

Kamal Kishore Khurana

Vs

State of Jammu and Kashmir and Others

Civil Miscellaneous Petitions Nos. 2416 and 4331 of 1988 in Writ Petition No. 12640 of 1985

(Ranganath Misra, M.M. Dutt JJ)

17.03.1988

ORDER

1. These miscellaneous applications, one by the State of J&K and the others - some by a group of small scale industries and some by the group of medium scale industries relate to the dispute which has been the subject matter of a group of writ petitions in this Court. The main petition being Writ Petition No. 751 of 1985 has already been heard and judgment is awaited.

2. Earlier this Court had directed the State of J & K to reserve oleo resin to the extent of 6500 M.T. out of the 1985-86 collection by saying :

Except for a total of 6500 metric tons of oleo resin gum which would be reserved for distribution to the individual private parties before us in the event of relief being granted to them in these cases which will be distributable pro rata according to the respective entitlements, balance of oleo resin gums is released from the operation of our order dated July 3, 1986 read with order dated August 11, 1986.

3. Later on this Court when moved by some of the medium scale industries made another direction on December 17, 1987 which ran thus :

By our order dated January 20, 1987, we had directed that an amount of 6500 M.T. of oleo resin gum should be reserved for distribution to the individual private parties appearing before us in the event of relief being granted to them in these cases. We are of opinion that half of the such amount of oleo resin gum will continue to be kept reserved while remaining half 50 per cent will be released in favour of respondent 4, J & K Industries Ltd., and remaining 50 per cent between the two petitioners, M/s. Prashant Synthetics & Terpenes Ltd. and Dujodwala Resins & Terpenes (P) Ltd. The distribution in favour of the latter two private parties should be effected within four weeks from today. This order would be subject to any further directions at the time of the disposal of the writ petitions.

4. This direction of release of 50 per cent in favour of some of the petitioners does not appear to have been worked out on account of the plea taken by the State that though approximately 6500 M.T. had been set apart, by continued storage, the quantity has been reduced. This is said to have been on account of evaporation as also leakage. There is serious dispute as to what extent the shortfall either on one count or other would be. We do not think this is the stage when we need get into an exercise of finding out this information.

5. There is no dispute among the parties before us that long storage is likely to bring about some shortfall. It is, therefore, in the interest of all concerned that storage may not be continued too long. On that basis we proceed to give our present directions

6. Before us today, as already pointed out, is the application of some small scale units as also medium scale units apart from the application of the State seeking clarification. We proceed to deal with first the application of the State.

7. The stand of the State, as noticed above, is that though approximately 6500 M.T. of oleo resin had been stored there has been shortfall. The State is however, not in a position to indicate what exactly is the shortfall and counsel wants us to accept an estimate. We therefore, do not propose to decide on the application of the State what exactly has been the reduction in the quantum of storage and no further clarification at this stage appears to be called for.

8. By order dated December 17, 1987, this Court had directed release of 50 per cent of the stock in the hands of the State in favour of the medium scale industries. That has not been effected for two reasons, one being the stand of the State about the loss of stock and the other absence of necessary licences and permits to enable transport of the material which unless covered by authority is prohibited by the Act. Once this Court has given the direction, steps to effectuate the order should have been taken by all concerned. We would accordingly require the State of J & K to give effect to the direction of releasing 50 per cent of the stock [subject to the minimum of 750 M.T. to either of the medium scale industries being M/s. Prashant Synthetics & Terpenes Ltd. and Dujodwala Resins & Terpenes (P) Ltd.] within three weeks from today. Along with the release of this stock to be sold at the prevailing rates of 1987, the statutory authorities are directed to issue the requisite licences and transport permits as provided by the Act to authorise transport as also processing of the material for manufacturing purpose.

9. This would leave in the hands of the State around 1625 M.T. which should be released in favour of the two petitioners in each of the applications being Writ Petition Nos. 12640/85 and 13031/85 and the five other applicants who are parties to the several miscellaneous petitions which are being disposed of today being Nos. 2416, 4331, 5536, 5757 and 2067/88. In regard to these seven small scale units, out of the remaining balance stock in the hands of the State the release shall be on pro rata basis according to entitlement. As in the case of the medium scale industries the minimum that would be offered for distribution would be 1500 M.T. in the aggregate to this category. A similar direction is regard to the issue of permits and licences as also the rate at which the sale has to take place are made. This is an ad hoc arrangement, not affecting any rights or obligations which may arise out of the judgment.

10. It has been represented to us that while the matter is pending here and this Court has been making orders from time to time parties are also moving applications before the State High Court and directions are being given. In the interest of justice and to avoid contradictory orders being made, we restrain the parties to go before the High Court till the matter is disposed of. The High Court shall also as a measure of prudence not entertain applications from any parties asking for making directions relating to this subject.

11. The registry is directed not to entertain any application form anyone relating to the distribution of the stock of resin which has been finally disposed of by this order.

</html