

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2667 of 2015

Date of Decision: May 04, 2015

M/s Piccadily Agro Industries Ltd. Bhadson

.....PETITIONER

VERSUS

The State of Haryana and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

PRESENT: Mr.M.L.Sarin, Sr. Advocate,
with Mr. Nitin Sarin, Advocate,
for the petitioner.

Mr. Amar Vivek, Additional Advocate General, Haryana,
for the State.

Mr. Vinod S. Bhardwaj, Advocate,
for respondent No. 4.

AUGUSTINE GEORGE MASIH, J

1. Prayer in this writ petition is for quashing the proceedings and the decision taken thereon dated 23.01.2015 (Annexure P-19) and the letter dated 28.01.2015 (Annexure P-20) issued by The Cane Commissioner, Haryana-respondent No. 3 conveying the said decision of the Sugarcane Control Board, vide which allotment of Village Bargat Jattan, Bargat Thalipur, Bargat Shahpur, Ishargarh, Ramgarh, Sanwla, Tatka, Jalaludin Majra, Roorki, Prehladpur, Bhukhdi, Ram Nagar, Gudhi, Bahlolpur, Kalirano and Patak Majra was made in favour of The Shahbad Co-operative Sugar Mill-respondent No. 4 by taking it out from the pool of villages

already allotted to petitioner Sugar Mill.

2. Piccadily Agro Industries Ltd. Bhadson (hereinafter referred to as 'Bhadson Sugar Mill') is engaged in the manufacture of white crystal sugar under the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 (hereinafter referred to as '1953 Act'). The Sugar Mills are allotted/assigned areas or villages, from where raw sugarcane is purchased and thereafter processed. Under the Act, a Sugarcane Control Board (hereinafter referred to as 'the Board') has been set up in the State of Haryana. The Minister of Agriculture, Haryana is the ex-officio Chairman of the Board. As per the provisions of the Act, Cane Commissioner is responsible for the performance of any duty or function under the Act. Besides others one of the powers of the Cane Commissioner is to order a survey to be conducted to assess various aspects to regulate the sale and purchase of the sugarcane in the State.

3. The State of Haryana, in exercise of the powers conferred under Section 20 of the 1953 Act has framed the Haryana Sugarcane (Regulation of Purchase and Supply) Rules, 1993 (hereinafter referred to as '1993 Rules'). Under these Rules, the Board is competent to declare the assigned area, from where a sugar mill may purchase the sugarcane. Rule 10 deals with the factors to be taken into consideration in declaring the assigned area. The Board is required to regularly meet to conduct its business assigned to it under the 1953 Act and the 1993 Rules. In pursuance to and in accordance with the said powers, the Board proceeds to fulfil its duties and responsibilities. The periodic decisions to allocate and re-allocate the villages to various mills are taken by the Board keeping in view the facts and circumstances as prevalent in a particular situation.

4. As per the guidelines of the Government of India, the licensing of new and expansion of existing sugar mills are done subject to the condition that the distance between the two sugar mills should be 25 Kms. and on that basis, an inference can be drawn that the two sugar mills should be located beyond the radius of 12.5 Kms. from each other. This is as per the guidelines of the Government of India and it was one of the factors, which was taken into consideration vide letter dated 08.01.1992 (Annexure R-1) while assessment of the cane availability when the petitioner-sugar mill was being established. It is not in dispute that the area assigned to the petitioner sugar mill is within the 12.5 Kms. radius from the petitioner sugar mill and 13 villages, which have been taken out from the purview of the assigned area of the petitioner sugar mill are beyond the said distance.

5. Each year, the Board meets and determines the villages to be allotted to each of the sugar mills located in the State taking into consideration the factors as mentioned in Rule 10 of the 1993 Rules. In pursuance to this, the Board had taken decisions in different years, when certain villages were either transferred to the petitioner sugar mill or were withdrawn and transferred to some other sugar mills.

6. A decision was taken on 10.11.2005 to assign villages, namely, Prehladpur and Behlolpur to the petitioner sugar mill from the Shahbad Co-operative Sugar Mill-respondent No. 4. This decision was challenged by some of the villagers by filing CWP No. 18468 of 2005, who were praying that these villages be transferred to Saraswati Sugar Mill, Yamuna Nagar. On 20.04.2006, as the crushing season had ended, the writ petition was disposed of as infructuous. However, the Court observed that in case any representations are filed by the petitioners or any other person likely to be

affected by the re-assignment of the areas between sugar mills, the competent authority would take a final decision thereon in accordance with law.

