

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1714 of 2013

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M/S New India Sugar Mill through its Occupier P.R. Singh, S/O Late Nagar Mal Singh, R/O New India Sugar Mill Campus, Dhadha Bujurg, P.S.-Kotwali Hata, District- Kushinagar (U.P.).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Industrial Development Commissioner -cum- Secretary, Department of Industries and Sugarcane, Government of Bihar, New Secretariat, Patna.
3. The Joint Secretary, Department of Industries and Sugarcane, Government of Bihar, New Secretariat, Patna.
4. The Cane Commissioner, Bihar, New Secretariat, Patna.
5. The District Magistrate, Siwan/Gopalganj
6. The Cane Commissioner, Siwan/Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Sushmita Mishra

For the Respondent/s : Mr. Nivedita Nirvikar, GP-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

7 11-01-2016

Heard the parties.

The petitioner is a sugar mill having its office and work at Kushinagar in the State of Uttar Pradesh. The petitioner is aggrieved by the office order bearing Memo no.2186 dated 29.11.2012 issued by the Cane Commissioner, Bihar, Patna, whereby the sugar mill has been directed to pay the higher of the price of sugarcane as prevalent in the State of Uttar Pradesh and the State of Bihar.

Ms. Sushmita Mishra, learned counsel appearing for the petitioner has referred to an order of this Court passed in CWJC No.6418 of 2009 (M/s Bajaj Hindustan Sugar &



Industries Ltd. vs. The State of Bihar) to submit that the issue at hand was tested before the Court and vide order passed on 30.1.2015 a Bench of this Court in consideration of the judgments on the issue and the statutory prescriptions has held that the Government of Bihar has no jurisdiction to issue such order. Ms. Mishra has also referred to the statement made by the Special Cane Officer, Patna in the counter affidavit filed today and with a particular reference to statement made in paragraph 7 thereof she submits that it is admitted that the Government of Bihar does not fix the cane price.

Be that as it may, whatever be the cane price statutorily fixed for the State of Bihar, the petitioner-company would be legally bound to pay the same and the Cane Commissioner, Bihar has no jurisdiction to enhance the same nor can he force the Sugar Mill to pay the higher of the price existing in Bihar and State of Uttar Pradesh.

In aforesaid view of the matter and considering the opinion already expressed by a Bench of this Court in CWJC No.6418 of 2009 (M/s Bajaj Hindustan Sugar & Industries Ltd. vs. The State of Bihar) the direction issued in paragraph 2 of the office order bearing Memo No.2186 dated 29.11.2012 in so far as it directs the petitioner to pay higher price of the prices

prevalent in the State of Uttar Pradesh and the State of Bihar, cannot be upheld and is accordingly set aside.

This writ petition is allowed. The petitioner must make the payment of the price of sugarcane at the rate statutorily fixed and prevalent in the State of Bihar, if not already paid.

(Jyoti Saran, J)

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