

CASE NO.:
Appeal (civil) 460 of 1997

PETITIONER:
U.P. Co-operative Cane Unions Federations

RESPONDENT:
West U.P. Sugar Mills Association & Ors.

DATE OF JUDGMENT: 05/05/2004

BENCH:
P. VENKATARAMA REDDI.

JUDGMENT:
J U D G M E N T

WITH

C.A.Nos. 461/1997, 4685/1997, 932/2001,
1639-1645/1999, 1727/1999, 4602/1999, 6065/2001,
8117-8122/2001, SLP(c)Nos. 16851/2001, 1363/2002,
948/2003, T.C. (C) 21-22/2003,

CON.PETN.(C) No. 63/2003 in C.A.No.932/2001 AND

I.A.Nos. 13-14 in C.A. Nos.3512-3513 of 1997

P. Venkatarama Reddi, J.

1. To put it in a nut shell, the three questions that broadly arise for consideration are : 1) the legal status and binding nature of 'State advised cane price', 2) the power of the State Government to fix sugarcane price under the provisions of U.P. Sugarcane (Regulation and Purchase) Act 1953 (hereinafter referred to as U.P. Act) and 3) in case such power exists and is exercised, whether the State law fixing the price becomes repugnant to the provisions of the Central Law, namely the Sugarcane Control Order of 1966 framed under E.C.Act. As pointed out by Srikrishna, J. the third question need not be answered in case no power to fix the price is discernible from the provisions of the U.P. Act of 1953.

2.1 Turning to first question, I find no statutory basis for the 'State advised cane price'. The very expression 'advised' connotes that the State advised price has no statutory flavour. If the fixation has been done in exercise of statutory power traceable to any provision in the U.P. Act, it would be most inapt to describe it as 'advised price'. The statutorily fixed price can never take the form of advice. It binds, enforces obedience by providing for punishment or penal consequences and does not look for volition of the persons concerned for its compliance. But, that is not the case here. From year to year, the State Government has been announcing the 'advised price' in the hope and expectation that the sugar factories in the private sector will also agree to pay that price. It is worth quoting a typical order/communication issued by the Government and the Cane Commissioner. The following is the communication dt. 15.11.96 addressed by Principal Secretary to Govt. to the Cane Commissioner of U.P. :-

"As is evident, that for every crushing season State Advised Cane Price is announced by the State Government. Accordingly, I have been

directed to inform you on the above subject, that the State Advised Cane Price payable by all sugar factories for the season 1996-97 has been fixed as under:

- a) For early maturing varieties at mill gate - 76.00
- b) For general varieties at mill gate - 72.00

2. I have also been directed to inform you that during crushing seasons 1996-97 the transport deduction for cane supplied to the sugar factories at their out centres will continue to be Rs.3/- per quintal.

3. Above orders will be applicable for crushing season 1996-97.

4. Please take immediate action in the above matter."

(Sd.)

Principal Secretary

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Office order dt.15.11.96 issued by Cane Commissioner, U.P.

"The State Advised Cane Price is announced by the State Government for every crushing season. Keeping this in view, the sugar factories have been paying cane price to the cane growers. Accordingly, the State Government has announced the State Advised Price payable by factories as under:

- a) For early maturing varieties at mill gate - 76.00
- b) For general varieties at mill gate - 72.00"

The above price is for the mill gate and for supply at outcentres. Transport deduction will be separate.

(Sd.)

Cane Commissioner, U.P.

The order of the Cane Commissioner is marked to several officials, organisations and occupiers of sugar factories.

2.2 Even in the counter-affidavits filed in the writ petitions, no categorical stand has been taken by the Government that the 'State advised price' is the statutorily fixed price which is legally binding on all concerned. On the other hand, the averments in the counter-affidavit give a fair indication that it is nothing but advised price in its literal sense. The following excerpts from the counter-affidavit filed in writ petition No. 36889 of 1996 (the corresponding Civil Appeal No. being 460 of 1997) make this position clear.

