

(2) (a) Repairs shall be classified under three heads :

(i) annual repairs, (ii) quadrennial repairs, (iii) special repairs or renewals.

(b) (i) "Annual repairs" shall mean ordinary repairs which are done to a building annually such as white-washing or distemping wall surfaces and repairing leaks in roofs, etc.

(ii) "Quadrennial repair" shall include items of work which need be carried out only once in four years such as painting or varnishing doors and windows or repairing roads.

(iii) Special repairs or repairs which do not recur at regular intervals, being chiefly renewals of structure.

(3) In order to estimate the life of each class of work and calculate the sum which, set aside annually as a sinking fund, may reproduce the value of the work within the period of its estimated life, the following annual charges shall be made for the periods mentioned :

List of work	Percentage of value to be set aside annually
100 years	1/10th per cent
80 to 70 years	1/5th "
60 years	2/5th "
50 years	2/3rd "
40 years	1 "
30 years	2 "
25 years	2-1/2 "
20 years	3 "

2. Renewals (i.e., special repairs), which do not cause an increase in the capital value of a building, will be charged in full to repairs, and those which really represent an increase in value, for instance when a thatch roof is replaced by roof of a superior kind, e.g., by a jack-arch roof, will only to the extent of such increase, be chargeable to the capital cost, the balance being debitable to repairs.

3. The annual quadrennial, and special repairs taken as a whole shall not exceed 2.1 per cent per annum of the capital value of the residential building and an endeavour should be made to keep them as low as possible.

Note.—In any case where it is proposed to exceed the percentage the approval of the Commissioner must be obtained.

THE U.P. SUGARCANE (REGULATION OF SUPPLY AND PURCHASE) ACT, 1953¹

U.P. Act No. XXIV of 1953 as Amended by U.P. Acts No. XXI of 1956, No. III of 1966, No. VI of 1962, No. IV of 1964, No. XI of 1966, No. VI of 1971; No. II of 1972, No. VII of 1974, No. XXVIII of 1974, No. X of 1976 and Act No. XXXIV of 1976 and No. 30 of 1979.

1. For SOR see Gazette, Extra, dated July 15, 1953.

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[As passed by the U.P. Legislature]

An Act to regulate the supply and purchase of sugarcane required for use in sugar [factories and Gur, Rab or Khandsari Sugar Manufacturing Units].¹

Whereas it is expedient to regulate the supply and purchase of sugarcane required for use in sugar [factories and Gur, Rab or Khandsari Sugar Manufacturing Units]² and other connected matters;

It is hereby enacted as follows :

CHAPTER I

Preliminary

1. **Short title, extent and commencement.**—(1) This Act may be called the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953.
- (2) It extends to the whole of Uttar Pradesh.
- (3) It shall come into force at once.

1. Subs. by U.P. Act III of 1960.
2. Subs. by U.P. Act III of 1960.

Comments

Act and Notification, dated 27th September, 1954—Not violative of Article 19(1)(f) and (g).—The power given to the Cane Commissioner under Section 15 of the Act for declaring reserved or assigned areas is not absolute nor is it unguided and, therefore, does not fall within the mischief of Article 19(1) (f) and (g) and the notification dated 9th November, 1955, cannot be impugned on that ground. The same is the position with regard to notification, dated 27th September, 1954. The restriction which is imposed upon the cane-growers in regard to sales of their sugarcane to the occupiers of factories in areas where the membership of the Cane-operative Society is not less than 75 per cent of the total cane-growers within the area is a reasonable restriction in the public interest designed for safeguarding the interest of the large majority of grower of sugarcane in the area and works for the greatest good of the greatest number.

That being so, it comes well within the protection of Article 19(6) and the impugned notification cannot be challenged as violative of the fundamental right guaranteed under Article 19(1)(f) and (g) : per *Bhagwati, J.—Ch. Tika Ramji v. The State of Uttar Pradesh*.¹

Act and Notifications thereunder—Not violative of Article 31 of Constitution.—If these impugned notifications are *intra vires* the State Legislature, they cannot be challenged also under Article 31 as one of the petitioners is being deprived of his property, if any, save by the authority of law per *Bhagwati J.—Ch. Tika Ramji v. The State of Uttar Pradesh*.²

Act does not violate Article 301 of Constitution.—The Act does not violate Article 301 of the Constitution. The sugarcane growers are not free to sell their sugarcane to any body other than the occupier of a factory or even to him except through the agency of a Cane-growers Co-operative Society and are not at all entitled to sell their sugarcane to anyone outside the State. Assuming this is so, the short answer to this contention is furnished by the provisions of Article 301 of the Constitution per *Bhagwati, J.—Tika Ramji v. The State of Uttar Pradesh*.³

Act is *intra vires* of U.P. Legislature.—The impugned Act merely confined itself to the regulation of the supply and purchase of sugarcane required or use in sugar factories and did not concern itself at all with the controlling or licensing the sugar factories, with the production or manufacture of sugar with the trade and commerce in, and the production, supply and distribution of sugar.

