

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1411 OF 2019

Bhogawati Sahakari Sakhar Karkhana. ..Petitioner.
Versus
Union of India and Others. ..Respondents.

Mr. A. V. Anturkar, Senior Advocate with Mr. Prashant Bhavake for the Petitioner.

Mr. V. S. Gokhale, Mr. Mohir Sahani i/b Ashish Mehta for Respondent No. 1 and 2.

Mrs. M. P. Thakur, AGP for the State [Respondent Nos 3 to 5.]

Mr. P. K. Dhakephalkar, Senior Advocate and Mr. Prasad S. Dani, Senior Advocate with Mr. Ketan Joshi for Respondent No. 6.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **June 21, 2019.**

P. C. :

1. By the impugned order dated 18th May 2015 passed by the Deputy Director of Sugar – Respondent No.2 herein, the Letter of Intent [LoI] granted in favour of Respondent No.6-Society is revalidated. The Petitioner - an existing sugar factory being aggrieved by the said order, has approached this Court invoking jurisdiction of this Court under Article 226 of Constitution of India.

2. It is the case of the Petitioner that though as a result of the impugned order they are affected, the same is passed without giving any opportunity of hearing to them. It is also case

of the Petitioner that the finding of Respondent No.2 that “prescribed effective steps” within the meaning of Explanation (4) to Clause 6A of the Sugarcane Control Order, 1966 are taken by Respondent No. 6, is without giving any details thereof. It is also contention of the Petitioner that in the absence of power to review, the impugned order revalidating the Lol, could not have been passed.

3. Mr. Dhakephalkar, learned senior counsel appearing on behalf of Respondent No.6 does not dispute that the Petitioner was not heard while passing the order impugned in this petition. It is also not disputed by Respondent No.6 that there is no discussion about the “effective steps taken” by Respondent No. 6 though finding is recorded to that effect.

4. Faced with this difficulty, the learned senior counsel appearing for Respondent No.6, on instructions, fairly stated that the impugned order may be quashed and set aside and matter may be remanded back to Respondent No.2. Statement accepted.

5. That apart, *prima facie*, we are of the view that the principles of natural justice are not followed while passing the impugned order.

6. In that view of the matter and in the light of concession given by Respondent No.6, we quash and set aside the impugned order and remand the matter [i.e., application of Respondent No. 6 for revalidation of LoI] back to Respondent No.2, for afresh decision. Respondent No.2 before passing order on the said application shall hear the Petitioner and other affected persons / parties and pass a speaking order. This exercise shall be completed by Respondent No.2 within the period of three months from today. Writ petition stands disposed of.

7. As a consequence of above, the order dated 21st July 2018 passed by Respondent No.4 granting technical, financial and administrative approval to the proposed expenditure of 107.50 crore for erection of sugar factory of Respondent No. 6 is quashed and set aside.

8. It is made clear that this Court has not gone into merits of the matter and all points and contentions of the respective parties are kept open. Parties are at liberty to rely upon the additional documents before Respondent No. 2.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]