7. On representations having been submitted, the Cane Commissioner directed the Project Officer (Cane) to conduct a survey in relation to the villages in dispute. The report was submitted to the Board and the meeting was held on 07.11.2006 for the said purpose, where a decision was taken that the status quo be maintained with regard to the allotment of villages. This decision of the Board dated 07.11.2006 was challenged by the farmers of different villagers by filing writ petitions. CWP No. 622 of 2007 related to the petitioner Sugar Mill, which was disposed of by a Division Bench of this Court along with other connected cases vide judgment dated 31.10.2012 (Annexure P-6) by observing that the farmers of the villages, on whose behalf the petitions were filed, were not growing sugarcane, though the contention was that they were compelled to take such a decision because of the impugned orders. It was observed that in view of the later developments, the petitioners may file fresh petitions confining their challenge to the grievances which remain.

8. It is the assertion of the petitioner sugar mill that from 10.11.2005 onwards till the year 2014, the villages assigned and allotted to the petitioner continued to remain with it and four Cane Purchasing Centres in Ishargarh, Prehladpur, Ram Nagar and Bargat Shahpur have been set up. The sugar mill has also been provided free and/or subsidized transportation of sugarcane from the Cane Purchasing Centres to the sugar mill. They have to travel a distance of about 2 Kms. from their farms to the Purchase Centres.

9. On 08.11.2014, an agenda for the meeting of the Board scheduled to be held on 11.11.2014 was received by the petitioner sugar mill. No details regarding re-allotment of villages were mentioned. Another information was received from the Deputy Agriculture Director, Karnal by the Cane Commissioner stating that a report has been received under Rule 10(1) of the 1993 Rules stating the distances between the villages and the two sugar mills. On 11.11.2014, the day of the meeting, an updated agenda was placed on the table, according to which, the State Minister, Food and Supply, had desired the four villages to be transferred from the petitioner to one Saraswati Sugar Mill, Yamuna Nagar. At the time of the meeting, since the representatives of the petitioner sugar mill were taken unawares, a serious objection was raised, which was noted by the Chairman of the Board and accordingly, the petitioner was given an opportunity to give detailed objections etc. within a period of 24 to 48 hours. The Chairman ordered that status quo be maintained. On 12.11.2014, the petitioner-sugar mill sent its detailed representation to the Chairman of the Board.

10. On 19.11.2014 (Annexure P-12), the minutes of the meeting dated 11.11.2014 were received, according to which, a decision was taken that 4 villages be detached from the petitioner sugar mill and allotted to the Saraswati Sugar Mill, Yamuna Nagar. As regards the remaining 13 villages (allotment of which is in dispute in the present writ petition), it was mentioned that the representation given by the petitioner dated 12.11.2014 was to be investigated and the Board had unanimously conferred powers on the Chairman to take a decision about detaching or otherwise of the villages from the petitioner company and allotting them to the Shahbad Co-operative Sugar Mill-respondent No. 4.

11. The decision dated 11.11.2014 of the Board, whereby 4 villages were allotted to Saraswati Sugar Mill after being detached from the petitioner sugar mill was challenged by filing CWP No. 24967 of 2014. The said writ petition was allowed by the learned Single Judge of this Court vide judgment dated 29.12.2014 (Annexure P-14) quashing the impugned order with cost of ₹ 25,000/- awarded in favour of the petitioner. Appeals against the said order are pending before the Division Bench of this Court.

12. Without taking a decision on the representation/objection submitted by the petitioner dated 12.11.2014 in pursuance to the decision dated 11.11.2014 qua the 13 remaining villages, the Chairman of the Board, on 09.12.2014 (Annexure P-13), passed an order de-allocating five villages, namely, Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur from the petitioner sugar mill and allotting the same to the Shahbad Co-operative Sugar Mill-respondent No. 4. A decision was further taken by the Chairman that the remaining nine villages be left with Bhadson Sugar Mill (petitioner). This decision dated 09.12.2014 was challenged by the petitioner sugar mill by filing CWP No. 25690 of 2014, in which notice of motion was issued to the respondents and on 16.01.2015 (Annexure P-15), the letter dated 09.12.2014 (Annexure P-13) issued by the Cane Commissioner, Haryana, communicating the de-attachment of the five villages from the petitioner sugar mill and allotment to Shahbad Co-operative Sugar Mill was withdrawn. This rendered CWP No. 25690 of 2014 infructuous.

