpose of quantifying the requirement of sugarcane for every sugar factory. The requirement of 'estimate' and thereafter the allotment of reserved area is reasonable procedure for which no exception can be taken. The controversy arises when the sugar factory or occupier of a sugar factory do not either submit their estimate as provided under S. 12(1) or if the estimates are submitted the same is modified by the Cane Commissioner or in any case any estimate which is published by the Cane Commissioner with respect to a sugar factory which attains conclusiveness either by filing or not filing the revision before the Prescribed Authority and such sugar factory at any time before the order of reservation is passed by the Cane Commissioner, claims more sugarcane as against the published estimated requirement of sugarcane under S. 12.

30. The argument of the learned counsel for the petitioner is that this estimate provided under S. 12 is not final and the Sugar Factory can claim more sugarcane even at the time of allotment of Cane Reservation Centre. The Cane Commissioner also has ample jurisdiction and authority to enlarge, increase or decrease the quantity of sugarcane while making allotment of reserved area.

31. *The estimate so prepared under S. 12 is final or not and is either conclusive or not has to be tested with the aid of certain other provisions of the Act and the Rules. While doing so, the scheme of the Act, its object and purpose cannot be lost sight of. The interpretation of various provisions of the Act, has to be done in a manner which furthers the object of the Act.*

33. *A bare perusal of the aforesaid Rule would indicate that the occupier of a factory by 31st August each year shall apply to the Cane Commissioner in Form-I Appendix III for reservation or assignment of an area for supply of cane to the factory during ensuing crushing season. Sub clause-2 gives power to the Cane Commissioner to entertain application for reservation or assignment of an area made after commencement of the crushing season, of course on some special reason. If S. 12 is to be read along with Rule 21 it would be found that the requirement to be performed under rule 21 is to be done at a later date after the whole exercise is undertaken under S. 12. It has been stated at Bar as well as by the learned Standing Counsel that the estimates under S. 12 are prepared some time in March and April every year, whereas the requirement of submitting an application for reservation and assignment of an area in Form-I Appendix-III is at a later date i.e. up to 31st of August. This Form has many Heads and bears the heading 'Application for reservation and assignment of area'. In part-A of the said Form besides other particulars which are to be given by the occupier item No. 4 requires the particulars of crushing of cane in the last three seasons which means quantity crushed in lac quintals, number of working days, date of starting and closing the operation in the last three seasons wherein part-B item No. 10 mentions the name of purchasing Centers that may be reserved or assigned and also the details of Rail or Road have to be given. In item No. 11 the names of any new road or rail center proposed to be added to or deleted or transferred from the existing lists of villages attached to various centers are to be provided. The classification of the heads in Form-I has been made in a manner so as to make it convenient to the Cane Commissioner to reserve such area and number of cane centers to a sugar factory would be sufficient to meet the requirement of regular supply of sugarcane for the quantity which would be crushed in the ensuing crushing season. The various particulars which are required to be given in a form provide a date and idea regarding crushing done by the sugar factories in the last three seasons and also the areas reserved or assigned to it in the last three years.*

38. *No doubt the term 'estimate' denotes a rough calculation or rough assessment which may vary when actually determined but in view of opportunity given to the sugar factory for providing estimate under S. 12(1) and thereafter the exercise to be undertaken by the Cane Commissioner who is to examine the requirement objectively before publishing the same in accordance with subclause-(2) of S. 12 attaches an element of finality to the aforesaid determination. The finality is further reflected when an opportunity has been provided by means of statutory right of revision*

against the notification of the Cane Commissioner. The purpose, therefore, is that the Cane Commissioner may have an exact picture as far as possible with respect to entire Cane available in the area and the requirement of every sugar factory, as in the absence of such an assessment it may not be possible for the Cane Commissioner to make a just order of reservation under S. 15(1). In case every occupier of the sugar factory is permitted to ignore the estimate published under S. 12 at the time of passing of reservation order under S. 15, the whole scheme of the Act may not be effectively carried into. Thus if the Cane Commissioner relies upon the estimate prepared under S. 12 for the purposes of declaration of reserved or assigned area under S. 15(1) unless there is something very exceptional it cannot be said that any illegality has been committed by him. This does not mean that even if a sugar factory bona fide requires more sugarcane than the quantity estimated for such sugar factory, would not have any right to take any additional sugarcane or Cane Commissioner would not have any authority or power to allot more sugarcane by making further reservation of area or assignment in his favour. The supply of sugarcane by means of reservation and assignment of an area is a continuous process throughout the crushing season and as and when the shortage is felt, to the satisfaction of the Cane Commissioner by a sugar factory it can be made good either by making reservation or assignment of further area. Thus there are two stages under the Act for declaration of reserved area or assigned area namely; (1) under S. 15 initially i.e. at the start of crushing season when the reservation has to be made and (ii) secondly at all point of time during the entire crushing season when additional sugarcane is required by any sugar factory.

