

M/s K. N. Oil Industries and Another

Vs

State of M. P. and Others

With

M/s M. P. Oil Extraction Pvt. Ltd. and Another

Vs

State of M. P. and Others

Writ Petition Nos. 644 and 645 of 1986

(A. P. Sen, B. C. Ray JJ)

06.05.1986

ORDER

1. These petitions under Article 32 of the Constitution must fail because the question sought to be raised by the petitioners is barred by the principle of constructive res judicata. The matter is directly covered by the decisions of this Court in K. N. Oil Industries v. Secretary to the Ministry of Forest. The operative part of the judgment of the High Court set out in this Court's order contained a direction to the effect :

(SCC p. 354, para 1)

In the light of the discussion above, therefore, these petitions are disposed of with the direction that the allotment which has been maintained by this Court to the new units and the allotment made to the Mandla Unit at the rate of 10,000 tons per year, could not be altered at the concessional rate for 5 years from the beginning and the remaining sal seeds available every year could only be fairly distributed to all the old units on the basis of their capacity and there appears to be no justification for any concessional rate to these units which could only be allotted the quantity available at the market rate as there is no justification for any concessional rate to the old units.

It would be seen therefrom that the High Court had reached a categorical finding that there appeared to be no justification for any concessional rate of supply of sal seeds to the old units, namely, M/s K. N. Oil Industries and M/s M. P. Oil Extraction Pvt. Ltd. Dealing with the contention raised on behalf of the writ petitioners before the High Court that there was no occasion for the State Government to have entered into the alleged agreement as per the impugned settlement dated November 16, 1983 with M/s Oil Industries and M/s M. P. Oil Extraction Pvt. Ltd. undertaking to supply 7500 tons of sal seeds to each of them every year for a period of 12 years at a concessional rate of Rs. 750 per ton, the High Court observed that there was no basis that the decision taken by the State Government was arbitrary and capricious. None of the Cabinet decisions contemplated the grant of any such contracts of them for supply of sal seeds for a period of 12 years at a concessional rate and they to purchase the sal seeds at the prevailing market rate. Although the matter was argued at

considerable length, the finding of the High Court with respect to this aspect questioning the validity of impugned settlement arrived at was not challenged and therefore the finding has now become binding. The only question urged on behalf of the old units viz. M/s K. N. Oil Industries, M/s M. P. Oil Extraction Pvt. Ltd., the petitioners herein, and M/s General Food Pvt. Ltd. at the hearing was as to the basis for the distribution of the remaining sal seeds available every year i. e. the quantity of the sal seeds remaining for distribution after the State Government had complied with its contractual obligations of making supplies to the new units at 10,000 tons per year. Since the judgment of the High Court furnished no basis for the making of apportionment of the remaining quantity of sal sees available per year as between the old units, namely, M/s K. N. Oil Industries and M/s M. P. Oil Extraction Pvt. Ltd., this Court remitted the matter for a decision afresh to the High Court limited to this aspect only. The contention now sought to be raised that the State Government under the terms of the so-called settlement was not entitled to charge royalty from the petitioners in excess of the concessional rate fixed in the case of respondent 3 M/s M. P. Glychem Industries Limited is clearly barred by the principle of constructive res judicata and the petitioners cannot be permitted to raise the question.

2. The writ petitions are accordingly dismissed as wholly misconceived.

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