If that was so, there was no question whatever of its trenching upon the jurisdiction of the Centre in regard to the sugar industry which was a controlled industry within Entry 52 of List 1 and the U.P. Legislature had jurisdiction to enact the law with regard to sugarcane and had legislative competence to enact the impugned Act per *Bhagwati, J.—Ch. Tika Ramji v. The State of Uttar Pradesh*.⁴

Act is not repugnant to Sugarcane Control order 1955 and U.P. Sugarcane Regulation of Supply and Purchase Order 1954.—There is no repugnancy whatever between the Sugarcane Control Order, 1955 and the U.P. Sugarcane Regulation of Supply and Purchase Order, 1954 and the impugned Act and the Rules framed thereunder as also the U.P. Sugarcane Regulation of Supply and Purchase Order 1954, do not trench upon the field covered by the Essential Commodities Act 10 of 1955 per *Bhagwati, J.—Ch. Tika Ramji v. The State of Uttar Pradesh*.¹

Act not repugnant to Industries (Development and Regulation) Act (65 of 1951) (as amended by Act 26 of 1953) and to Essential Commodities Act (10 of 1953).—If the Act had remained as originally enacted the provisions of the Act would not have been in any manner whatever repugnant to the provisions of U.P. Act 1 of 1938 because the Acts covered different fields. Act 26 of 1953, however, introduced certain amendments in the Act including Section 18-G. Sugar industry being one of the scheduled industries sugarcane was an article relatable to the sugar industry and was, therefore, within the scope of Section 18-G and the Central Government was authorised by notified order to provide for regulating the supply and distribution thereof and trade and commerce therein.

If that was so the field of legislation in regard to sugarcane was covered by this provision of the Act and was taken away from the jurisdiction of the State Legislatures, the avowed intention being to cover the whole field of such legislation. Articles relatable to scheduled industry comprised only those finished products which were of the same nature of description as the article or class of articles manufactured or produced in the scheduled industry and did not comprise the raw materials for the scheduled industry.

The structure of the whole Act 65 of 1951 related to the development and regulation of the scheduled industries and all the provisions which were contained in the Act including those which were introduced therein by Act 26 of 1953 were designed for effectuating that purpose.

It is significant to note that, even in Section 18-G, the regulation which was intended was that of the supply and distribution of the article or class of articles relatable to the scheduled industry and the production of those articles was not sought to be regulated at all. The raw materials would certainly be essential ingredients in the process of manufacture or production of the articles in the scheduled industry but would not be of the same nature or description as the article or class of articles manufactured or produced therein.

The whole object of enactment of Section 18-G was to secure the equitable distribution and availability at fair prices of such articles which by relation thereof to the article or class of articles manufactured or produced in the scheduled industry would affect such manufacture or production or the supply and distribution thereof or trade and commerce therein.

1. 1956 SCR 393 : 1956 SCA 979 : 1956 AWR (HC) 657 : 1956 SCJ 625 : AIR 1956 SC 676.

1. 1956 SCR 393 : 1956 SCA 976 : 1956 AWR (HC) 667 : 1956 SCJ 625 : AIR 1956 SC 676.
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 4. 1956 SCR 393 : 1956 SCA 976 : 1956 AWR (HC) 667 : 1956 SCJ 625 : AIR 1956 SC 676.

Section 18-G did not cover the field of sugarcane and the Central Government was not empowered by the introduction of Section 18-G by Act 26 of 1953 to legislate in regard to sugarcane. The field of sugarcane was not covered by Act 65 of 1951 as amended by the Act 26 of 1953 and the legislative powers of the Provincial Legislatures in regard to sugarcane were not affected by it in any manner whatever. If the two fields were different and the Central Legislation did not intend at all to cover that field, the field was clear for the operation of State Legislation and there was no repugnancy at all between Act 65 of 1951 and the impugned Act per *Bhagwati, J.—Ch. Tika Ramji v. The State of Uttar Pradesh*.¹

Act not repealed—There was no repeal of the U.P. Sugarcane (Regulation of Supply and Purchase) Act or the U.P. Sugarcane (Regulation of Supply and Purchase Order, 1954 by Section 16 of the Act 10 of 1955 or by Clause 7 of the Sugarcane Control Order, 1955 per *Bhagwati J.—Ch. Tika Ramji v. The State of Uttar Pradesh*.²

Notification, dated 27th September, 1954 under Act 24 of 1953—Does not violate Article 19(1)(c).—There is no compulsion at all on any cane-grower to become a member of the Cane-growers' Co-operative Society. Similarly, no cane-grower is prevented from resigning his membership of a Cane-growers' Co-operative Society. These are voluntary organisations which a cane-grower is entitled to join or not at his choice.

There may be, of course, difficulties in the matter of his being able to sell the same to any person other than the owner of a factory or for any other purpose but that does not mean that there is an absolute restriction on his power of disposal of his goods unless and until he becomes a member of a Cane-growers' Co-operative Society. He is at liberty not to become a member of Cane-growers' Co-operative Society, if he chooses not to do so and no power on earth can compel him to become such a member.

Just as he is not bound to become member of a Cane-growers' Co-operative Society, he is equally not bound to offer his sugarcane for sale to the occupier of a factory even if he happens to be a cane-grower within the area reserved for that factory. His freedom in that behalf is absolutely unrestricted and it cannot be urged that the provisions of the impugned Act and the Notification, dated 27th September, 1954, are violative of his fundamental right under Article 19(1)(c) of the Constitution per *Bhagwati, J.—Ch. Tika Ramji v. The State of Uttar Pradesh*.³

2. Definitions.—In this Act unless there is anything repugnant in the subject or context,—

(a) "assigned area" means an area assigned to a factory under Section 15;

1. 1956 SCR 393 : 1956 SCA 979 : 1956 AWR (HC) 657 : 1956 SCJ 625 : AIR 1956 SC 676.
2. 1956 SCR 393 : 1956 SCA 979 : 1956 AWR (HC) 657 : 1956 SCJ 625 : AIR 1956 SC 676.
3. 1956 SCR 393 : 1956 SCA 979 : 1956 AWR (HC) 657 : 1956 SCJ 625 : AIR 1956 SC 676.

