

ITEM NO.37

COURT NO.4

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 9606/2013
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 08/10/2012
IN MSB NO. 5401/2011 PASSED BY THE HIGH COURT OF JUDICATURE AT
ALLAHABAD)

STATE OF U.P. & ORS.

PETITIONER(S)

VERSUS

JAI PRAKASH TIWARI
(WITH INTERIM RELIEF AND OFFICE REPORT)

RESPONDENT(S)

Date : 24/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. Dinesh Dwivedi, Sr. Adv.
Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. Prateek Dwivedi, Adv.

For Respondent(s)

Ms. Sakshi, Adv.
Ms. Priya Puri, Adv.
Mr. S. Rai, Adv.
Mrs. Priya Puri, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed
order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4424 OF 2017
[Arising out of Special Leave Petition
(Civil) No.9606/2013]

STATE OF U.P. & ORS. . . . APPELLANTS

VERSUS

JAI PRAKASH TIWARI . . . RESPONDENT

ORDER

1. Leave granted.
2. We have heard the learned counsels for the parties.
3. Having regard to the facts of Rakesh Singh Vs. State of U.P. [2012 (8) ADJ 1(DB)(LB)] and those of the present case we are of the view that no reliance could have been placed by the High Court on the said decision i.e. Rakesh Singh (supra) to decide the issues arising in the instant case.

4. In Rakesh Singh (supra) the licensee had lifted the Annual Minimum Guaranteed Quantity stipulated the default was in respect of lifting of minimum guaranteed quantity in a particular month. The licence was not cancelled. The facts in the present case would go to show that on the date of cancellation of licence i.e. 29th January, 2003, there was considerable shortfall in lifting the minimum guaranteed quantity upto December, 2002.

5. Consequently and in the light of the above, the order of the High Court is set aside and the matter is remitted for a *de novo* consideration on merits. All contentions available in law to the parties will be open to be agitated before the High Court.

6. The appeal is disposed of in the above terms.

....., J.
(RANJAN GOGOI)

....., J.
(NAVIN SINHA)

NEW DELHI
MARCH 24, 2017