

M/s. Star Sugar Mills

Vs

State of U. P. and Others

And

N. K. Gupta

Vs

State of U. P. and Others

Writ Petitions Nos. 1438 of 1982 and 1537 of 1981

07.09.1983

ORDER

1. By order dated May 6, 1981 this Court issued notice on this petition under Article 32 of the Constitution of the State Government of Uttar Pradesh as well as the U.P. State Electricity Board, and later past 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 and 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 v. State of Uttar Pradesh [(1983) 4 SCC 276] 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 of the judgment of the Allahabad High Court in Bhagwan Industries (p) Ltd., Lucknow v. U.P. Electricity Board, Lucknow [AIR 1979 All 249]. It appears that the petitioner has earlier moved the High Court under Article 226 of the Constitution in Writ Petition No. 4743 of 1975 challenging 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 Bhagwan Industries case [AIR 1979 All 249] declined to interfere. Learned counsel contents that the judgment of the High Court has become final and the questions now sought to be raised are res judicata. In Bhagwan Industries case [AIR 1979 All 249], 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.

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