13. On the same day i.e. 16.01.2015, the Cane Commissioner constituted a Committee to enquire into the representation dated 12.11.2014 submitted by the petitioner. It may be noted here that apart from the Deputy

Agriculture Director, Karnal and the Assistant Cane Development Officer, Shahbad and Bhadson, a representative of the concerned sugar mill i.e. the petitioner and respondent No. 4 were also members. The report was to be submitted along with comments on 19.01.2015 keeping in view the provisions in Rule 10(1) of the 1993 Rules. Petitioner-Sugar Mill responded vide communication dated 19.01.2015 highlighting therein the decision in CWP No. 24967 of 2014, which was allowed by this Court on 29.12.2014. Regarding the other issues, it was mentioned that the matter was sub-judice in CWP No. 25690 of 2014. Further that they have not been given proper time to respond.

14. On 21.01.2015, an agenda was circulated for the meeting of the Board to be held on 23.01.2015 under the chairmanship of the Agriculture Minister. Item No. 1 thereof dealt with discussions about the villages transferred from the petitioner-Sugar Mill to The Shahbad Co-operative Sugar Mill-respondent No. 4 and Saraswati Sugar Mill, Yamuna Nagar and it was further stated that the matter of allotment of five villages i.e. Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur is put up before the Board for consideration and decision. A note was also put in the end that objections to the agenda may be submitted in writing well before the meeting of the Board. It may be noted here that neither any objections were submitted to the agenda circulated by the petitioner nor did any of its representative attend the meeting held on 23.01.2015. Further, the Committee, which was constituted by the Cane Commissioner on 16.01.2015 which included the representative of the petitioner Company made efforts to associate the representative of the petitioner but it did not yield any result as despite writing and on repeated phone-calls made, no

representative of the petitioner Company participated in the proceedings of the Committee nor came present in the survey which determined the distances between the villages and the sugar mills.

15. The meeting was held on 23.01.2015, the minutes whereof were circulated by communication dated 28.01.2015 (Annexure P-19) wherein it was unanimously decided by the Board that villages, namely, Bargat Jattan, Bargat Thalipur, Bargat Shahpur, Ishargarh, Ramgarh, Sanwla, Tatka, Jalaludin Majra, Roorki, Prehladpur, Bhukhdi, Ram Nagar, Gudhi, Behlolpur and Kalirano may be detached from the petitioner-Sugar Mill and allotted to Shahbad Co-operative Sugar Mill, Shahbad. Village Patak Majra was kept attached with the petitioner-Sugar Mill. The decision of the Board was conveyed to the petitioner by communication dated 28.01.2015 (Annexure P-20) by the Cane Commissioner, Haryana. These two decisions are under challenge in the present writ petition.

16. It is the contention of the learned senior counsel for the petitioner that as per the agenda for the meeting to be held on 23.01.2015, the same related to only allotment of five villages i.e. Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur to the petitioner or respondent No. 4 Sugar Mills. It did not relate to the other villages i.e. Bargat Jattan, Bargat Thalipur, Bargat Shahpur, Ishargarh, Sanwla, Roorki, Bhukhdi, Ram Nagar, Gudhi, Behlolpur and Kalirano. This he states with reference to the letter of the Cane Commissioner, Haryana, dated 21.01.2015 (Annexure P-18). To support this assertion, he has referred to the decision of the Board dated 11.11.2014, which, apart from taking decisions with regard to the allotment of four villages to Saraswati Sugar Mill, Yamuna Nagar by detaching them from the petitioner-Sugar Mill, authorizes the Chairman to take a decision

with regard to the above-referred 13 villages keeping in view the representation of the petitioner dated 12.11.2014. Reference has also been made to the decision of the Minister of the Agriculture, who is the Chairman of the Board, which was conveyed on 09.12.2014 (Annexure P-13) where five villages were detached from the Bhadson Sugar Mill (petitioner) i.e. Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur and allotted to The Shahbad Co-operative Sugar Mill, Shahbad-respondent No. 4 as also a decision that the remaining nine villages may be left to continue with the Bhadson Sugar Mill (petitioner). He thus, contends that the decision of the Board dated 28.01.2015 (Annexure P-19), which was conveyed to the petitioner by the Cane Commissioner on the same date (Annexure P-20) de-allocating all the 13 villages from the petitioner-Sugar Mill and allotting the same to the Shahbad Co-operative Sugar Mill, Shahbad, cannot sustain as no notice in this regard was issued to the petitioner. There is no specific order withdrawing the decision of the Minister with regard to eight villages, which were allowed to continue with the petitioner Sugar Mill. In this regard, reliance has been placed upon the decision dated 16.01.2015 (Annexure P-15), which, while referring to the letter dated 09.12.2014, mentions the withdrawal of the decision of allotment to the Shahbad Co-operative Sugar Mill, Shahbad-respondent No. 4 of the five villages, namely, Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur, which were withdrawn from the Bhadson Sugar Mill (petitioner). He thus, contends that the impugned orders cannot sustain and deserves to be set aside.