"So far as the State of U.P. is concerned, there are 118 sugar mills out of which 70 sugar mills belong to either the Sugar Corporation which is the instrumentally of the State or the cooperative sector in which the State Government has major share holding and only 48 sugar mills belong to private sector. Thus, the State Government is fully justified in law to provide a price of sugarcane for its own mills and since the private sugar factories are also aware that the cane growers will not

supply sugarcane at a lower price, they have also in the previous years agreed to pay the aforesaid price without any objection. The State Advised cane price also ensures that there is parity in the price of sugarcane throughout the state and it removes the element of disparity in any manner."

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"It has already been stated above that since 1973 the policy of State Advised cane price is in existence in the State of U.P. and it is in existence in all other sugar producing areas of the country. The aforesaid policy has been invoked merely for the purposes of ensuring that the sugarcane continues to be a cash crop and that the cane growers do not resort to any other alternative crop. It is for this purpose that the State Government intervenes and advise a price which is remunerative and is comparable to the prices of sugar in the State during the relevant period."

2.3 I may also refer to the order issued by the Government in the State of A.P. where the provisions similar to U.P. Act exist and the averments in the counter-affidavit filed on behalf of the Government in Writ Petition 2876/99 (corresponding to SLP (c) 16851/01). The relevant particulars of GOMS No. 420 (Industries & Commerce, (Sugar) Department) dated 4.12.98 are as follows :
"The Government of India has announced the statutory Minimum Price of Rs.527.00 per M.T. linked to a basic recovery of 8.5% to be paid by the sugar factories to the cane suppliers, for the year 1998-99.

2. In the context of ensuring payment of fair and reasonable cane price to the farmers, who supply sugarcane to the sugar factories, the Government elicited the views of sugar cane growers and management of sugar factories.

3. The Government after carefully examining the views and various issues connected with it, it accordingly advise all the sugar factories, including khandasari units, whether situated within or outside the zone of sugar factories in the State, to pay a minimum price of Rs.652.50 per M.T. linked to a basic recovery of 8.5% or 1997-98 year's price, whichever is higher by each factory/khandaasari Unit for the sugar cane purchased by it for the year 1998-99 season as against the statutory minimum price of Rs.527.00 per M.T. fixed by the Government of India.

4. All the sugar factories and khandasari units in the State have to pay the State Advised cane price without any monetary assistance from the State Government. The payment of sugarcane price shall be adjusted against the ultimate price payable under price sharing formula under clause 5(A) of Sugarcane (control) Order, 1966."

In the counter-affidavit, it is made clear "that the State

Government only advised the sugar factories to pay certain price to the cane suppliers which is fair and reasonable after eliciting the views of the representatives of sugarcane growers and managements of sugar factories. It is not true to state that the State Government have compelled the sugar factories to pay the SAP to cane suppliers but sugar factories have to pay the purchase tax at Rs.60 per M.T." Again at paragraph 7, it is stated in emphatic terms that the State Government only advises the payment of cane price for the welfare of sugar industry and cane growers. In fact, in the course of arguments before the High Court, the learned Advocate General appearing for the State rightly took the stand that the State advice price is not an 'Imposition'.