- (b) "Board" means the Sugarcane Board established under Section 3;
- (c) "Cane" means sugarcane intended for use in a factory ¹[or Gur, Rab or Khandsari Sugar Manufacturing Unit];
- (d) "Cane Commissioner" means the Officer appointed to be Cane Commissioner under Section 9, and includes an Additional Cane Commissioner appointed under Section 10;
- (e) "Cane-grower" means a person who cultivates cane either by himself or by members of his family or by hired labour and who is not a member of a "Cane-growers' Co-operative Society";
- (f) "Cane-growers' Co-operative Society" means a society registered under the Co-operative Societies Act, 1912, one of the objects of which is to sell cane-grown by its members and includes the federation of such societies registered under Section 8 of the said Act;
- (g) "Collector" includes any person whom the State Government may, by notification appoint to exercise and perform the powers and duties of a Collector under this Act;
- (h) "Council" means the Cane Development Council established under Section 5;
- (i) "Crushing season" means the period ²[beginning on the 1st October in any year and ending on the 15th July next following];
- (j) "Factory" means any premises, including the precincts thereof wherein twenty or more workers are working or were working on any day during the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar by means of vacuum pans is being carried on or is ordinarily carried on with the aid of mechanical power;
- ³[(j-i) "Gur, Rab or Khandsari Sugar Manufacturing Unit" means a unit engaged or ordinarily engaged in the manufacture or production of gur, rab or khandsari sugar in a reserved area, and which is capable of handling sugarcane juice produced with the aid of a crusher driven by any mechanical power;]
- ⁴[(j-ii) "Inspector" means any person appointed or any officer designated as Inspector under Section 11;]
- ⁵[(k) "Occupier" in relation to a factory or a gur, rab or khandsari Sugar Manufacturing Unit, means the person (including a company, firm or other association of individuals) who, or the authority which, owns or has the ultimate control over the

1. Ins. by U.P. Act IV of 1964.
2. Subs. by U.P. Act No. 6 of 1971. This amendment has been enforced w.e.f. 30th June, 1970.
3. Added by U.P. Act III of 1960.
4. Ins. by Sec. 2 of U.P. Act 34 of 1976.
5. Subs. by Sec. 2 of U.P. Act 7 of 1974 and be deemed always to have been substituted.

affairs of such factory or unit and where the said affairs are entrusted to a Managing Agent or a Director or other Officer of such person or authority, includes such Managing Agent, Director or other officer :

Explanation.—Notwithstanding that the affairs of a factory or unit are entrusted to a Managing Agent or a Director or other officer, the liability under Section 17 of the person, who or the authority which owns or has the ultimate control over the affairs of the factory or unit shall remain unaffected;]

- (l) "Prescribed" means prescribed by rules;
- (m) ¹[* * *].
- ²[(n) "Reserved area" shall mean the area reserved for a factory under an Order for reservation of Sugarcane areas made under Rule 125-B of the Defence of India Rules, 1962, and when no such order is in force, the area specified in an order made under Section 15:]
- (o) "Rules" means a rule made under this Act;
- (p) "State Government" means the Government of Uttar Pradesh; and
- (q) "Sugar Commissioner" means the Official appointed to be Sugar Commissioner under Section 9 ³[and includes an Additional Sugar Commissioner appointed under Section 10].

CHAPTER II

Administrative Machinery

3. Sugarcane Board.—(1) There shall be established by the State Government a Sugarcane Board for Uttar Pradesh.

(2) The Board shall consist of—

- ⁴[(a) the minister in charge of Industries];
- ⁵[(aa) the Minister in charge of Cane Development];
- (b) ⁶[twenty-one members] to be appointed by the State Government of whom five shall be representatives of sugar factories ⁷[five shall be representatives of Gur, Rab or Khandsari Sugar Manufacturing Units and five shall be representatives of cane-growers and the Cane-growers' Co-operative Societies and the remainders shall be persons possessing technical knowledge in sugarcane or otherwise interested in the development of sugarcane and its products;

1. Omitted, *ibid*.
 2. Subs. by U.P. Act IV of 1964, w.e.f. 17th October, 1963.
 3. Ins. by U.P. Act IV of 1964.
 4. Subs. by U.P. Act III of 1960 and again subs. by U.P. Act VI of 1962.
 5. Added by U.P. Act III of 1960.
 6. Subs. by U.P. Act IV of 1964.
 7. Added by U.P. Act III of 1960.

- (c) the Cane Commissioner or his representative who shall be *ex-officio* member; and
- (b) the Secretary to the State Government in the Industries Department or such other officer as may be nominated by the State Government. He shall also be *ex-officio* Secretary of the Board.

(3) The Minister in charge of Industries shall be *ex-officio* Chairman of the Board and in his absence the ¹[Minister in charge of Cane Development] and, if he also, is absent, the representative of the Minister in charge of Industries to be nominated by him, shall preside over the meetings of the Board.

(4) The term of the Board shall be two years : provided that the State Government may if it is satisfied that it is necessary so to do dissolve the Board before the expiry of its term.

(5) Where the Board is dissolved the following consequences shall follow—

- (a) all members referred to in Clause (b) of sub-section (2), shall on a date to be specified in the order, vacate their offices but without prejudice to their eligibility for appointment or nomination as a member;
- (b) the Board shall be reconstituted by the State Government in accordance with the provisions of sub-section (2).

