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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7451 OF 2009
WITH
CIVIL APPLICATION No. 2909 OF 2014
WITH
CIVIL APPLICATION (St.) No. 29843 OF 2015

Kadwa Sahakari Sakhar Karkhana Ltd.	...	Petitioner / Applicant in both civil applications
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 - State.

CORAM : ANOOP V. MOHTA, &
MANISH PITALE, JJ.

DATE : NOVEMBER 27, 2017

FINAL ORDER :

1. Not on board. Upon mentioning, by consent of parties petition is taken on board for final hearing.
2. The Petitioner is a cooperative sugar factory, situated at

Materewadi, taluka Dindori, district Nashik. The Petitioner has challenged orders dated 29.6.2009 and 28.7.2009 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) Orders 29th June, 2009 and 28th July, 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 51,594.50 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 31.11.2013 whereby Respondents have withdrawn the impugned orders dated 29.6.2009 and 28.7.2009. 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 interim order, so passed.

5. Learned counsel appearing for the Respondent – Union of India, based upon material available on record including the communication dated 31.10.2013 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 orders.

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. 2909 of 2014 and Civil Application (St.) No. 29843 of 2015 do not survive and are accordingly disposed of.

Sd/-
[MANISH PITALE, J.]

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

Vinayak Halemth