17. In response to this submission of the learned senior counsel for the petitioner, learned Additional Advocate General, Haryana, contends that

vide letter dated 21.01.2015, which related to the meeting to be held on 23.01.2015, the agenda Item No. 1 was discussions about the villages transferred from Piccadily Agro Industries Ltd., Bhadson to the Shahbad Co-operative Sugar Mill, Shahbad and Saraswati Sugar Mill, Yamuna Nagar and that was the only item, which was circulated. In the said agenda, the complete history with regard to the initial allotment of these 13 villages to the Shahbad Co-operative Sugar Mill, Shahbad-respondent No. 4, thereafter, the transfer thereof to the petitioner Sugar Mill, the various cases, which were filed, the matters pending in Court and the decision of the Chairman (Minister) dated 09.12.2014, the subsequent withdrawal of the said decision on 16.12.2014, taking into consideration the representation dated 12.11.2014 received from the petitioner Sugar Mill, the Committee constituted to look into these allegations/objections of the petitioner Sugar Mill, the report of the Committee, so constituted, non-filing of the objections to the agenda item, non-participation by the petitioner Sugar Mill either in the Committee or its proceedings and the similar non-participation in the meeting of the Board was all recorded in the minutes of the meeting. The factors, which were taken into consideration, indicated that the principles of natural justice were duly complied with and there was ample notice given to the parties who were interested in the matter, besides consideration of the rival contentions/objections/representations including that of the Panchayats of the villages and even the villagers as per the directions in various writ petitions. The provisions, as contained in Rule 10 of the 1993 Rules, justify the decision taken by the Board with regard to all the 13 villages out of 14, as village Patak Majra showed its intention to continue with the petitioner sugar mill, which request was also accepted. He

thus, submits that the contention of the counsel for the petitioner that the agenda circulated for the meeting to be held on 23.01.2015 only related to de-allocation of five villages, is incorrect and without any basis as it related to all the 14 villages.

18. On considering the submissions made by the counsel for the parties on this issue, I am inclined to accept the submission of the learned Additional Advocate General, as is apparent from the pleadings, the sequence of events and the documents on record.

19. It is not in dispute that in the meeting held on 11.11.2014, a decision was taken to de-allocate 4 villages from the petitioner sugar mill and allot the same to the Saraswati Sugar Mill, Yamuna Nagar.

20. As regards the remaining villages, on a representation submitted by the petitioner dated 12.11.2014, a decision was taken by the Board to authorize the Chairman to take decision about detaching the villages in question from Bhadson Sugar Mill (petitioner) and to allot the same to the Shahbad Co-operative Sugar Mill, Shahbad after investigation of the representation and the facts given by both the parties may be examined. On 09.12.2014, the decision taken, as conveyed, reads as follows:-

“From

Cane Commissioner, Haryana,
Panchkula.

To

Managing Director,
The Shahbad Cooperative Sugar Mill Ltd.,
Shahbad (Markanda)
Kurukshetra.

Letter No. CC/F/20145/3636
Panchkula Dated 09.12.2014

Sub: Regarding detaching village Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur from Bhadson Sugar Mill and allot to Cooperative Sugar Mill, Shahbad.

Ref: This Office letter No. CC/F-2/2014/3219-3257 dated 19.11.2014

As you know that on 11.11.2014 in the meeting of Sugarcane Control Board held in the Chairmanship of Hon'ble Agriculture Minister, Haryana, the Board unanimously conferred the powers to the Chairman to take the decision about detaching the village Isargarh, Ramgarh, Sanwla, Tatka, Bargat, Shahpur, Bargat Jattan, Bargat Dhalipur, Jalaludin Majra, Roorki, Prehladpur, Bhukhdi, Ram Nagar, Gaudi and Patak Majra from Bhadson Sugar Mill and to allot to Cooperative Sugar Mill Shahbad.

Accordingly after hearing the representatives of the Gram Panchayat, it has been decided by the Hon'ble Chairman that five villages i.e. Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur may be detached from Bhadson Sugar Mill and may be allotted to Cooperative Sugar Mill, Shahbad and the remaining villages may be left to remain with Bhadson Sugar Mill.

Therefore, the five villages i.e. Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur are detached from Sugar Mill Bhadson and are allotted to Cooperative Sugar Mill, Shahbad. It is also requested that the information about the above decision may be pasted on the notice board of Sugar

Mill.

Sd/-

Cane Commissioner, Haryana
Panchkula.”