2.4 The stand taken by the State Governments in the cases previously decided by this Court, viz., Jaora Sugar Mills and SKG Sugars, which has been accepted by the Court was that efforts were made by the official machinery of the State to convene the meetings and to arrive at an agreed price which was notified as the State advised price. Thus, the real basis for compliance with the State advised price is the agreement but not its statutory authority or binding force. The apparent reason for not notifying the price under the provisions of the statute, namely, U.P. Act of 1953 seems to be the doubt cast on the State's power to fix such price in the light of the observations made in Tika Ramji's case and, it may also be attributable to the difficulty arising on account of lack of criteria or guidelines under the Act and Rules regarding fixation of price. Be that as it may, the fact remains that the 'State advised price' cannot be said to have been fixed in purported exercise of any statutory power and it cannot be elevated to the level of a statutory price fixation order. The decisions of this Court referred to supra did not hold that the State advised price is a statutorily fixed price and is legally binding on the sugar factories on its own force. The observation in Jaora Sugar Mills case at paragraph 14 to the effect that "the price fixed or agreed is a statutory price" does not mean that State advised price was construed as statutorily determined price. Apparently, the learned Judges were referring to the two concepts of price envisaged by the Sugar Control Order as discussed in paragraph 8 of the said decision. But, it does not appear to have reference to the 'State Advised Price' as such. However, I would like to clarify that the question posed by the Court at paragraph 12 i.e. "whether the State Government had entered into such a contract" is not accurate and does not fit in with the actual decision in the case.

2.5 In the light of my conclusion that the State Advised Price has no statutory basis and legal force, is it necessary to strike down the orders communicating the State Advised Price? That is the next question. In my considered opinion, it is not necessary or appropriate to do so. The State advised price, though lacking the sanction of law and its compliance cannot be ensured against the will of the factory owner, it can still serve as a framework within which an agreed price over and above the minimum price fixed under the Central Control Order can be brought about. The law does not prohibit the concerned authorities of the State Government from advising or recommending a price for adoption by the sugar factories. The authorities entrusted with the various functions under the Act conceived in the interests of both growers and producers can certainly play a role, as has been pointed out in Jaora Sugar Mills in bringing the parties to a negotiating table and forging a

mutual settlement leading to the payment of the State advised price. The very fixation of State advised price cannot be legally faulted so long as its compliance is ensured by a voluntary process by which the State advised price can very well become an agreed price.

3.1 The next and more important controversy is about the State Government's power to fix the price. Such power is traced to Section 16 of the U.P. Act by the learned counsel appearing for the State and the Cooperative Cane Unions. There is almost a similar provision in the corresponding enactments in force in the States of Andhra Pradesh, Punjab and Haryana. In Bihar and Tamilnadu, there is no such provision. In fact, Section 42 of the Bihar Act lays down that the minimum price determined under the Act shall not exceed the minimum price payable under any law for the time being in force.

It would suffice to confine the discussion to the provisions of U.P. Act. Section 16 of U.P. Act carries the heading 'Regulation of purchase and supply of cane in the reserved and assigned areas'. Sub-Section(1) empowers the State Government, "for the purpose of maintaining supplies", to regulate (a) "the distribution, sale or purchase of cane in any reserved or assigned area" and (b) "purchase of cane in any area other than a reserved or assigned area". After thus laying down the broad parameters of regulatory power, it is followed by sub-Section (2) spelling out the specific areas to which such power can extend. The fixation of price of cane is not one of them. However, sub-Section(2) does not exhaust the field of operation of the regulatory power. The price fixation could still come under the generality of the power reserved under sub-Section (1). It is contended with much force that the power to regulate the sale or purchase of sugarcane comprehends within its scope the power to fix the price of sugarcane. The wide meaning given to the expression 'regulate' in various cases coupled with the fact that price is an essential component of sale is harped upon to preserve the power of the State Government to fix the price. Mathur, J. has also highlighted the fact that the fixation of a remunerative price for sugarcane supplied to factories would go a long way in accomplishing the objective of maintaining supplies. The peculiarities associated with harvesting and marketing of sugarcane have been pointed out. The need to protect the interests of sugarcane growers has also been stressed. These are no doubt weighty considerations which go to support the argument that the regulatory power can extend to fixation of price of sugarcane supplied to the factories. But, there are equally weighty factors which persuade me to hold, in concurrence with the view expressed by Srikrishna, J, that the regulatory power under Section 16 does not extend to price fixation.

