



IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 25TH DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ
WRIT PETITION NO. 107496 OF 2023 (GM-RES)
C/W
WRIT PETITION NO. 107524 OF 2023 (GM-RES)
WRIT PETITION NO. 107955 OF 2023 (GM-RES)
WRIT PETITION NO. 107956 OF 2023 (GM-RES)
WRIT PETITION NO. 100125 OF 2024 (GM-RES)
WRIT PETITION NO. 100132 OF 2024 (GM-RES)
WRIT PETITION NO. 100133 OF 2024 (GM-RES)
WRIT PETITION NO. 100197 OF 2024 (GM-RES)
WRIT PETITION NO. 100264 OF 2024 (GM-RES)
WRIT PETITION NO. 100450 OF 2024 (GM-RES)
WRIT PETITION NO. 100743 OF 2024 (GM-RES)
WRIT PETITION NO. 100765 OF 2024 (GM-RES)
WRIT PETITION NO. 100979 OF 2024 (GM-RES)
WRIT PETITION NO. 101001 OF 2024 (GM-RES)
WRIT PETITION NO. 101009 OF 2024 (GM-RES)



IN W.P.NO.107496/2023
BETWEEN

HERMES DISTILLERIES PVT LTD, YADRAV
TAL RAIBAG
DIST BELGAVI 591317
KARNATAKA STATE
A STANDALONE DISTILLERY HAVING SUGAR SYRUP PLANT
(REPRESENTED BY ITS DIRECTOR)

BABU PATIL
S/O APPASAHEB PATIL
AGE 70 YEARS

...PETITIONER



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

(BY SRI: PRABHULING K. NAVADAGI., SENIOR COUNSEL FOR
SRI. MALLIKARJUNSWAMY B HIREMATH &
SRI. RAJESWARA P.N., ADVOCATES)

AND

1. UNION OF INDIA
REPRESENTED BY THE JOINT SECRETARY
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
(DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION)
KRISHI BHAVAN
NEW DELHI 110001
2. DIRECTOR (SUGAR)
GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
DIRECTORATE OF SUGAR AND VEGETABLE OILS
KRISHI BHAVAN
NEW DELHI 110001
3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN
DR RAJENDRA PRASAD MARG
NEW DELHI 110001
4. THE MANAGING DIRECTOR
BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE MUMBAI 40001
5. THE MANAGING DIRECTOR
INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051
6. THE MANAGING DIRECTOR



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matters

HINDUSTAN PETROLEUM CORPORATION LIMITED
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI
MAHARASHTRA MUMBAI 400020

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B. KANAVI., SCGC FOR R1 TO R3
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF
CERTIORARI QUASHING COMMUNICATION/ORDER DATED.
07.12.2023 ISSUED BY RESPONDENT NO.2 WHICH IS PRODUCED AT
ANNEXURE-F AND ETC.

IN W.P.NO.107524/2023
BETWEEN

SHIVSHAKTI SUGARS LTD, SOUNDATTI
TAL RAIBAG
DIST BELAGAVI 591213
KARNATAKA STATE
A SUGAR SYRUP PLANT
REPRESENTED BY ITS MANAGER ADMIN
NISAR AHMED MULLA
S/O SULTANSAB MULLA.,
AGED 70 YEARS

...PETITIONER

(BY SRI: PRABHULING K. NAVADAGI., SENIOR COUNSEL FOR
SRI. MALLIKARJUNSWAMY B HIREMATH &
SRI. RAJESWARA P.N., ADVOCATES)

AND

1. UNION OF INDIA
REPRESENTED BY THE JOINT SECRETARY
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
(DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION)
KRISHI BHAWAN
NEW DELHI 110001
2. DIRECTOR (SUGAR)
GOVERNMENT OF INDIA



MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
DIRECTORATE OF SUGAR AND VEGETABLE OILS
KRISHI BHAVAN
NEW DELHI 110001