21. The said decision of the Chairman of the Board was challenged by the petitioner by filing CWP No. 25690 of 2014. In the said writ petition, a statement was made in Court on 14.01.2015 by the counsel for the State on instructions that the impugned resolution of the Sugarcane Control Board qua the allotment of five villages to respondent No. 4 has been withdrawn and he stated that the fresh meeting will be convened and a fresh decision will be taken by taking into account the objections given by the petitioner. It was further stated that the Board will take all objections from all quarters and the decision taken will be communicated.

22. In consonance with the said statement, a communication dated 16.01.2015 was sent to all concerned, which reads as follows:-

“From

The Cane Commissioner, Haryana,
Krishi Bhawan, Sector-21, Panchkula.

To

Managing Director,
The Shahbad Cooperative Sugar Mills Ltd.,
Shahbad (Markanda)

Memo No. CC/F/96
Panchkula, Dated: 16/01/2015

Subject: Attachment of village Ramgarh, Bargat, Jalaludin Majra, Tatka and Prahladpur with cooperative sugar mills Shahbad from Bhadson sugar mills.

This Office Letter No. CC/F/2014/3636 dated

09.12.2014 vide which the villages, namely, Ramgarh, Bargat, Jalaludin Majra, Tatka and Prahladpur have been allotted to Cooperative Sugar Mills, Shahbad from the Bhadson Sugar Mills is hereby withdrawn.”

23. A perusal of the above would show that the subject of both the communications is in effect the same but in the body, as per the letter dated 09.12.2014, a decision was taken with regard to all 14 villages where only 5 villages were withdrawn and the remaining 9 villages were allowed to continue with the petitioner Sugar Mill. In the communication dated 16.01.2015, decision with regard to only 5 villages taken by the Chairman, which was communicated to the petitioner on 09.12.2014, was withdrawn. Thus, the decision with regard to the remaining 9 villages to remain with the petitioner Sugar Mill continued. To this extent, the contention of the learned senior counsel for the petitioner appears to be correct.

24. However, the facts, when seen further, thereafter, indicate that a decision was taken by the Chairman to proceed with the matter in true earnest in relation to the representation dated 12.11.2014 received from the petitioner Sugar Mill with reference to all 14 villages, which is apparent from the letter dated 16.01.2015 (Annexure P-16), wherein a committee consisting of the Deputy Agriculture Director, Karnal, Assistant Cane Development Officer, Shahbad and Bhadson and a representative of the concerned Sugar Mill i.e. The Shahbad Cooperative Sugar Mill Ltd.-respondent No. 4, Saraswati Sugar Mill, Yamuna Nagar and the petitioner Sugar Mill was constituted. A request was also made to submit a detailed representation issue-wise along with the comments on the representation

dated 12.11.2014 received from the petitioner Sugar Mill on 19.01.2015 up to 2:00 hrs. It was further requested that the provisions in Rule 10 (1) of the 1993 Rules may be kept in view by the Committee while submitting its report along with complete information village-wise and also to submit the latest report about the actual road distance of the villages from concerned Sugar Mills. The views of the concerned villages and the sugarcane growers may also be known and their views may also be included in the report by making announcement.

25. Reply was submitted by the petitioner Sugar Mill dated 19.01.2015 (Annexure P-17) pointing out that the matter was sub-judice as CWP No. 25690 of 2014 was pending in this Court and it was further intimated that the decision dated 11.11.2014 of the Board allotting 4 villages to the Saraswati Sugar Mill, Yamuna Nagar stood quashed by the High Court vide order dated 29.12.2014 in CWP No. 24967 of 2014. Petitioner, however, chose not to participate in the proceedings of the Committee, so constituted.

26. On receipt of the report of the Committee constituted by communication dated 16.01.2015, the meeting of the Sugarcane Control Board was fixed for 23.1.2015 at 12:00 Noon and the agenda for the meeting was circulated vide letter dated 21.01.2015. The agenda item for the meeting was "Discussions about the villages transferred from Piccadily Agro Industries Ltd., Bhadson to the Shahbad Co-operative Sugar Mill, Shahbad and Saraswati Sugar Mill, Yamuna Nagar." Under this agenda, the applications/representations received from the various Gram Panchayats were mentioned. It was also mentioned that farmers of these villages reduced the crop of sugarcane. The details and the process of the earlier

