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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7447 OF 2009
WITH
CIVIL APPLICATION No. 1299 OF 2016

Kadwa Sahakari Sakhar
Karkhana Ltd. ... Petitioner
Vs.
The Union of India & Ors. ... Respondents

Mr. Bhushan V. Mahadik, for the Petitioner.
Mr. Y. S. Bhate a/w Ashok R. Varma, for the Respondent – UOI.
Mrs. K. R. Kulkarni, AGP for Respondent Nos. 5 & 6.

CORAM : ANOOP V. MOHTA, &
MANISH PITALE, JJ.
DATE : NOVEMBER 27, 2017

FINAL ORDER :

1. Taken out from the final hearing board.
2. The Petitioner is a cooperative sugar factory, situated at Materewadi, taluka Dindori, district Nashik. The Petitioner has challenged an order 17.4.2009 passed by the Chief Director (Sugar). On 29.8.2009 this Court, while admitting the petition, granted interim

relief in the following terms:

“(1) We hereby grant interim reliefs in terms of prayer clause (C) (i) and (C) (ii) of the writ petition which read thus :

“(C) Pending the hearing and final disposal of the Writ Petition the execution, operation and effect of the impugned ;

- (i) Order 17-4-2009 passed by the Chief Director (Sugar) being Exhibit “A” (Colly) – to this Petition be stayed qua the Petitioner.
- (ii) Pending the hearing and final disposal of this writ petition / the Petitioner may be permitted to sell the unsold / undispached sugar, as free sugar on such terms as this Hon’ble Court may deem fit.”

subject to the following conditions :

- (i) The Petitioner to call for the offers by issuing tenders for the quantities stated in the release order/orders which is/are issued in favour of the Petitioner by the Respondents earlier in sequence of the order / orders in spite of the fact that time limit stated in the said order / orders has elapsed. We only grant relaxation in respect of the said time in favour of the Petitioner.
- (ii) The tenders should be issued in widely circulated news paper and the tenders shall be opened in the Karkhana in the presence of the representative of the Maharashtra State Cooperative Bank, Nashik Region, Nashik and for that purpose a proper notice should be given to the said Bank.
- (iii) The Petitioner shall maintain a separate account in respect of this sugar, as also the price realised out of the said tenders.
- (iv) The Petitioner shall execute an Indemnity Bond within a

period of four weeks from today in favour of the Registrar (Judicial) of this Court which will be continuously operative till the final disposal of the above Writ Petition, to compensate the Respondent No.1 to the extent of levy price of 1632.38 M.T. in case petition fails.”

3. A statement is made on behalf of the Petitioner that the bank guarantee has been renewed from time to time till this date.

4. This matter is listed today for final disposal. The Petitioner has placed on record a communication / order dated 5.11.2013 whereby Respondents have withdrawn the impugned order dated 17.4.2009. A submission is made that in view of said communication / order, petition has become infructuous, and therefore, needs to be disposed of by vacating the conditional order, so passed.

5. Learned counsel appearing for the Respondent – Union of India, based upon material available on record including the communication dated 5.11.2013 and conceded this position. In view of this, there is no order against the Petitioner, and therefore, there is no point in keeping this petition pending. The learned counsel for the Respondent also conceded to the position that petition can be disposed

of in view of withdrawal of the impugned order.

6. Therefore, taking overall view of the matter, and in view of above, present petition is disposed of by consent. Interim relief granted by order dated 29.8.2009 also stands vacated.

7. Respondent No. 7 – Bank is directed to release the amount by discharging the bank guarantee, which was submitted by the Petitioner pursuant to the order of this Court and take consequential steps / act without further delay. Rule is made absolute in the aforesaid terms with no order as to costs.

9. In view of disposal of the petition, Civil Application No. 1299 of 2016 does not survive and is accordingly disposed of.

Sd/-
[MANISH PITALE, J.]

Sd/-
[ANOOP V. MOHTA, J.]

Vinayak Halemath