**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.6143 of 2012**

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M/S VISHNU SUGAR MILLS LIMITED P.O. Harakhua, P.S. Vishnu Sugar Mills, District-Gopalganj, Through Its General Manager, Shri P.R.S. Panicker Son Of Late Raghav Panicker

... ... Petitioner

Versus

1. The Union Of India Government Of India, Krishi Bhawan, New Delhi-110001
2. The Joint Secretary Sugar, Ministry Of Consumer Affairs And Publicdistribution Department Of Food Government Of India, Krishi Bhawan, New Delhi-110001
3. The Chief Director Sugar Government Of India, Ministry Of Consumer Affairs, Food And Public Distribution Department Of Food And Public Distribution, Directorate Of Sugar, Krishi Bhawan, New Delhi-110001
4. The Director Cost, Government Of India, Minister Of Consumer Affairs, Food And Public Distribution, Directorate Of Sugar, Krishi Bhawan, New Delhi-110001
5. The Dy. Director Cost, Government Of India, Minister Of Consumer Affairs, Food And Public Distribution, Directorate Of Sugar, Krishi Bhawan, New Delhi-110001

... ... Respondents

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**Appearance :**

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| For the Petitioner/s | : | Mr. Ashish Giri, Advocate |
| For the Respondent/s | : | Mr. N.A. Shamsi ASGI |
| For the State | : | Mr. Pranoy Kumar, AC to GP12 |

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**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY**

ORAL ORDER

9 09-05-2024 Heard the Learned counsel for the petitioner as well as the Learned counsel for the respondents.

2. This Court on 04.04.2012 heard both the parties and passed a detailed interim order, which reads as follows:

> *"The petitioner is aggrieved by the fact that the respondents are withholding the sale of non-levy sugar (free sugar quota of the petitioner's mill) from March, 2012. The apparent ground for withholding of the said*

*quota and not allowing the petitioner to sell what is known as free sugar (non-levy) is because the petitioner has not supplied the levy sugar as per the notification of the State Government which has allowed to a discrepancy in the stock.*

*Counsel for the petitioner submits that they had filed a writ application earlier, the judgment of which contained in Annexure-13 as the Union of India had stopped the petitioner's company from selling the levy sugar.*

*This writ application has been filed praying therein for quashing of an order passed by the Union of India whereby the carry forward levy liability of the sugar mills including the petitioner has been revised and thus the petitioner of carry forward obligation has been fixed to maximum two sugar seasons, subsequent to the sugar season to which the levy obligation pertains. The writ application was allowed and the order dated 30.11.2010 was quashed with a direction to the Government or its authorized corporation to liquidate the accumulated monthly carry forward liabilities within three months beyond which the same would not continue and with the next sugar production year commencing from October each year there would not be any carry forward of past liability and the levy liability would start with clear slate every year.*

*Counsel for the petitioner explains that the liability had accumulated since the year 2009-10. The order of the Court, as per the submission, meant that in the coming years after the judgment, the sugar accumulated would not carry forward to the next year if it was not utilized by the concerned Government* *within a period of three months.*

*Counsel appearing on behalf of the Union of India opposes the grant of interim stay on the ground that the order passed in CWJC No. 13466 of 2011 has been challenged before this Court by filing a Letters Patent Appeal.*

*It may be clarified that the order of this Court dated 12.01.2012 is with respect to levy sugar and not with respect to free sugar. The allegation against the petitioner is that they have sold levy sugar within a period of three months and as such they have violated the orders of the Court.*

*The question whether the observations of the Court in the judgment dated 12.01.2012 would apply prospectively or retrospectively is a question which would be decided in the LPA.*

*As far as the present case is concerned, there has been an embargo on the sale of the free sugar on the ground of discrepancy arising out of the sale of levy sugar.*

*Counsel for the Union of India relies on a judgment of this Court in the case of Sec., U.P.S.C. & Anr. Vs. S. Krishna Chaitanya [2011 (4) PLJR 196 (SC)] and submits that this Court should not grant interim order in this matter as it would amount to allowing the writ application. The submission aforesaid has to be rejected on the facts of this case as any interim order would not amount to allowing the writ application and the merits of the case would need to be considered before the Court would test whether the Union of India was justified in stopping the quotas/sale of free sugar (non-levy)/ The case referred* *to is with respect to the Court allowing students appearing for the examination. Under those circumstances, the Court held that once the students or child is allowed to sit for the examination and subsequently if he passes the examination, nothing remains in the lis.*

*I, therefore, have no hesitation in following the orders passed in CWJC No. 326 of 2011 dated 03.02.2011 and pass an order permitting the petitioner to sell the free sugar (non-levy) from March, 2012 onwards on the condition that the sale proceeds would be utilized for making payments to the farmers and labourers through separate accounts of bank and the remaining amount, if any, will be kept in the amount which would be the subject matter of the final decision in the matter.*

*Counsel for the Union of India is granted three weeks' time to file counter affidavit in this matter.*

*List this case after three weeks under the heading 'to be mentioned' for fixing a date of hearing once the counter affidavit is filed.*

3. In view of the aforesaid order, the petitioner is permitted to sell free sugar (non-levy) from April, 2012 onwards on the condition that sale proceeds would be utilized for making payment to the farmers and labours through separate accounts of Bank. Subsequent to the said order, the LPAs have been preferred against the orders in CWJC No. 13466 of 2011, which relates to the similar issue

of levy sugar liability of the past years.

4. The said LPAs were dismissed as infructous to the subsequent notification, “that no Sugar Levy Rules exists” and therefore, no old liability as on date, in view of the terms of the notification exist. Therefore, the interim order which was passed in this case has been made absolute.

5. With the aforesaid observations, the writ petition is disposed of.

**(G. Anupama Chakravarthy, J)**

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