decision taken was mentioned and subsequent decision dated 09.12.2014, which was by the Chairman, as per the authorization of the Board, the pendency of the writ petition, the decision dated 16.01.2015, referred to above, investigation of each issue raised and projected in the representation dated 12.11.2014 submitted by the petitioner Sugar Mill, constitution of the Committee and non-participation of the petitioner in such proceedings. The various aspects, which were taken into consideration as per Rule 10 of the 1993 Rules, including the timely payment of sugarcane by the Sugar Mills, crushing capacity, the utilization of the sugarcane allotted for crushing, request by the farmers/cane growers of the villages, establishment of Sugar Purchase Centres in the villages, the various steps taken by the Sugar Mills in the respective assigned areas and the additional facilities provided to the cane growers, history of the initial allotment of the villages and re-allotment to the different Sugar Mills from time to time under the 1993 Rules were also mentioned. The distance of the villages from the Sugar Mills, transport facilities and the mode of transport etc. have been referred to in detail. At the end of the agenda, further Note has been given that objections to the agenda may be submitted in writing well before the meeting of the Board, if any.

27. It is not in dispute that the said agenda item was received by the petitioner Sugar Mill but it did not file any objection to the agenda circulated nor did it participate in the meeting held on 23.01.2015. In view of the above, it cannot be said that the petitioner was not given ample notice of the agenda or the item to be discussed in the meeting dated 23.01.2015. It cannot thus, be said that the petitioner was not put to notice that a fresh decision was to be taken qua all villages and in what context, although there

is a specific reference with regard to 5 villages i.e. Ramgarh, Bargat, Jalaludin Majra, Tatka and Prehladpur, the meeting was to be held.

28. There is nothing in the Rules, which indicate that once a decision is taken by the Board, the same cannot be reviewed/re-considered by the Board in its subsequent meeting. Thus, the aspect which needs to be looked into would be, whether the principles of natural justice have been complied with or not. Which, as has been stated above, clearly and conclusively concludes that the petitioner was given due notice and full opportunity.

29. Present is a case where the principles, as laid down by the Supreme Court in the case of **The Purnabpur Company Ltd. Vs. Cane Commissioner of Bihar and others**, AIR 1970 Supreme Court 1896, and **Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others**, AIR 1978 Supreme Court 851 stands fully complied with and tests incorporated regarding compliance of principles of natural justice to be followed satisfied.

30. The next contention, which has been raised by the learned senior counsel for the petitioner, is that the decision of the Board, which is recorded in the minutes of the meeting dated 23.01.2015 withdrawing the detachment of villages Bargat Jattan, Bargat Thalipur, Bargat Shahpur, Ishargarh, Ramgarh, Sanwla, Tatka, Jalaludin Majra, Roorki, Prehladpur, Bhukhdi, Ram Nagar, Gudhi, Behlolpur and Kalirano except village Patak Majra and allotting them to Shahbad Co-operative Sugar Mill, Shahbad-respondent No. 4 is not in consonance with Rule 10 of the 1993 Rules. He contends that at the time when these villages were allotted to the petitioner, the distances were more to the petitioner Sugar Mill from the villages as

compared to the Shahbad Co-operative Sugar Mill, Shahbad so there is no difference now. If deviation from an earlier decision is to be made, then reasons must be given to justify such a decision now being taken. He contends that since the proceedings of the Board are of quasi-judicial nature, an order, which is unreasoned, cannot sustain. In support of this contention, he has placed reliance upon the judgment of the Supreme Court in the case of The Purtabpur Company Ltd. (supra). He has highlighted the comparative performance of the petitioner Sugar Mill viz-z-viz The Shahbad Cooperative Sugar Mill Ltd with reference to the crushing of sugarcane done viz-a-viz the allotted quantity of sugarcane. He asserts that the petitioner was allotted 37 lac quintals of cane for the crushing in the year 2013-14 and the petitioner was able to crush 39.89 lac tonnes whereas The Shahbad Co-operative Sugar Mill was allotted 85 lacs tonnes and crushed only 61.45 lac tonnes. On this basis, he, highlighting the performance of the petitioner Sugar Mill, states that it has been performing better in comparison to that of respondent No. 4. The other aspects have been found to be, by and large, the same except that the area under cultivation in the assigned area has reduced in the case of the petitioner Sugar Mill whereas it has increased in the case of respondent No. 4. He has also relied upon the judgment passed by this Court in CWP No. 24967 of 2014 titled as **Picadily Agro Industries Limited vs. State of Haryana and others**, decided on 29.12.2014 (Annexure P-14) in support of these contentions.

31. Further contention of the learned senior counsel for the petitioner is that the irrelevant factors have also to be taken into consideration and in this regard, he has referred to the representations

submitted by the Gram Panchayats of the villages and the cane growers, which have been taken note of and given more than adequate consideration by the Board while taking its decision. The distance has also been taken as a ground without taking into consideration the cane centres, which have been set up by the petitioner Sugar Mill in the villages where either subsidized transportation has been provided or arrangements have been made to the Sugar Mill to transport the cane to the mill.

