

## **Star Sugar Mills vs State Of Uttar Pradesh And Ors. on 7 September, 1983**

**Equivalent citations: AIR1984SC37, 1983(2)SCALE387, (1983)4SCC299, 1984(16)UJ65(SC), AIR 1984 SUPREME COURT 37, 1983 ALL. L. J. 1112, 1983 (9) ALL LR 34 (R), (1983) 9 ALL LR 34, 1984 UJ (SC) 65, 1983 SCC (TAX) 319, 1983 (4) SCC 299, (1983) REVDEC 301**

**Bench: A.P. Sen, E.S. Venkataramiah, R.B. Misra**

### **ORDER**

1. By order dated May 6, 1981 this Court issued notice on this petition under Article 32 of the Constitution to the State Government of Uttar Pradesh as well as the U.P. State Electricity Board, and later passed certain ad-interim orders regarding payment of arrears of electricity bill and restoration of supply of electrical energy because the petitioner had challenged the constitutional validity of Sub-section (1) of Section 279 of the U.P. Zamindari Abolition & Land Reforms Act, 1950 providing for the arrest and detention of a defaulter in the course of recovery of government dues recoverable as arrears of land revenue. The Court has since by the judgment in Ram Narayan Agarwal etc. v. State of Uttar Pradesh and Ors. dated August 23, 1983 upheld the validity of the said provision. The challenge to the constitutional validity of Sub-section (1) of Section 279 of the Act having failed, the remedy of the petitioner for grant of relief in respect of other matters lies elsewhere. Shri. Kacker, learned Counsel appearing on behalf of the U.P. State Electricity Board has drawn our attention to the judgment of the Allahabad High Court in Messrs Bhagwan Industries (P) Ltd., Lucknow v. U.P. Electricity Board, Lucknow . It appears that the petitioner had earlier moved the High Court under Article 226 of the Constitution in Writ Petition No. 4743 of 1975 challenged the validity of the minimum guarantee charges introduced in the revised rate schedule made applicable with effect from October 12, 1974 and apparently the High Court following its decision in Messrs Bhagwan Industries' case declined to interfere. learned Counsel contends that the judgment of the High Court has become final and the questions now sought to be raised are res judicata. In Messrs Bhagwan Industries' case, supra, the High Court observed that the dispute, if any, relating to the levy of minimum consumption charges would be the subject matter of arbitration under Clause (18) of the agreement. We refrain from expressing any opinion as to whether the judgment of the High Court in the aforesaid proceedings is res judicata or not.

2. It is brought to our notice that at the instance of the State Government, a high-powered committee consisting of A.K. Gupta, Member (C & D), U.P. State Electricity Board, N. Srivastava, Member (F & A), U.P. State Electricity Board, H.K. Jaipuria, Joint Secretary to U.P. Industries Department, and S.K. Garg, Law Officer, U.P. State Electricity Board were appointed by the Government to go into the case of the petitioner. Apparently the committee had recommended for reference of the dispute to arbitration but the U.P. State Electricity Board by its letter dated January 6, 1981 refused to make a reference until the petitioner had cleared all the dues amounting to over

Rs. 12,47,000/-. in the circumstances, the petitioner may take recourse to other remedies. We are quite clear that no relief can be granted to the petitioner under Article 32 of the Constitution.

3. The result therefore is that the writ petitions must fail and are dismissed. All interlocutory orders including that of restoration of supply of electrical energy and stay of recovery of dues are vacated.