4. Functions of the Board.—The Board shall advise the State Government on the following matter, namely—

- (a) matters pertaining to the regulation of supply and purchase of cane for sugar factories;
- (b) the varieties of cane which are suitable or unsuitable for use in sugar factories;
- (c) the maintenance of healthy relations between occupiers or managers of factories, cane-growers, Cane-growers' Co-operative Societies, Cane Development Council ²[* * *]; and
- (d) such other matters as may be prescribed.

5. The Development Council.—(1) There shall be established for the reserved area of a factory a Cane Development Council (hereinafter called Council) which shall be body corporate by the name of such area or such other name as may be prescribed, having perpetual succession, and subject to such restrictions or qualifications as may be imposed under this Act or any other enactment, vested with the capacity of suing and being sued in its corporate name, of acquiring, holding, administering and transferring property both movable and immovable, and of entering into contracts :

Provided that where the Cane Commissioner so directs the Council may be established for a larger or smaller area than the reserved area of a factory.

1. Subs. by U.P. Act IV of 1964.
 2. The words "and purchasing agents" were omitted by Sec. 3 of U.P. Act 7 of 1974, w.e.f. 21-12-1973.

(2) The area for which a Development Council is established shall be called a zone.

¹[(3) The Council shall consist of the following, namely :—

- (i) two representatives of the sugar factory concerned, to be nominated by the occupier;
- ²[(ii) five representatives of the Cane-growers' Co-operative Societies functioning in the reserved area, to be elected by the members of the Committees of Management of such societies from amongst the members of such societies :

Provided that, subject to availability, two of such representatives shall be from the weaker sections;

Explanation.—For the purposes of this clause the expression 'weaker sections' means the person belonging to the Scheduled Castes and Scheduled Tribes and include farmers who hold unirrigated agricultural land exceeding two hectares and whose principal source of livelihood is income from agricultural land or by manual labour on such land or from both].

- (iii) one representative of the licensed power driven *khandsari* manufacturing units in the reserved area, to be elected by their owners;
- (iv) the District Cane Officer;
- (v) the Sugarcane Protection Inspector;
- ³[(iv) the Seed Production Officer;]
- (vi) the Senior Cane Development Inspector, who shall be *ex-officio* Member-Secretary.

(3-A) The members of the Council shall elect from among themselves a person not being a Government servant, to be the Chairman of such Council];

(4) The term of the Council shall be three years and upon its expiry the Council shall be reconstituted in accordance with the provisions of sub-section (3) :

Provided that the Cane Commissioner, if he is satisfied that it is necessary so to do may, with the approval of the State Government dissolve the Council before the expiry of its term, or remove ⁴[the Chairman or any other member thereof] for reasons to be recorded.

⁵[Provided further that the term of the first council to be constituted after the promulgation of the Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) (Amendment) Ordinance, 1975, shall be one year only.]

(5) Where a Council is dissolved the following consequences shall follow :

1. Subs. by U.P. Act No. 30 of 1979.
2. Subs. by U.P. Act No. 30 of 1979.
3. Subs. by U.P. Act No. 30 of 1979.
4. Subs. by Sec. 4 of U.P. Act No. 7 of 1974, w.e.f. 21-12-1973.
5. Ins. by Sec. 2 of U.P. Act No. 10 of 1976, w.e.f. 17-9-1975.

- (a) ¹[the Chairman and all members but not the Secretary] shall on a date to be specified in the order vacate their offices but without prejudice to their eligibility for appointment or nomination as member;
- (b) the Council shall be reconstituted by the Cane Commissioner in accordance with the provisions of sub-section (3); and
- (c) the duties, power and functions of the Council shall, pending its reconstitution, be discharged, exercised and performed ²[by the Secretary] may direct, for such period and subject to restrictions as may be specified in the order.

6. Functions of the Council.—(1) Functions of the Council shall be—

- (a) to consider and approve the programme of development for the zone;
- (b) to devise ways and means for the execution of the development plan in all its essentials such as cane varieties, cane seed, sowing programme, fertilizers and manures;
- (c) to undertake the development of irrigation and other agricultural facilities in the zone;
- (d) to take necessary steps for the prevention and control of diseases and pests and to render all possible help in the soil extension work;
- (e) to impart technical training to cultivators in matters relating to the production of cane;
- (f) to administer the funds at its disposal for the execution of the development scheme subject to the general or special directions of the Cane Commissioner; and
- (g) to perform other prescribed functions pertaining and conducive to the general development of the zone.

(2) The State Government may by rule provide for an annual meeting of all the Development Council in a district. Every such meeting shall be presided over by the Collector.

7. Casual vacancy.—A casual vacancy in the Council shall be filled up, as far as may be, in the manner stated in sub-section (3) of Section 5.

8. Council Fund.—(1) There shall be a fund at the disposal of the Council to meet the charges in connection with the discharge of its duties and performance of its functions under this Act.

(2) The fund of the Council shall consist of—

- (a) grants, if any made by the Indian Central Sugarcane Committee;
- (b) grants, if any, made by the State Government;
- (c) contributions made by the sugar factories [Gur, Rab or Khandsari Sugar Manufacturing Units]³ and 'Cane-growers' Co-operative Societies at rates to be prescribed; and

1. Subs. by Sec. 4 of U.P. Act No. 7 of 1974, w.e.f. 21-12-1973.
2. Subs. by Sec. 4 of U.P. Act No. 7 of 1974, w.e.f. 21-12-1973.
3. Added by U.P. Act III of 1960.

