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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.NO.21694 OF 2018

AND

W.M.P.NO.25447 OF 2018

M/s.Sree Sakthi Tea Industries,
Represented by its Managing Partner,
Thummanatty Village and Post,
The Nilgiris - 643 002.

...Petitioner

Vs

1.Tea Board of India,
Represented by its Executive Director and
Registering Authority,
Shell Wood, Club Road,
P.B.No.6, Coonoor,
The Nilgiris -643 101.

2.The District Collector and Chairperson,
District Green Leaf Price Monitoring
Committee (DGLPMC),
Udhagamandalam,
The Nilgiris.

3.The Assistant Director of Tea Development
and Factory Advisory Officer,
Kundah, The Nilgiris.

4.M/s.Paramount Tea Marketing (SI) Private Ltd.,
65/1/1A, Club Road,
Coonoor, The Nilgiris.

...Respondents

Prayer : Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Certiorari, to call for the entire records relating to impugned order dated 26.07.2018 / 02.08.2018 passed by the first respondent in Ref.No.6(181)/TMCO/CNR/99/1051 and quash the same.

For Petitioner : Mr.L.Mouli
For R1 & R3 : Mr.K.Ramanamorthy
For R2 : Mr.K.M.D.Muhilan
Government Advocate
For R4 : No Appearance



ORDER

This Writ Petition has been filed, praying for issuance of Writ of Certiorari, to call for the entire records relating to impugned order dated 26.07.2018 / 02.08.2018 passed by the first respondent in Ref.No.6(181)/TMCO/CNR/99/1051 and quash the same.

2.When the matter is taken up for hearing, the learned counsel appearing for the respondents 1 & 3 would submit that the issue involved in this Writ Petition is no more res integra in view of the decision rendered by the Hon'ble Division Bench of this Court in W.P.No.29406 of 2017 etc., batch dated 05.11.2019.

3.The learned counsel for the petitioner has not raised any objection and acceded the submission made by the learned counsel for the respondents 1 & 3.

4.Heard the learned counsel for the petitioner; the learned Government Advocate appearing for the second respondent and the learned counsel for the respondents 1 & 3.

5.The relevant portions of the order passed by the Hon'ble Division Bench of this Court, referred to above, are extracted hereunder:

"2. Now, the contention of the learned counsel for the petitioners in these writ petitions is that the basis for fixing of out turn cannot be sustained in the eye of law. Therefore, the learned counsel for the petitioners would submit that out turn will have to be fixed by taking note of the peculiarity of each area and not the District per se and has produced the communication sent by the first respondent in Ref. No. 50(29)/Sectt/PG/2017/11985 dated 22.02.2019, which is extracted hereunder.

"This has reference to your public grievance registration No. PMOPG/E/ 2018/0511021 dated 02.11.2018 addressed to the Ministry of Commerce & Industry, Government of India regarding the initiative taken on the out turn percentage and also the status of fresh study on price Sharing Formula (PSF) on the above captioned subject.



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In this regard, I am directed to furnish below the reply of your grievances for kind information. Regarding the issue of out turn percentage of Gudalur and Pandalur regions, it may be informed that as the fixation of out turn percentage is followed by ascertaining scientific data for the regions and seasons and considering all the mentioned agro climatic conditions, Tea Board has requested Indian Metrological Department, New Delhi, TRA, UPASI and concerned Department of the State Governments like Agriculture, Metrological Department etc requesting to share the available agro-climatic data for different district/region/States of tea growing areas. But only few responses were received by Tea Board in this regard.

Further, Tea Board had also tried to re-examine the price sharing formula (PSF) considering all aspects for tea growing regions of India and accordingly had requested few institutions to submit their proposals for conducting such study by the experts in the relevant field but response has not been received from all of them. Therefore, Tea Board is in the process of floating a tender for conducting the study on the Price Sharing Formula(PSF)."

3. The learned counsel appearing for the first respondent-Tea Board would submit that pursuant to the above said communication, the process of fixing the out turn afresh is on. This would be done as seen from the communication recorded by calling for tenders. As an outer limit, a further period of six months would be required to complete the process.



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4. In view of the aforesaid fact that the first respondent-Tea Board is in the process of considering the issue afresh qua the out turn percentage, we are not inclined to keep the writ petitions pending. Now there is a huge amount of outstanding to be payable by the petitioners. Therefore, the petitioners also got interim orders in these writ petitions.

5. The learned counsel appearing for the first respondent-Tea Board also submitted that the small farmers running about 45 thousand would be affected by the currency of the interim order passed. It is further submitted that the particulars of the farmers would be available only with the petitioners alone. Therefore, this aspect would be taken note of.

6. We find some considerable force in the submission of the learned counsel appearing for the first respondent-Tea Board. The interest of the individual and the small farmers cannot be lost sight of. In such view of the matter, to protect the interest of all the parties, we deem it appropriate to direct the petitioners to pay 50% of the amount disputed in the impugned orders to the respective farmers within a period of 12 weeks from the date of receipt of a copy of this order. The farmers will have to give an undertaking that they would repay the difference amount, if lesser amount is fixed by the first respondent-Tea Board, after considering the relevant materials as directed above. The first respondent-Tea Board is also directed to issue individual notices to the petitioners indicating the difference amount payable till the month of November, 2019. This will have to be done within a period of four weeks from the date of receipt of a copy of this order. We make it clear that till the entire process is completed as indicated above the disputed amount shall not be



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recovered from the petitioners. However, this arrangement is only till the final decision by the first respondent-Tea Board. The first respondent-Tea Board is also at liberty to determine the out turn percentage with an anterior date and we do not wish to say anything on this aspect. It is needless to state that the payment of remaining amount would be depending upon the decision of the first respondent-Tea Board.

7. These writ petitions stand disposed of accordingly. No costs. Consequently, connected writ miscellaneous petitions are closed."

6. In view of the above, it is made clear that the petitioner is directed to pay 50% of the amount disputed in the impugned order dated 26.07.2018 / 02.08.2018 by the respondent in Ref.No.6(181)/TMCN/CNR/99/1051 within a period of 12 weeks from the date of receipt of a copy of this order. The first respondent-Tea Board is also directed to issue notice to the petitioner indicating the difference amount payable within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of on the same line as the order passed by the Hon'ble Division Bench of this Court referred above. No Costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To:

1. The Executive Director and
Registering Authority,
Tea Board of India,
Shell Wood, Club Road,
P.B.No.6, Coonoor,
The Nilgiris -643 101.



2.The District Collector and Chairperson,
District Green LEaf PRice Monitoring
Committee (DGLPMC),
Udhagamandalam,
The Nilgiris.

3.The Assistant Director of Tea Development
and Factory Advisory Officer,
Kundah, The Nilgiris.

+1cc to M/s.L.Mouli, Advocate SR.No.60460

+1cc to Mr.K.Ramanamoorthy, Advocate SR.No.60362

+1cc to the Government Pleader SR.No.61091

W.P.No.21694 of 2018
and W.M.P.No.25447 of 2018

PMK(CO)
RVM(08/12/2021)