3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN
DR RAJENDRA PRASAD MARG
NEW DELHI 110001

4. THE MANAGING DIRECTOR
BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE MUMBAI 40001

5. THE MANAGING DIRECTOR
INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051

6. THE MANAGING DIRECTOR
HINDUSTAN PETROLEUM CORPORATION LIMITED
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI
MAHARASHTRA MUMBAI 400020

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B. KANAVI., SCGC FOR R1 TO R3
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF
CERTIORARI QUASHING COMMUNICATION/ORDER DATED.
07.12.2023 ISSUED BY RESPONDENT NO.2 WHICH IS PRODUCED AT
ANNEXURE-G AND ETC.

IN W.P.NO.107955/2023



BETWEEN

M/S GM SUGAR AND ENERGY LIMITED
VILLAGE CHATNAHALLI
TESHIL HIREKERUR
DISTRICT HAVERI KARNATAKA 581119
REPRESENTED BY ITS DIRECTOR
PARVATHRAJ MP

...PETITIONER

(BY SRI: B. ANWAR BASHA AND
SRI. KEERTI KRISHNA REDDY., ADVOCATES)

AND

1. UNION OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAWAN
NEW DELHI 110001
REP BY ITS JOINT SECRETARY
2. DIRECTOR (SUGAR)
DIRECTORATE OF SUGAR AND VEGETABLE OILS DEPARTMENT
OF FOOD AND PUBLIC DISTRIBUTION MINISTRY OF
CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAVAN
NEW DELHI 110001
3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN
DR RAJENDRA PRASAD MARG
NEW DELHI 110001
4. M/s BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE
MUMBAI 400001, MAHARASTRA
REP BY ITS MANAGING DIRECTOR



NC: 2024:KHC-D:6912
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5. M/s INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051
REP ITS MANAGING DIRECTOR

6. HINDUSTAN PETROLEUM CORPORATION LIMITED
HAVING ITS REGISTERED OFFICE AT
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI-400020
MAHARASHTRA
REP BY ITS MANAGING DIRECTOR

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B. KANAVI., SCGC FOR R1 TO R3
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO PASS AN APPROPRIATE WRIT, DIRECTION, OR ORDER, QUASHING THE NOTIFICATION DATED 07.12.2023 ISSUED BY THE SECOND RESPONDENT HEREIN ON BEHALF OF THE FIRST RESPONDENT, DIRECTING THE PETITIONER ENTITY NOT TO USE SUGARCANE JUICE/SUGAR SYRUP FOR ENTHNOL FOR ESY 2023-24 WITH IMMEDIATE EFFECT, WHICH IS PRODUCED AS ANNEXURE - A AND ETC.

IN W.P.NO.107956/2023
BETWEEN

M/s TRUALT BIOENERGY LTD.
HAVING ITS REGISTERED OFFICE AT,
SY NO. 166, KULALI CROSS,
JAMKHANDI MUDHOL ROAD,
BAGALKOT 587313,
REPRESENTED BY TIS
CHIEF FINANCIAL OFFICER,
MR. DEBNATH MUKHOPADHYAY

...PETITIONER

(BY SRI:AJAY KADKOL,
SRI. PRAVEEN MAIGUR AND



SRI. SANAT KUMAR., ADVOCATES)

AND

1. UNION OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAVAN
NEW DELHI 110001
REP BY ITS JOINT SECRETARY
2. DIRECTOR (SUGAR)
DIRECTORATE OF SUGAR AND VEGETABLE OILS DEPARTMENT
OF FOOD AND PUBLIC DISTRIBUTION MINISTRY OF
CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAVAN
NEW DELHI 110001
3. M/s BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE
MUMBAI 400001, MAHARASHTRA
REP BY ITS MANAGING DIRECTOR
4. M/s INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARASHTRA 400051
REP ITS MANAGING DIRECTOR
5. HINDUSTAN PETROLEUM CORPORATION LIMITED
HAVING ITS REGISTERED OFFICE AT
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI-400020
MAHARASHTRA
REP BY ITS MANAGING DIRECTOR