(d) any other sums, which the State Government may require to be credited to it.

18-A. Supersession of Council.—If at any time, the State Government is, after taking into consideration the explanation, if any, of the Council satisfied that the Council has made a wilful default in the performance of any of its functions and duties under this Act, it may, by notification supersede the Council for such period as may be specified, and shall make such arrangements for the performance of the functions and duties of the Council, during the period of supersession, as it may deem fit.]

9. Sugar Commissioner and Cane Commissioner.—The State Government may for purposes of this Act appoint—

- (a) a Sugar Commissioner; and
- (b) a Cane Commissioner;

who shall perform the duties and exercise all powers conferred or imposed upon them by or under this Act:

Provided that nothing in this section shall prevent the State Government from appointing the same person to be Sugar Commissioner and the Cane Commissioner.

10. Additional, Deputy or Assistant Cane Commissioner.—²[The State Government may appoint any person or designate any Government Officer as Additional, Deputy or Assistant Cane Commissioner or Additional, Deputy or Assistant Sugar Commissioner.]

11. Inspectors.—(1) The State Government may for purposes of this Act appoint any person or designate such officers of the Government as it thinks fit to be Inspectors within such local limits as may be assigned to them.

(2) The Inspectors shall perform the duties and exercise the powers conferred or imposed upon them by or under this Act.

CHAPTER III

Supply and Purchase of Cane

12. Estimates of requirements.—(1) The Cane Commissioner, may for purposes of Section 15, by order, require the occupier of any factory to furnish in the manner and by the date specified in the order to the Cane Commissioner an estimate of the quantity of cane which will be required by the factory during such crushing seasons ³[or crushing seasons] as may be specified in the order.

(2) The Cane Commissioner shall examine every such estimate and shall publish the same with such modifications, if, any, as he may make.

(3) An estimate under sub-section (2) may be revised by an authority to be prescribed.

13. Register of Cane-growers and Cane-growers' Co-operative Society or Societies.—(1) The occupier of a factory shall maintain in

1. Ins. by Section 3 of UP Act No. 10 of 1976, w.e.f. 17-9-1975.

2. Sub. by U.P. Act IV of 1964.

3. Ins. by UP Act XXI of 1956.

the prescribed form a register of all such cane-growers and Cane-growers' Co-operative Society or Societies, and shall sell cane to that factory.

(2) The State Government may, by rules, make provision for the following—

- (a) correction of entries made in the register and addition of new entries if necessary;
- (b) fixing of prices in respect of the entries so corrected or added in the register and prescribing of the procedure for payment of such price; and
- (c) the supply of copies of entries made in the register on payment of the prescribed fee.

14. Power of survey etc.—(1) The State Government may, for purposes of Section 15, by order provide for—

- (a) a survey to be made of the area proposed to be served or assigned for the supply of cane to a factory and the recovery of the cost of such survey from the occupier of the factory;
- (b) the appointment of an Officer for purposes of such survey, his duties and powers;
- (c) the procedure in accordance with which the survey shall be made;
- (d) the assistance and facilities to be provided to the officer appointed in pursuance of Clause (b) by the persons owning or occupying land in the area; and
- (e) such incidental and consequential matters as may appear to be necessary or desirable for this purpose.

(2) Any amount due from the occupier of a factory in pursuance of Clause (a) of sub-section (1) shall be recoverable from such occupier as an arrear of land revenue.

15. Declaration of reserved area and assigned area.—(1) Without prejudice to any order made under Clause (d) of sub-section (2) of Section 16 the Cane Commissioner may, after consulting the Factory and Cane-growers' Co-operative Society in the manner to be prescribed:

- (a) reserve any area (hereinafter called the reserved area); and
- (b) assign any area (hereinafter called an assigned area),

for the purposes of the supply of cane to a factory in accordance with the provisions of Section 16 during [one or more crushing seasons as may be specified]¹ and may likewise at any time cancel such order or alter the boundaries of an area so reserved or assigned.

(2) Where any area has been declared as reserved area for a factory, the occupier of such factory shall, if so directed by the Cane Commissioner, purchase all the cane grown in that area, which is offered for sale to the factory.

(3) Where any area has been declared as assigned area for a factory, the occupier of such factory shall purchase such quantity of cane grown

1. Ins. by UP Act XXI of 1956.

in that area and offered for sale to the factory as may be determined by the Cane Commissioner.

(4) An appeal shall lie to the State Government against the order of the Cane Commissioner passed under sub-section (1).

Comments

Does not violate Art. 14 of the Constitution.—The powers given to the Cane Commissioner under Section 15 are well defined and have not to be exercised within the limits prescribed after consulting the factories and the Cane-growers' Co-operative Societies vide Section 15(1) and any order made by the Cane Commissioner thereunder liable to an appeal to the State Government at the instance of the party aggrieved vide Section 15(4).

The same is the position in regard to the orders made by the Cane Commissioner in the course of his management. Supervision of the Cane-growers' Co-operative Societies and any order made by him in regard thereto is subject to appeal to the State Government at the instance of the party aggrieved vide Rule 63. If this is the position, it cannot be urged that wide powers are conferred on the Cane Commissioner which can be used by him in a discriminatory manner so as to violate the fundamental rights guaranteed under Article 14 of the Constitution.