3.2 Number of cases were cited at the bar to buttress the argument that the import of the word 'regulatory' is wide and expansive enough to cover price fixation. It was noticed in more than one case (for eg. Jiyajirao Cotton Mills Vs. M.P. Electricity Board [(1989) Suppl. 2 SCC 52]) that the expression 'regulate' has no precise or fixed connotation and that it has different shades of meaning. There is no doubt that it is a word of broad import. Its width and content may vary according to the contextual setting in which the expression occurs. The scheme and thrust of the provisions of the relevant statute, the objective of legislation, the legislative intent gathered from the legislative history and the run of the provisions contained in the enactment can all be taken into account while

appreciating the correct meaning of the expression 'regulate' in a particular statute. I agree with Srikrishna, J. that the decision in Tika Ramji's case is the main hurdle for giving an amplified meaning to the expression 'regulate' so as to cover price fixation. After giving anxious consideration to the issue, I find it difficult to distinguish the judgment in the manner in which it was sought to be done by the learned counsel appearing for the State and the Union of cane growers. Though the Constitution Bench did not directly deal with the question of interpretation of Section 16 vis-à-vis the power of price fixation, going by the observations made therein and the basis of reasoning adopted to arrive at the conclusion that there was no repugnancy, it is fairly clear that the Constitution Bench negated the existence of any provision empowering the State Government to fix the price. The Court in addition observed that factually, there was no fixation of minimum price by the State Government. On a comparative analysis of the provisions, this Court found no repugnancy between the impugned Act (U.P. Act of 1953) and the Sugarcane Control Order of 1955. The provisions were held to be mutually exclusive and did not impinge upon each other. It is appropriate to refer to the relevant observations made and the reasons given by the Constitution Bench which are crucial. While dealing with the point No.1, i.e., whether the U.P. Act of 1953 had trespassed upon the subject of notified industries falling within the exclusive domain of Parliament, this Court noticed that the provisions in the repealed U.P. Act 1 of 1938 dealing with the minimum price of sugarcane were deleted. The following observations may be noticed:

"Even the power reserved to the State Government to fix the minimum prices of sugarcane under Chapter 5 of U.P. Act 1 of 1938 was deleted from the impugned Act, the same being exercised by the Centre under Clause (3) of Sugar and Gur Control Order, 1950 issued by it in exercise of the powers conferred under Section 3 of Act 24 of 1946."

"The prices fixed by the Centre were adopted by the State and the only thing which the State Government required under Rule 94 was that the occupier of a factory or the purchasing agent should cause to be put up at each purchasing centre a notice showing the minimum price of cane fixed by the Government meaning thereby the Centre."

Again it was observed in the next para: "the only provision which was retained by the State Government in the impugned Act for the protection of the sugarcane growers was that contained in Section 17 which provided for the payment of price of the sugarcane by the occupier of a factory to the sugarcane growers. It could be recovered from such occupier as if it were an arrear of land revenue. This comparison goes to show that the impugned Act mainly confined itself to the regulation of the supply and purchase of sugarcane required for use in sugar factories\005.."

3.3 Turning then to the question of repugnancy (point No.2), the Court after clarifying that both the Parliament and the U.P. State Legislature had the concurrent power of legislation under Entry 33 of the List III in regard to sugarcane, found no repugnancy between the Central and State legislations. Central to the reasoning of the case are the following observations :

"As we have noted above, the U.P. State Government did not at all provide for the fixation of minimum prices for sugarcane nor did it provide for the regulation of movement of sugarcane as was done by the Central Government in Clauses (3) and (4) of the

Sugarcane Control Order, 1955.