32. In response to this argument, the stand of the counsel for the State is that the distance of the proposed area from the mill, the facilities of transporting the sugarcane, whether the area has previously supplied cane to the factory and previously existing zoning arrangements among the sugar mills and the quantity of cane to be crushed in a factory are the relevant factors, which have to be taken into consideration under Section 10 of the Act. He has referred to the judgment passed by the Division Bench of this Court in CWP No. 15542 of 2003 titled as The Cane Growers Welfare Society Ladwa and others vs. State of Haryana and others, decided on 31.10.2012 (Annexure P-6) where the Court had observed that the villagers, who had challenged the allocation of their villages to the petitioner Sugar Mill, had stopped growing the sugarcane, which was because of the impugned orders which had compelled them to take such a decision. Petitioners were, however, given an option to file fresh petitions confining their challenge to the grievances which remain unredressed. He has also referred to the decision in the earlier writ petition i.e. CWP No. 18468 of 2005, where the High Court, while disposing of the writ petition as infructuous, directed that in case any representations are filed by the petitioners or any other persons likely to be affected by the re-assignment of

the areas between sugar mills, the competent authority would take a final decision thereon in accordance with law. He, therefore, contends that in the light of these orders of this Court, the Board was bound to take into consideration the representations/applications of the Gram Panchayats and cane growers of the concerned villages and to consider their point of view also while taking a decision. Thus, the decision being in consonance with the order passed by this Court, cannot be said to be violative of the provisions of Rule 10. He contends that a well-reasoned and detailed order discussing each and every aspect has been passed by the Board and thus, the same cannot be faulted with.

33. On considering the submissions made by the counsel for the parties on this aspect and on going through the impugned minutes of the meeting dated 23.01.2015, this Court is of the view that the submission made by the counsel for the State is justified.

34. No doubt, the Board is a creation of a Statute and, therefore, it is required to support its decisions through reasons to be given therein, which should be within the parameters, as laid down by the Statute or the Rules framed thereunder. The Board is a specialized expert body and, therefore, interference in its decisions should be minimal and restricted to the well laid down principles, one of which is compliance of the principles of natural justice. That apart, the decisions should be reasoned and based on relevant considerations. If the decision taken by the said authority passes these tests, the Court should not interfere with the decisions, so taken.

35. In the present case, the said tests, on perusal of the impugned orders, have been cleared. All the relevant considerations and factors have

been taken into consideration and after due deliberation and consideration, a well-reasoned conclusion has been drawn, which has led to the decision keeping in view the facts and circumstances, as prevalent at the time when the impugned decision was taken.

36. The minutes of the meeting dated 23.01.2015 of the Board shows that the petitioner did not participate in the said meeting despite having been invited for the same. The Cane Commissioner apprised the Board regarding the agenda put in the meeting in detail including the factual position as to how the earlier proceedings and the litigation had progressed. The position with regard to the working and functioning of the petitioner as also respondent No. 4 was mentioned. The report of the Committee constituted to go into the objections raised by the petitioner by way of the representation dated 12.11.2014 in which again the petitioner-sugar mill chose not to participate, has also been discussed in detail. The survey being conducted by the Committee and the feed back with regard to the opinion/experiences of the farmers of the various villages and their desire to be associated with a particular sugar mill, the respective distances between the various villages and the two sugar mills, the command area of the two sugar mills i.e. 16 Kms. diameter of respondent No. 4 and 12.5 Kms. to the petitioner sugar mill, the gradual increase or decrease of the area of sugarcane within the command area of the respective sugar mills, the output of sugarcane in the respective command areas, the efforts made by the sugar mills to encourage farmers of the villages falling in the respective command area to grow sugarcane, was all pointed out. The recommendations of the Committee and the conclusions drawn therein were all taken into consideration and discussions held thereon during the meeting were also

recorded. It is thereafter, that a decision was taken. The farmers of the villages Bargat Jattan, Bargat Thalipur, Bargat Shahpur, Tatka, Ramgarh, Prehladpur, Jalaludin Majra, Roorki, Behlolpur and Kalirano were also heard by the Board in the meeting and they pointed out that they wanted their allotment with The Shahbad Co-operative Sugar Mill-respondent No. 4 and their reasons for such choice included the distance being nearer to the said Sugar Mill and the various facilities, which were provided including seeds for sugarcane, fertilizers and insecticides through grant and interest free loan for the development works of sugarcane, facility of lab to get the diseases of the sugarcane checked and to get the required medicines on grant etc., which facility is not provided by the petitioner. Respondent No. 4 provided for shares for the farmers in the Cooperative Sugar Mill and they were also given bonus. Some of the farmers also complained about the weighing at the Sugarcane Purchase Centres set up by the petitioner sugar mill.