Any Cane-grower or a Cane-growers' Co-operative Society of the occupier of a factory can, if aggrieved, take an appeal to the State Government against any order passed by the Cane Commissioner and such provision is a sufficient safeguard provided in the Act and the rules against any arbitrary exercise of those powers by the Cane Commissioner and takes them out of the ban of Article 14 (per Bhagwati, J.)—*Ch. Tilka Ram v. The State of Uttar Pradesh*.¹

16. Regulation of purchase and supply of cane in the reserved and assigned areas.—(1) The State Government may, for maintaining supplies, by order, regulate—

- (a) the distribution, sale or purchase of any cane in any reserved or assigned area; and
- (b) purchase of cane in any area other than a reserved or assigned area.

(2) Without prejudice to the generality of the foregoing powers such order may provide for—

- (a) the quantity of cane to be supplied by each Cane-grower or Cane-growers' Co-operative Society in such area to the factory for which the area has so been reserved or assigned;
- (b) the manner in which cane grown in the reserved area or the assigned area, shall be purchased by the factory for which the area has been so reserved or assigned and the circumstance in which the cane grown by a cane-grower shall not be purchased except through a Cane-growers' Co-operative Society;

1. 1956 SCR 393 : 1956 SCA 979 : 1956 AWR (HC) 657 : 1956 SCJ 625 : AIR 1956 SC 676.

(c) the form and the terms and conditions of the agreement to be executed by the occupier or manager of the factory for which an area is reserved or assigned for the purchase of cane offered for sale;

(d) the circumstances under which permission may be granted—

- (i) for the purchase of cane grown in reserved or assigned area by a ¹[Gur, Rab or Khandsari Manufacturing Unit or any person or factory] other than the factory for which area has been reserved or assigned, and
- (ii) for the sale of cane grown in a reserved or assigned area to a ²[Gur, Rab or Khandsari Manufacturing Unit or any person or factory] other than the factory for which the area is reserved or assigned;

(e) such incidental and consequential matters as may appear to be necessary or desirable for this purpose.

17. Payment of cane price.—³[(1) The occupier of a factory shall make such provision for speedy payment of the price of cane purchased by him as may be prescribed].

(2) Upon the delivery of cane the occupier of a factory shall be liable to pay immediately the price of the cane so supplied, together with all other sums connected therewith, ⁴[* *].

(3) Where the person liable under sub-section (2) is in default in making the payment of the price for a period exceeding fifteen days from the date of delivering, he shall also pay interest at a rate of 7-1/2 per cent per annum from the said date of delivering, but the Cane Commissioner may, in any case, direct, with the approval of the State Government, that no interest shall be paid or be paid at such reduced rate as he may fix :

⁵[Provided that in relation to default in payment of price of cane purchased after the commencement of this proviso, for the figure '7-1/2' the figure '12' shall be deemed substituted.]

(4) The Cane Commissioner shall forward to the Collector a certificate under his signature specifying the amount of arrears on account of the price of cane plus interest, if any, due from the occupier and the Collector, in receipt of such certificate, shall proceed to recover from such occupier the amount specified therein as if it were an arrear of land revenue.

⁶[(5)(a) Without prejudice to the provisions of the foregoing sub-sections, where the owner or any other person having control over the affairs of the factory or any other person competent in that behalf enters into an agreement with a bank under which the bank agrees to give advance to him on the security of sugar produced or to be produced in the factory, the said owner or other person shall provide in such agreement

1. Subs. by UP Act IV of 1964.
 2. Subs. by UP Act IV of 1964.
 3. Subs. by UP Act IV of 1964.
 4. Omitted by Section 5 of UP Act No. 7 of 1974, w.e.f. 21-12-1973.
 5. Ins. by UP Act No. 28 of 1974, Section 2.
 6. Added by UP Act No. 2 of 1972, w.e.f. 30th December, 1971.

that a ¹[percentage determined by such authority and in such manner as may be prescribed] of the total amount of advance shall be set apart and be available only for re-payment to cane-growers or their co-operative societies on account of the price of sugarcane purchased or to be purchased for the factory during the current crushing season from those cane-growers or from or through those societies, and interest thereon and, such societies, commission in respect thereof.

(b) Every such owner or other person as aforesaid shall send a copy of every such agreement to the Collector within a week from the date on which it is entered into].

18. Commission on purchase of cane.—(1) There shall be paid by the ²[occupier of a factory or a Gur, Rab or Khandsari Sugar Manufacturing Unit] a commission for every one maund of cane purchased by the ³[factory or a Gur, Rab or Khandsari Sugar Manufacturing Unit]—

(a) where the purchase is made through a Cane-growers' Co-operative Society, the commission shall be payable to the Cane-growers' Co-operative Society and the Council in such proportion as the State Government may declare, so, however, that the share payable to the Council shall not exceed 50 per cent; and

(b) where the purchase is made directly from the cane-grower, the commission shall be payable to the Council :

⁴[Provided that different rates of commission may be prescribed for a factory and for a Gur, Rab or Khandsari, Sugar Manufacturing Unit :

Provided further that the State Government may by notification in the official Gazette remit in whole or in part such commission in respect of a factory or a Gur, Rab or Khandsari Sugar Manufacturing Unit for a limited purpose specified in the notification].

(2) The commission payable under clauses (a) and (b) of sub-section (1) shall be at such rates as may be prescribed : provided, however, that the rate fixed under clause (b) shall not exceed the rate at which the commission may be payable to the Council under clause (a).

(3) The provisions relating to payment, interest and recovery including recovery as arrears of land revenue, applicable to price of cane shall *mutatis mutandis* apply to payment and recovery of commission under sub-section (1).