The impugned Act did not make any provision for the same and the only provision in regard to the price of sugarcane which was to be found in the U.P. Sugarcane Rules, 1954, was contained in R.94 which provided that a notice of suitable size in clear bold lines showing the minimum price of cane fixed by the Government and the rates at which the cane is being purchased by the centre was to be put up by an occupier of a factory or the purchasing agent as the case may be at each purchasing centre. (emphasis supplied)

The price of cane fixed by Government here only meant the price fixed by the appropriate Government which would be the Central Government, under Clause (3) of the Sugarcane Control Order, 1955, because in fact the U.P. State Government never fixed the price of sugarcane to be purchased by the factories. * * * * *

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The provisions thus made by the Sugarcane Control Order, 1955, did not find their place either in the impugned Act or the Rules made thereunder or the U.P. Sugarcane Regulation of Supply and Purchase Order, 1954, and the provision contained in Section 17 of the impugned Act in regard to the payment of sugarcane price and recovery thereof as if it was an arrear of land revenue did not find its place in the Sugarcane Control Order, 1955. These provisions, therefore, were mutually exclusive and did not impinge upon each other there being thus no trenching upon the field of one Legislature by the other."

3.4 No doubt, the content of regulatory power under Section 16 was not discussed by the Constitution Bench. But, as viewed by Srikrishna, J., the observations made by the Court necessarily suggest that the State Government was not invested with the power to fix the price of sugarcane. It was argued that the question of repugnancy was considered from the stand point of minimum price but not the price in general. I find it difficult to accept this contention. The tenor of discussion more especially the observations extracted supra would unmistakably indicate that the Constitution Bench did not consider the question of repugnancy only from such narrow angle but it was considered in the broader perspective of the provisions relating to price and the exercise of power of price fixation by the State Govt. No particular significance can be attached to the use of the expression 'minimum price' in the judgment of Constitution Bench because in one sense, the price ordained to be paid by the State government, will become minimum price. In another sense, it may be a more remunerative or higher price than what is fixed by the Central Government.

3.5 On a careful reading and analysis of the judgment, I am inclined to think that the Constitution Bench did not discern any power to fix the price under the Act. If under Section 16, the power to fix price was to be inferred, I have

no doubt that the Constitution Bench would have paused and considered the effect of it on repugnancy. It is only on the premise that there was no such provision, the Court recorded its conclusion on the issue of repugnancy. In other words, the Court proceeded on the basis that the subject of price fixation\027minimum or otherwise was not dealt with by U.P. Act of 1953. It is also not possible to distinguish the decision on the ground that what was uppermost in the mind of the Constitution Bench was the factual non fixation of the price by the State Government but not the power to fix the price. It was on both aspects. Even if the Constitution Bench recorded its conclusion on the question of repugnancy without specifically considering Section 16 and the power to regulate the price that could possibly flow therefrom, this coordinate Constitution Bench cannot express a contrary view at this distance of time.

3.6 In any case, apart from what was held in Tika Ramji's case, there are certain features and indicators discernible from the scheme of the U.P. Act and the legislative history which lead to the irresistible conclusion that price regulation was not within the contemplation of the Act. In contrast to the preamble of the predecessor Act, namely, the U.P. Sugar Factories Control Act, 1938 (as amended by Act 16 of 1952) the expression 'to regulate the price of the sugarcane' has been omitted. Then, the specific provision contained in the earlier Act (Section 21 of U.P. Act 1 of 1938) conferring power on the State Government to fix minimum price and Section 22A empowering the State Government to direct payment of additional price was omitted, the reason for such omission being the promulgation of the Sugar and Gur control Order, 1950 by the Central Government, as noticed by this Court in Tika Ram ji's case. Having omitted to reenact those provisions, if the U.P. legislature wanted to retain the power to fix higher price over and above the minimum fixed by the Central Government, it is reasonable to expect the legislature to make a specific provision to that effect rather than leaving it to the general regulatory power under Section 16 to take care of it. It cannot be gainsaid that the power to fix the price and to regulate dealings between the parties accordingly is a matter of great importance. When a parallel legislation in the Central field was in operation in regard to price fixation, the State legislature would not have omitted to enact the specific provision empowering the Government to fix the price higher than the minimum level prescribed by that legislation if that was the intention of the legislature. Such provision would have contained norms, criteria or guidelines governing the higher price fixation or at least left them to be prescribed by Rules. This is also one of the factors which persuades me to think that the price fixation in the guise of regulatory power under Section 16 was not within the contemplation of the U.P. State Legislature. Srikrishna, J. has also referred to this aspect in his judgment. The learned Judge's observations in this behalf are quite pertinent. The conspicuous absence of a specific provision relating to price fixation must be viewed in the back drop of legislative history and the parallel central legislation operating in the field. Both the external and internal aids to construction reasonably point to the conclusion that price regulation was not within the contemplation of State legislature. In fact, that aspect was consciously left out. Above all, the observations in Tika Ramji's case cannot be explained away by clear cut distinguishing features as discussed earlier. I am, therefore, of the view that Section 16 of the U.P. Act 1953 cannot be

