

Supreme Court of India

State Of U.P. And Anr vs Synthetics And Chemicals Ltd. And ... on 15 March, 1993

Equivalent citations: 1993 SCR (2) 291, 1993 SCC (2) 308

Author: B Jeevan Reddy

Bench: Jeevan Reddy, B.P. (J)

PETITIONER:

STATE OF U.P. AND ANR.

Vs.

RESPONDENT:

SYNTHETICS AND CHEMICALS LTD. AND ANR.

DATE OF JUDGMENT 15/03/1993

BENCH:

JEEVAN REDDY, B.P. (J)

BENCH:

JEEVAN REDDY, B.P. (J)

VENKATACHALA N. (J)

CITATION:

1993 SCR (2) 291

1993 SCC (2) 308

JT 1993 (2) 233

1993 SCALE (2) 65

ACT:

Constitution of India, 1950 : Article 136--Special leave petition--High Court's direction : "We further direct that the respondents shall not allot molasses to the petitioner in accordance with the assurance given to the petitioner vide order of the Government dated 23.3.1989"--Construction.

HEADNOTE:

The High Court reiterating the principles enunciation in Synthetics and Chemicals Ltd. and Ors. v. State of U.P. and Ors., [1990] 1 S.C.C. 109 held that the Central Government had the exclusive power to grant a licence for the manufacture of industrial alcohol and it was not necessary for the Company-respondent to obtain a PD-2 licence from the Excise Commissioner before starting its distillery for the manufacture of industrial alcohol. The High Court directed the State of U.P. and another not to interfere with the respondent-Company's manufacturing Industrial alcohol in the distillery for which licence was granted but subject to the State Government's right to ensure that industrial alcohol was not converted into potable alcohol. The State of U.P. filed a special leave petition against the judgment of the High Court, in this Court contending that before manufacturing industrial alcohol, the respondent-company was

to manufacture into rectified spirit and that rectified spirit could be converted potable liquor by merely adding water, that the High Court did not give any reason in support of the High Court's direction.

"We further direct that the respondents shall allot molasses to the, petitioner in accordance with the assurance given to the petitioner vide order of the Government dated 23.3.1989."

The respondent-Company submitted that the High Court order was extended from time to time for the subsequent years as well.

Dismissing the Special Leave Petition, this Court,

HELD: 01. The law laid down by this court and the observations of

292

the High Court in the impugned judgment recognise and safeguard the right of the State Govt. to guard against any abuse and to ensure that rectified spirit is not diverted for human consumption.-That power is affirmed. [293F]

02. The direction of the High Court cannot be construed and shall not be understood as calling upon or directing the Government to do anything, or to make any supplies, contrary to the provisions of the provisions of the Molasses Control Order or any other law governing the supplies of molasses. The supply of molasses to the respondent shall be made in accordance with law. [294A-B]

Synthetics and Chemicals Ltd. and Ors. v. State of U.P. and Ors., [1990] 1 SCC 109, referred to. [292F]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Special Leave Petition (c) No.17098 of 1992.

From the Judgment and Order dated 23.10.1992 of the Allahabad High Court in Civil Misc. Writ Petition No.473 of 1992.

R.B. Misra for the Petitioners.

Ms. Shalmi Soni, Mrs. P.S. Shroff (For M/s S.A. Shroff & Co.) for the Respondents.

The following Order of the Court was delivered: Heard counsel for the petitioners as well as the counsel for the respondents. We see no reason to entertain this special leave petition. It is established by the decision of this Court in Synthetics and Chemicals Ltd. and Ors. v. State of U.P. and Ors., [1990] 1 S.C.C. 109 that so far as the industrial alcohol is concerned, the power of licencing vests in the Union of India alone. At the same time it is held that the power of the State Government to legislate with respect to potable liquor referable to Entry 6 of List II remains unaffected. It is also held that the State has the power to make regulations and to take appropriate action to ensure that

nonpotable alcohol is not diverted and misused as a substitute for potable alcohol. Another principle enunciated in the said decision is that the State can, not only charge excise duty on potable alcohol and sales tax on sales of such potable alcohol, but also entitled, in cases it renders any service, as distinct from its claim of grant of privilege, to charge fees based on quid pro quo. The High Court in this case has merely reiterated the said principles. It has held "that the Central Government has the exclusive power to grant a licence for the the manufacture of Industrial Alcohol. It is not necessary for the petitioner to obtain a PD-2 licence from the Excise Commissioner, U.P., Allahabad before starting its distillery for the manufacture of Industrial Alcohol. The provisions in the U.P. Excise Manual relating to taking of PD-2 licence are not applicable to a case where a person wants to manufacture industrial alcohol. The other provisions of the Act and Rules of the U.P. Excise Act and Manual are applicable in order to ensure that Industrial alcohol is not converted into potable alcohol." The final order of the High Court is to the following effect:

"In view of the above, we allow the writ petition and direct the respondents not to interfere with the petitioner's manufacturing industrial alcohol in the distillery for which licence had been granted. This is, however, subject to the right of the State Government to ensure that industrial alcohol is not converted into potable alcohol."

In our opinion the said observations must be understood as reiterating the principles enunciated by this Court in the decision afore-cited. Mr. Salve, learned counsel for the State of Uttar Pradesh submitted that before manufacturing industrial alcohol, the Respondent-company has to manufacture rectified spirit and that rectified spirit can be covered into potable liquor by merely adding water. May be so. The observations made by the High Court and the law laid down by this Court recognise and safeguard the power of the State Government to guard against such abuse. We affirm it.

Shri Salve questioned the direction given by the High Court to the following effect: "We further direct that the respondents shall allot molasses to the petitioner in accordance with the assurance given to the petitioner vide order of the Government dated 23.3.1989." The proceeding dated 23.3.1989 of course pertains to the year 1989. But Mr. F.S. Nariman, learned counsel for the Respondent-Company says that the said order has been extended from time to time for the subsequent years as well. Mr. Salve points out that in the body of the Judgment of the High Court no reasons are given in support of the aforesaid direction. We are, however, of the opinion that the said direction cannot be construed and shall not be understood, as calling upon or directing the Government to do anything, or to make any supplies, contrary to the Provisions of the Molasses control order or any other law governing the supply of molasses. The supply of molasses to the Respondent shall be made in accordance with law.

Mr. Salve raised certain other contentions but we did not allow him to do, so in view of the fact that those contentions were not urged before the High Court. We need express no opinion thereon.

Special Leave Petition is accordingly dismissed subject to the above observations.

V.P.R.

Petition dismissed.