19. Power to declare varieties of cane to be unsuitable for use in factories.—(1) The State Government may, by notification, declare that—

(a) cane of any variety grown in any area specified in such notification is unsuitable for use in all or any factories situated in the said area;

1. Subs. by Section 5 of Act No. 7 of 1974 and be deemed always to have been substituted.

2. Subs. by U.P. Act III of 1960.

3. Added by U.P. Act No. 2 of 1972, w.e.f. 30th December, 1971.

4. Added by U.P. Act III of 1960.

(b) ratoon cane of any variety grown in any area specified in such notification is unsuitable for use in any or all factories situated in the said area; and

(c) seed cane of any variety is unsuitable for distribution to cultivators in an area as specified in such notification.

(2) The notification under sub-section (1) shall be issued after December 31, and before September 1, in any calendar year.

(3) Where any seed cane of any variety has been declared under sub-section (1) to be unsuitable for distribution to cultivators in that area, the occupier of a factory or any other person acting on his behalf or Cane-growers' Co-operative Society shall not distribute seed cane of such variety or varieties to any person to be used by cane-growers or the members of the Cane-growers' Co-operative Societies in any area.

(4) Where cane or ratoon cane of any variety has been declared under sub-section (1) to be unsuitable for use in a factory, the occupier of such factory or any other person acting on his behalf or a cane-grower or a Cane-growers' Co-operative Society shall not plant cane of any variety, or keep ratoon cane of any such variety.

CHAPTER IV

Miscellaneous

20. Tax on sale of cane.—(1) The Governor may, by notification, impose a cess not exceeding four annas a maund on the entry of sugarcane into an area specified in such notification for consumption, use or sale there :

Provided that the State Government may by notification, remit in whole or in part such cess in respect of sugarcane used or intended to be used in a factory for any purpose specified in such notification.

(2) The State Government shall make rules specifying the authority empowered to assess and collect cess and the person from whom and the manner in which the cess shall be collected.

(3) If any agreement for the sale of cane is entered into before the imposition of a cess under this section, the seller will be entitled to recover from the buyer in addition to, and as part of the contracted price, the amount of such cess to which the seller may be liable.

(4) Where any person is in default in making the payment of the cess, the authority empowered to collect the cess may direct that in addition to the amount of the arrears a sum not exceeding 10 per cent thereof shall be recovered from the person liable to pay the cess, by way of penalty.

(5) The authority empowered to collect the cess may forward to the Collector a certificate under his signature specifying the amount of arrears due from the person concerned and the Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue.

1. Section 20 of the Act has been repealed vide Section 9 of the U.P. Sugarcane Cases Act, 1956.

(6) Any sum imposed by way of penalty under sub-section (4) shall be recoverable in the manner provided in sub-section (5) for the recovery of the arrear of cess.]

21. Determination of occupier ¹[for the purposes of Section 22].—(1) Where the occupier of ²[a factory or gur, rab or kahndsari Sugar Manufacturing Unit] is a firm or other association of individuals, ³[(not being a company)] any one or more of the partner or member thereof may be prosecuted and punished under this Act for any offence for which the occupier of ⁴[the factory or the Gur, Rab or Khandsari Sugar Manufacturing Unit] is punishable:

Provided that the firm or association may give notice to the Collector that it has nominated one of its members to be occupier of the factory for the purpose of ⁵[this sub-section] and such individual shall be deemed to be the occupier for the purpose of ⁶[this sub-section] until further notice cancelling his nomination is received by the Collector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company any one or more of the directors thereof, or, in the case of a private company any one or more of the share-holders thereof may be prosecuted and punished under this Act for any offence for which the occupier of the factory is punishable:

Provided that the company may give notice to the Collector that it has nominated a director, or in the case of a private company, a share-holder to be the occupier of the factory for the purpose of ⁷[this sub-section] and such director or share holder shall be deemed to be the occupier of the factory for the purposes of ⁸[this sub-section] until further notice cancelling his nomination is received by the Collector or until he ceases to be a director or share-holder.

22. Penalties.—If any person contravenes any of the provisions of this Act or any rule or of order made thereunder, he shall be liable to imprisonment upto six months or to a fine not exceeding rupees five thousand or both and in the case of continuing contravention to a further fine not exceeding one thousand for each day during which the contravention continues.

⁹[**22-A. Powers of certain officers to investigate into offences punishable under this Act.**—(1) An Inspector specially empowered in

1. Subs. by Section 6 of U.P. Act No. 7 of 1974 and be deemed always to have been substituted.
2. Subs. by U.P. Act III of 1960.
3. Ins. by Act No. 7 of 1974 and be deemed always to have been inserted.
4. Subs. by U.P. Act III of 1960.
5. Subs. by Section 6 of U.P. Act No. 7 of 1974 and be deemed always to have been substituted.
6. Subs. by Section 6 of U.P. Act No. 7 of 1974 and be deemed always to have been substituted.
7. Subs. by Section 6 of U.P. Act No. 7 of 1974 and be deemed always to have been substituted.
8. Subs. by Section 6 of U.P. Act No. 7 of 1974 and be deemed always to have been substituted.
9. Ins. by U.P. Act 34 of 1976.

relation to cases generally or to any class of cases by the State Government, by notification, in that behalf may investigate into any offence punishable under this Act committed within the limits of the area in which such officer exercise jurisdiction.

(2) Any such officer may exercise the same powers in respect of such investigation as an officer-in-charge of a police station may exercise in a cognizable case under the provisions of Chapter XII of the Code of Criminal Procedure, 1973.