so construed as to confer the power on the State Government to fix the price. Section 17 of the Act and the Rules are only provisions to ensure prompt payment of price and to provide for recovery in case of default. It is only to this extent a provision exists in regard to price.

4. I agree with Srikrishna, J, that there is no need to decide the constitutional question whether the fixation of price by the State Government clashes with the provisions of Sugar Control Order 1966 promulgated under the Essential Commodities Act. As and when the legislation is enacted by the State and the price is fixed by the State Government or other designated authority in terms of such statutory provision, the need may arise to test the validity of such provisions in the light of Article 254 of the Constitution. It is a well settled practice of this Court not to render a decision on a constitutional issue on hypothetical basis or in anticipation of future law, especially when the Union of India is not a party to these proceedings. I, therefore, express no view on the Constitutional issue relatable to Article 254.

5.1 Having considered the main points at issue, certain aspects concerning the inter-relation between Agreements and State advised price and the role of State machinery in this regard need to be dealt with. The ratio of certain decisions of this Court cited at Bar in a bid to impart binding force to the State advised price should also be considered.

5.2 First, I would like to clarify that the signing of an agreement incorporating the State recommended Price should not cloud the issue whether the State Government has statutory authority to fix such price. I agree with Srikrishna, J. that the existence or otherwise of an agreement is not determinative of the crucial controversy relating to the power of the State Legislature or its delegate. If there is no authority to fix the price, the fact that the Agreement is entered into adopting the 'State advised price' does not impart statutory basis to such price. On the other hand, if there is power under the Statute and such power has been demonstrably exercised by the State, there is no need to have recourse to the agreement to sustain the power. It needs to be clarified here that once the agreement is arrived at or executed, the price specified therein, even if it be 'State advised price', has to be paid irrespective of the question whether such price has statutory flavour. At the same time, it must be made clear, as pointed out by Mathur, J., that the agreement cannot be said to have been vitiated on the ground of statutory compulsion for the reason that the statutorily fixed price is incorporated into the agreement. A fortiori, the agreement giving effect to the State advised price is perfectly valid and enforceable unless any vitiating factors under the law of contract are established. I would however like to make it clear that the State Government or its agents cannot compel or coerce the sugar factories to enter into agreements to pay to the growers the 'State Advised Price', even though it has no statutory power to fix the price. In the absence of such statutory authority, the only course left open to it to ensure higher price to the farmers is to strive to evolve an agreement on price by way of consensus. In such a case, the State advised price can enter into the terms of agreement. Such mutual agreement should be the result of negotiations and voluntary acceptance. In some of the decisions, it has been said that agreed price is the 'State Advised Price'. It may or may not be always so. It depends on the fact whether voluntary agreement as regards the price has been arrived at or not. The super-imposition of

State Specified Price into the terms of the agreement by means of an unilateral action on the part of the Government does not obviously pass the muster of agreed price. In short, an agreement cannot be forced on the parties in the absence of statutory backing, though the State machinery can play a role to evolve an agreement through a voluntary process.

