

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 35 of 2009 (M/S)

The Kisan Sahkari Chini Mills Ltd.

.... Petitioner

Versus

Registrar, Cooperative Cane Development Societies/
Sugar Mills Societies, Lucknow/Cane Commissioner of
Uttar Pradesh, Dalibag, Lucknow, U.P. and others

.... Respondents

Mr. R.K. Raizada, learned counsel for the petitioner.

Mr. Bina Pandey, learned Standing Counsel for the State of Uttar Pradesh.

Mr. K.P. Upadhyay, learned Additional Chief Standing Counsel for the State of Uttarakhand.

31st March, 2009

Hon'ble Sudhanshu Dhulia, J.

The petitioner has filed the present writ petition challenging the noting/remarks of Additional Cane Commissioner (Societies), Lucknow, U.P. whereby certain queries have been proposed to be made from its counterpart at Uttarakhand. The case of the petitioner is that it had moved an application under Section 70 of U.P. Cooperative Societies Act, 1965 in the year 1992 but the authorities did not proceed with the matter however after the creation of State of Uttarakhand under Section 91 of the Uttar Pradesh Reorganisation Act, 2000 (hereinafter referred to as the "Act") all such matters which were pending before the authority in Uttar Pradesh were liable to be transferred to their counterpart in the State of Uttarakhand, if the cause of action arose in the State of Uttarakhand. However, no application pertaining to Section 91 of the Act has been moved by the petitioner before the authorities in Uttar Pradesh. Writ Petition, therefore, is totally misconceived. Apart from this, the writ petition is hopelessly time barred as well inasmuch as the matter pertains to the year 1992. It has been more than 8 years since the creation of

State of Uttarakhand as well and the petitioner has not approached any Court regarding redressal of his grievances. For this reason also, writ petition is liable to be dismissed. The learned counsel for the State of Uttar Pradesh also contends that the remark which he is challenging is only a query. No cause of action arose on the basis of the remark dated 19.09.2008 as it is only a query. The main relief sought by the petitioner is regarding transfer of the matter from Uttar Pradesh to Uttarakhand under Section 91 of the Act. On this count, the matter is highly belated.

Writ petition, therefore, is dismissed on the ground of laches.

However, the petitioner, if so advised, may move an application before the concerned authorities in Uttar Pradesh for transfer of the case under Section 91 of the Act to the State of Uttarakhand.

(Sudhanshu Dhulia, J.)

31.3.2009
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