37. Considering all these aspects and the provisions, as contained in Sub-Rule (1) of Section 10 of the 1953 Act, the Board took a conscious decision, operative part whereof reads as follows:-

“ The Board perused the Sub Rule 10(1) of the Haryana Sugarcane (Regulation of Purchase and Supply) Act 1993 and the provisions of Section 10 of The Punjab Sugarcane (Regulation of Purchase and Supply) Act 1953 and found that:

(a) Village Bargat (Bargat Jattan, Bargat Thalipur and Bargat Shahpur) Tatka, Jalaludin Majra, Prehladpur, Roorki, Behlolpur, Ram Nagar, Bhukhdi, Gudhi, Patak Majra and Kalirano are nearer by 8 KM to 14 KM to Shahbad Cooperative

Sugar Mill, Shahbad as compared to Piccadilly Agro Industries Ltd., Bhadson. Village Ishargarh is situated at a distance of 19.1 KM from Piccadilly Agro Industries, Bhadson and at a distance of 18 KM from Shahbad Cooperative Sugar Mill Ltd., Shahbad. The distances of both the Sugar Mills from the villages have been described in the Agenda Notes.

b) There are sufficient sources of transportation for supply of Sugarcane to both the Sugar Mills.

c) The farmers of the above villages remained attached with Shahbad Cooperative Sugar Mill Ltd., Shahbad for long time and at present also except village Patak Majra, the farmers of all the villages want to supply their sugarcane to Shahbad Cooperative Sugar Mill Ltd., Shahbad.

d) After establishment of Shahbad Cooperative Sugar Mill Ltd., Shahbad from 1985 to the year 2005-06, the above villages remained attached with the command area of Shahbad Cooperative Sugar Mill Ltd., Shahbad. But after the year 2005-06, the above villages had been included in the command area of Piccadilly Agro Industries Ltd., Bhadson.

e) The Shahbad Cooperative Sugar Mill Ltd., Shahbad has been allotted 108 lac quintal Sugarcane for crushing during the crushing season 2014-15 whereas the target of crushing by this Sugar Mill has been kept 70 lacs quintal. Piccadilly Agro Industries Ltd., Bhadson has been allotted 42 lac quintal Sugarcane for crushing during the season 2014-15 whereas the target of crushing of this Sugar Mill has been kept 40 lac

quintal.

Keeping in view the sub rule (10)1 of The Haryana Sugarcane (Regulation of Purchase and Supply) Rule 1993 and the provisions given in Section 10 of the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953, the report and recommendation of Committee, Lack of development works of Sugarcane by Piccadilly Agro Industries Ltd., Bhadson and keeping in view the demand of farmers, after profound discussions on the matter, the members of the board present in the meeting and other officers were of unanimous opinion that except village Patak Majra all the remaining villages may be allotted to Shahbad Cooperative Sugar Mill, Shahbad.

Therefore, keeping in view all the above facts, it was unanimously decided by the board that the village Bargat Jattan, Bargat Thalipur, Bargat Shahpur, Ishargarh, Ramgarh, Sanwla, Tatka, Jalaludin Majra, Roorki, Prehladpur, Bhukhdi, Ram Nagar, Gudhi, Bahlolpur, and Kalirano may be detached from the area of Piccadilly Agro Industries Ltd., Bhadson and may be allotted to Shahbad Cooperative Sugar Mill, Shahbad. As per desire of the villagers of village Patak Majra, this village may be kept attached with Piccadilly Agro Industries Ltd., Bhadson. It was also decided by the Chairman that in the next season, a committee may be constituted which may verify that in the command area of which Sugar Mill and for what reasons the area under Sugar is increasing/decreasing so that as per requirement of the Sugar Mills, the development programmes of

sugarcane could be given the speed. The Chairman also desired that in this committee, the representatives of the farmers may also be included.

In the end the meeting was ended with the thanks resolution to the Hon'ble Chairman.”

38. The principles of natural justice have been followed in this case. All relevant factors both in law and facts have been discussed, considered, amply and correctly appreciated and dealt with while taking and reaching the impugned decision. This Court finds no illegality in the said decision which would persuade this Court to interfere in exercise of its writ jurisdiction.

39. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

May 04, 2015

pj