6.1 The next point which needs to be clarified is that the judgments in Jaora Sugar Mills case and S.K.G. Sugars case relied on by Mathur, J. are of little assistance in answering the crucial issues arising in the present case. As rightly pointed out by Srikrishna, J., in those cases it was found as a matter of fact that there existed valid consensual agreements between the factories and the sugarcane growers. It may be that the official machinery was instrumental in bringing about such agreements, but that is an immaterial factor. Once the agreement is entered into the price specified therein (whether equivalent to State advised price or otherwise), is liable to be paid without raising further questions.

6.2 No support can be drawn even from the decision in Maharashtra Rajya Sahakari Shakkar Kharkhana Sangh's case. The following are the observations of R.M. Sahai, J. at para 21 :-

"\005..the Central Government did not fix any maximum price obviously because the conditions in the agricultural sector differed from State to State. Therefore, it having fixed a minimum price expects the State to offer remunerative price to its cultivators. In a controlled economy, the price fixation machinery is to be determined by the Government or under the 1966 Order in the manner provided therein\005.."

The observations must be confined to the facts and the issue arising therein. The distinguishing feature in that case, as pointed out by Srikrishna, J., is that the bye-laws of the co-operative society empowered the State Government to determine the price of the sugarcane to be paid to the members so long as the loans advanced to the co-operative society were not fully paid. It is this bye-law that empowered the State Government to fix the price. No question arose in that case regarding interpretation of Section 16 of U.P. Sugarcane Act or the conflict between the State and Central law.

7. Now, a Summary of conclusions :

1) The State Advised Price has no statutory flavour. It is not fixed or purportedly fixed in exercise of any statutory power. It is only persuasive or recommendatory in nature. The sugar factories cannot be compelled or coerced to pay that price by taking any steps not sanctioned by law.

2) The U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953 does not confer the power on the state government to fix the price of sugarcane. Such power cannot be spelt out from section 16.

3) In view of conclusions (1) and (2) it is not necessary to express any opinion on the constitutional issue of repugnancy between the central and the state law. The finding recorded on this aspect by the Allahabad High Court in writ

petition No. 36889 of 1996 is set aside. That question of law is left open.

4) The writ or direction issued in some of the writ petitions to 'enforce' the State Advised Price irrespective of the consent of the occupier of sugar factory is declared illegal and hereby set aside.

5) Although the State Advised Price has no sanction of law, the action of the State government in notifying the State Advised Price and advising the sugar factories to comply with the same is not per se illegal. The State Advised Price can serve as the framework within which the agreement as to price can be reached between the cane growers and the sugar producers. Therefore, the orders issued by the state government / Cane Commissioner communicating the fixation of State Advised Price need not be set aside.

6) There is no legal taboo against the State government machinery playing a role in evolving an agreement between the cane growers and the sugar producers as to the price, without adopting any coercive methods.

7) Once the occupier of sugar factory reaches an agreement with the cane grower \026 may be on the persuasion of the state authorities, to pay the price equivalent to State Advised Price either by executing a formal agreement in this behalf or otherwise, the occupier of the factory is bound to pay such price and in case of default it can be recovered by the State authorities by coercive process laid down in the statute.

8) Whether or not there is an agreement to pay particular price is a question of fact. In the absence of express agreement, it is not impermissible to look into other evidence, if there is a dispute on the question of the price agreed to be paid.

The writ petitions and transferred cases shall be disposed of by the respective High Courts de novo in the light of the declaration of law and the observations made above. Accordingly Civil Appeals/S.L.Ps. other than those mentioned in the last paragraph stand disposed of. However, I.A.Nos. 13-14 in C.A. Nos.3512-3513 of 1997, S.L.P.(C) Nos. 948 of 2003 and 1363 of 2002 arising out of interim orders and C.A. Nos.1639-1645 of 1999 relating to recovery of agreed price are dismissed. Contempt case to be posted before the appropriate Bench.