

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.849 OF 2018

Vitthalrao Shinde Sahakari Sakhar
Karkhana Ltd.
Gangamai Nagar, Pimpalner,
Taluka Mhada, District Solapur-413210 ... Petitioner

Versus

1. State of Maharashtra
2. The Secretary
Law and Judiciary Department,
Government of Maharashtra,
Mantralaya, Mumbai-400032
3. The Commissionerate of Sugar
Sakhar Sankul, Shivajinagar,
Pune ... Respondents

**Mr Anil Anturkar, Senior Advocate a/w Mr Amol Gatne, for
the Petitioner.**

**Mr A I Patel, Addl. GP a/w Mr M M Pabale, AGP for the
Respondent No.1 and 3.**

**CORAM : M.S. Sonak &
Jitendra Jain, JJ.**

**RESERVED ON : 12 June 2025
PRONOUNCED ON : 13 June 2025**

JUDGMENT (Per Jitendra Jain, J.):

1. Rule. By consent of the parties taken up for final hearing.

2. This Petition filed under Article 226 of the Constitution of India challenges an order dated 13 December 2017 passed by Respondent No.3 for the year 2016-2017, whereby the Petitioner's request to grant deduction of payment of Equated Monthly Installments (EMI) in respect of loan taken has been rejected for the purposes of arriving at Revenue Sharing Price (RSP).

Brief facts :-

3. The Petitioner is a Co-operative Sugar factory engaged in the business of manufacturing and selling sugar. In the matters of dealing with the sale and manufacture of sugar, the Petitioner is governed by the Essential Commodities Act, 1955, the Sugarcane (Control) Order, 1966 and Maharashtra Regulation of the Sugarcane Price (Supplied to Factories) Act, 2013 (the 2013 Act).

4. As per the scheme of the above-referred Acts and the orders, the Petitioner is obliged to pay under the Essential Commodities Act, 1955, Fair Remunerative Price (FRP) for the purchase of sugarcane from the farmers and is also obliged to share revenue [RSP] with the agriculturists under a revenue sharing mechanism under the 2013 Act.

5. The dispute in the present Petition revolves around determining the RSP for the purposes of the 2013 Act.

Submissions of the Petitioner:-

6. Mr. Anturkar, learned senior counsel for the Petitioner, submits that the exercise of determining the RSP is based on

a format which is required to be issued by the Board under the Maharashtra Regulation of the Sugarcane Price (Supplied to Factories) Rules, 2014 (2014 Rules). He submits that in the said format there is no provision for reducing the EMI for arriving at the RSP and, therefore, defect in the format issued cannot disentitle the Petitioner from claiming the deduction of the EMI for the period under consideration. He submits that for the period 2021-2022, Respondent No.3 Commissioner has issued direction dated 7 November 2022 whereby the EMI is required to be reduced for the purposes of arriving at RSP and and consequently the format issued under the Rules have been amended. He submits that this stand of the Respondents for the year 2021-2022 supports his submission that for the year under consideration i.e. 2016-2017 also the EMI is required to be reduced for arriving at RSP and merely because in the format issued for arriving at RSP for the year under consideration such item does not appear should not come in the way of the Petitioner's claim for reduction of the EMI.

7. The learned senior counsel further submits that the Respondents or the Board be directed to consider the said contention of the Petitioner in the light of the stand taken by the Respondents for the year 2021-2022. He further submitted that if the contention of the Petitioner is accepted, then the Petitioner would not seek recovery of the excess RSP paid to the farmers; however, the Petitioner would reserve their claim to deduct EMI in the future or seek adjustments

from future payments. The learned senior counsel relied upon the provisions of the 2013 Act and the 2014 Rules and the communication dated 7 November 2022 for the year 2021-2022 in support of his submissions.

Submissions of the Respondents:-

8. Mr. Patel learned that AGP supported the stand of the Respondents and submitted that for the year 2016-2017, which is the period under consideration, there was no policy of reducing the EMI for arriving at the RSP and, therefore, the claim made by the Petitioner has been correctly rejected by the Respondents. He submitted that the communication dated 7 November 2022, relied upon by the learned Senior counsel for the Petitioner, applies for the year 2021-2022 and is not applicable for the year 2016-2017. He, therefore, justified the impugned order dated 13 December 2017.

9. We have heard learned senior counsel, Mr. Anturkar and learned AGP, Mr. Patel and have examined the documents brought to our attention.

Analysis & Conclusions:-

10. The 2013 Act regulates the price of sugarcane supplied to sugar factories in the state of Maharashtra, and it provides for matters connected therewith or incidental thereto. Section 3 of the said Act provides for the Constitution of the Board consisting of the Chairman and all the concerned stakeholders. Section 4 provides for functions of the Board, which *inter alia* states that the Board shall decide sugarcane

prices payable to the farmers, in addition to the FRP decided by the Central Government, on RSP.

11. The 2014 Rules are issued under Section 12 of the 2013 Act to implement and in aid of various provisions of the Act. Rule 9 of the said Rules provides for fixation of sugar price for the purposes of Section 4(a) of the 2013 Act. Rule 9(2) provides that every factory shall within the prescribed period submit the detailed accounts of its crushing, realisation from sale of sugar, etc. in such format as the Board may specify from time to time and other relevant information duly certified by the statutory auditors for the purpose of deciding the sugar prices. Rule 9(3) provides for maintaining the records in such form as the Board may specify for calculating revenue sharing from sale of sugars and by products. Rule 9(4) provides for deduction of actual harvesting and transportation cost.

12. In our view, the submissions made by the learned senior counsel for the Petitioner that the issue whether for the year 2016-2017, EMI should be reduced for arriving at RSP should be remitted to the Board constituted under the Maharashtra Rules 2014 is justified in the light of the stand taken by the Respondents for the year 2021-2022 wherein such deduction has been allowed. Whether such a deduction can be allowed for the year 2016-2017 needs to be considered by the Board in the light of subsequent developments and the stand taken by the Respondents for the year 2021-2022. The Board consists of all the stakeholders, interested in the

determination of sugar price, and therefore it would be in the interest of justice and fair play that the Board decides the issue raised by the Petitioner in the present Petition for the year 2016-2017.

13. The order dated 13 December 2017, which is challenged in the present Petition, did not have the benefit of the communication dated 7 November 2022, which was issued for the year 2021-2022.

14. Therefore, in our view, the submissions made by the learned Senior Counsel are required to be accepted and suitable directions issued to the Board to consider this matter within a reasonable time.

15. In view of the above, we pass the following order:-

(a) The order dated 13 December 2017 for the year 2016-2017 passed by Respondent No.3 insofar as it denies deduction of EMI to arrive at RSP is quashed and set aside.

(b) The determination of RSP for the year 2016-2017 in so far as whether the EMI (loan or interest or both) is required to be reduced is remanded to the Board constituted under Section 3 of the Maharashtra Regulation of the Sugarcane Price (Supplied to Factories) Act, 2013. The Board shall after hearing the Petitioner and other stakeholders decide the above issue within the period of six months from the date of uploading the present

order and communicate the same to the Petitioner within 30 days from the date of taking the decision.

(c) We may clarify that we have not examined any issue on the merits of the case, and all the contentions relating thereto are kept open for the Petitioner and the Respondents to raise before the Board.

(d) The Petition is disposed of in the above terms.

(e) No order as to cost.

(Jitendra Jain, J)

(M.S. Sonak, J)