43. The answer to the first question therefore, is that the estimate prepared under the order of the Cane Commissioner himself under S. 12 of the Act has to be adhered to by the Cane Commissioner at the time of passing an order of allotment under S. 15(1) of the Act, unless there are exceptional reasons which might intervene or crop up between the period when the estimate has been published and the reservation order is made under S. 15(1) (not adversely affecting the rights and interest of other sugar factories, cane growers and cane Societies etc.) as well as by the sugar factories. The sugar factories cannot raise any grievance against the estimate so prepared at that stage, yet it is always open to the Cane Commissioner to allot more reserved area or assign further area if he is satisfied about the necessity of providing more sugarcane to any factory, during the crushing season, in accordance with the observations made above, in accordance with the provisions of the Act and the Rules.”

18. Similarly, a Single Judge of this Court in the case of **Diwan Sugars Ltd. (supra)**, after analyzing the provisions recorded as under:

“13. Much emphasis has been laid by counsel for

respondent No. 3 that cane societies as well as cane growers have given proposal for assignment of centres in favour of respondent No. 3. It has been stated that in previous season the petitioner could not run the cane purchase centres in spite of there being order of joint purchase and District Magistrate had to intervene permitting respondent No. 3 to purchase cane from the aforesaid centres. As observed above any one factor amongst the factors incorporated in Rule 22 of the Rules is not decisive and the cumulative effect has to be seen while taking a decision. As observed above, since the appellate authority has not correctly considered the factor of petitioner's requirement of sugarcane as per its estimated quantity and there has been non consideration of other pleas raised in the memo of appeal, it cannot be said that appellate authority has correctly considered the relevant factors as laid down in Rule 22 and has arrived at a correct decision. As rightly submitted by counsel for respondent No. 3 that the appellate authority exercises co-extensive power with the Cane Commissioner and relevant factors which were required to have been considered by the Cane Commissioner has also to be considered by the appellate authority.

15. From abovementioned discussions, it is clear that, order of the appellate authority suffers from non-consideration of relevant factors as laid down in Rule 22 of the Rules and erroneous consideration with regard to some of the factors, as noted above, has made. The petitioner has made out a case for fresh consideration of all the pleas raised by them in the appeal. The order of the appellate authority dated 29th November, 2004, thus, cannot be sustained and is hereby set-aside. The appellate authority is directed to register the appeal again and decide the same afresh in the light of the observations as made in this judgment after hearing all concerned parties. The parties may appear before the appellate authority on 4th January, 2005 along with certified copy of this judgment. The appellate authority shall dispose of the appeal within two weeks thereafter.”

19. In the present case, the appellate authority while passing the appellate order has mainly decided the issue with regard to the fact that the petitioner company has defaulted in payment of cane dues for the crushing season 2022-23 and has also recorded that respondent no.4 has started the payment for the present crushing season 2023-24 which fact weighed heavily while assigning the two cane centres. It is no doubt true that the appellate authority has not taken into account the other factors specified in Rule 22 of the 1954 Rules, however, in view of the submissions of Shri J.N. Mathur, learned Senior Advocate that respondent no.4 has set up cane purchase centres like most of the mills too, the other factors

go into oblivion and it is the interest of the Cane-growers and the mandate of Clause (e), (f) & (g) of Rule 22 which have to weigh heavily and have to supersede the Clause (a), (b) & (c) of Rule 22 of the 1954 Rules. This is also the mandate of Section 15 of the 1953 Act and stands crystallized in view of the view expressed by respondent no.3 through their counsel, thus, I do not see any reason to interfere with the appellate order.

20. Accordingly, the writ petition lacks merit and is accordingly ***dismissed.***

Order Date :- 04.01.2024

nishant

[Pankaj Bhatia, J.]