22-B. Duty of officers of certain departments to report offences and to assist Inspectors.—Every officer of the Police, Revenue and Excise Departments shall be bound to give immediate information to an Inspector of all breaches of any of the provisions of this Act which may come to his knowledge and upon request made by an Inspector, to aid him in carrying out the provisions of this Act and the rules made thereunder.]

23. Institution of proceedings.—(1) No prosecution shall be instituted under this Act except upon complaint made by or under authority from the Cane Commissioner or the District Magistrate.

(2) On the application of a person accused of an offence under this Act, the Cane Commissioner or the District Magistrate with the previous concurrence of the Cane Commissioner may at any stage compound such offence by levying a composition fee not exceeding the fine which could be imposed for such offence.

(3) No Court inferior to that of a Magistrate of the second class shall try any offence against this Act or any order or rule made thereunder.

24. Special powers of Magistrates.—Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Magistrate of the First Class specially empowered by the State Government in this behalf and trying any case under this Act or any order or rule made thereunder to pass a sentence of fine not exceeding five thousand rupees on any person convicted for any offence under this Act.

25. Protection of action taken under the Act.—(1) No suit prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order or rule made under this Act.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order or rule made under this Act.

26. Repeal and saving.—The U.P. Sugar Factories Control Act, 1938 (hereinafter in this section and Section 27 referred to as "the said Act") is hereby repealed:

Provided that without prejudice to the general application of Section 6 and 24 of the U.P. General Clauses Act, 1904, with regard to repeal and continuation of appointments, notifications, orders, etc., under enactment repealed and re-enacted, this repeal shall not prejudice or affect—

- (a) the operation of any notice served, order made or any permit, licence or sanction granted before the commencement of this Act under the powers conferred by the said Act;
- (b) the continued validity of any cess, tax fee or other penalty assessed or imposed under the said Act prior to its repeal or the power to assess or impose any such cess, tax, fee or penalty in respect of the period prior to its repeal or anything done or permitted to be done thereunder, and such cess, tax, fee or penalty may be assessed or imposed and any such thing done as if the said Act had not been repealed;
- (c) the continuance of a Board, or Cane Development Council constituted under the said Act and the same shall, till such Board or Council has been duly constituted under and in accordance with this Act, exercise the powers, duties and functions exercisable or dischargeable by it under this Act; or
- (d) the continued operation of any immunity, exemption or protection granted by or under the said Act:

Provided further, that any area declared to be a reserved area or an assigned area under the said Act shall unless directed otherwise or superseded by anything done or any action taken under this Act, continue in force as if declared under this Act.

27. Transitional provisions.—The State Government may for the purpose of removing any difficulties in relation to the transition from the provisions of the said Act to this Act, by order published in the official Gazette—

- (a) direct that this Act shall during such periods as may be specified in the order take effect subject to such adoptions whether by way of modification, addition or omission as it may deem fit to be necessary or expedient; and
- (b) make such other temporary provision for the purpose of removing any such difficulty as it may deem fit to be necessary or expedient.

Provided that no such order shall be made after twelve months from the commencement of this Act.

28. Power to make rules ¹[* * *].

(2) ²[* * *].

(3) The rules made under this section shall come into force from a date to be appointed by the State Government.

(4) All such rules shall be laid before the State Legislature when it meets immediately after their enforcement and shall be subject to such omissions, alterations and additions as the Legislature may make.

1. In Sec. 28 clauses (1) and (2) have been omitted by Act 7 of 1974 (w.e.f. 21-12-1973).

2. In Sec. 28 clauses (1) and (2) have been omitted by Act 7 of 1974 (w.e.f. 21-12-1973).

THE U.P. SUGARCANE (REGULATION OF SUPPLY AND PURCHASE) RULES, 1954

Published in U.P. Gazette, dated September 4, 1954 Pt I-A, pp.
1564—, 1583 Notification No. 2662-HS/XVIII-C—1723-53,
dated September 1, 1954

In exercise of the powers conferred by Section 23 of the Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 (U.P. Act No. XXIV of 1953), the Governor is pleased to make the following rules and to direct that they shall come into force from the date of their publication in the Gazette.

CHAPTER I

Short title and commencement

1. These rules may be called the Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Rules, 1954.

CHAPTER II

Definitions

2. In these rules unless there is anything repugnant in the subject or context—

- (a) "Act" means the Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 (Act XXIV of 1953);
- (b) "Budget Year" means the year commencing from the first day of July;
- (c) "Collector" means the Collector of the District in whose jurisdiction the factory or the purchasing centre or the reserved area of the assigned area or the headquarters of a Council or a Zone or a Society, as the case may be, is situated;
- (d) "Commissioner" means the Commissioner of a revenue division;
- (e) "Federation" means the Uttar Pradesh Co-operative Cane Unions' Federation Ltd.;
- (f) "Purchasing Centre" means any place at which cane is purchased, supplied, delivered, weighed or paid for and includes such portion of the premises of a factory as is used for any of these purposes;
- (g) "Section" means a section of the Act;
- ¹(h) "Society clerk" means any person appointed as such by a Cane-growers' Co-operative Society to do any work connected with the supply, purchase, payment and weighing of cane at a purchasing centre;
- (i) "Sub-Divisional Officer" means the officer-in-charge of a revenue sub-division;
- (j) "Weighbridge" means any mechanism or scales (including beam scales) used to weigh cane;

1. Ins. by Notification No. 3129-S/XVIII-C—1601-63, dated April 28, 1964, w.e.f. May 2, 1964.