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W



NC: 2024:KHC-D:6912
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matters

SRI M.B. KANAVI., SCGC FOR R1 TO R2
SRI. C.V. ANGADI., ADVOCATE FOR R3 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO PASS AN APPROPRIATE WRIT, DIRECTION, OR ORDER, QUASHING THE NOTIFICATION DATED 07.12.2023 ISSUED BY THE SECOND RESPONDENT HEREIN ON BEHALF OF THE FIRST RESPONDENT, DIRECTING THE PETITIONER ENTITY NOT TO USE SUGARCANE JUICE/SUGAR SYRUP FOR ENTHNOL FOR ESY 2023-24 WITH IMMEDIATE EFFECT, WHICH IS PRODUCED AS ANNEXURE-A AND ETC.

IN W.P.NO.100125/2024
BETWEEN

M/S GODAVARTI BIOFINERIES LTD
MADABHAI VILLAGE,
POST. SAMEERWADI,
TAL. MUDHOL,
DIST. BAGALKOT,
KARNATAKA 587316,
REPRESENTED BY ITS DIRECTOR
BALACHANDRA RAGHAVENDRA BAKSHI
(REGISTERED UNDER COMPANIES ACT VII OF 1958)

...PETITIONER

(BY SRI: PRABHULING K. NAVADAGI., SENOR COUNSEL FOR
SRI. OMKAR LAXMAN DESAI &
SRI. KEERTHI REDDY., ADVOCATES)

AND

1. UNION OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAWAN
NEW DELHI 110001
REP BY ITS JOINT SECRETARY
2. DIRECTOR (SUGAR)
DIRECTORATE OF SUGAR AND VEGETABLE OILS DEPARTMENT
OF FOOD AND PUBLIC DISTRIBUTION MINISTRY OF
CONSUMER AFFAIRS



FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAVAN
NEW DELHI 110001

3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN
DR RAJENDRA PRASAD MARG
NEW DELHI 110001
4. M/s BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE
MUMBAI 400001, MAHARASTRA
REP BY ITS MANAGING DIRECTOR
5. M/s INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051
REP ITS MANAGING DIRECTOR
6. HINDUSTAN PETROLEUM CORPORATION LIMITED
HAVING ITS REGISTERED OFFICE AT
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI-400020
MAHARASHTRA
REP BY ITS MANAGING DIRECTOR

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B. KANAVI., SCGC FOR
SRI. VENKATSH M KHARVI., ADVOCATE R1 TO R3
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO PASS AN APPROPRIATE
WRIT, DIRECTION, OR ORDER, QUASHING THE NOTIFICATION
BEARING NO.F.NO.3(2)/2023-SP DATED 07.12.2023 ISSUED BY THE
SECOND RESPONDENT HEREIN ON BEHALF OF THE FIRST
RESPONDENT, DIRECTING THE PETITIONER ENTITY NOT TO USE



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SUGARCANE JUICE/SUGAR SYRUP FOR ENTHNOL FOR ESY 2023-24
WITH IMMEDIATE EFFECT, WHICH IS PRODUCED AS ANNEXURE-A.
AND ETC.

IN W.P.NO.100132/2024
BETWEEN

VISHWARAJ SUGAR INDUSTRIES LTD
A COMAPANY REGISTERED UNDER THE
PROVISIONS OF COMPANIES ACT 1956
HAVING ITS REGISTERED OFFICE AT
BELLAD-BAGEWADI
BELAGAVI DISTRICT 587301
(REPRESENTED BY ITS EXECUTIVE DIRECTOR)
SRI MUKESH KUMAR
AGED ABOUT 62 YEARS

...PETITIONER

(BY SRI: PRABHULING K. NAVADAGI., SENIOR COUNSEL FOR
SRI. MALLIKARJUNSWAMY B HIREMATH., ADVOCATES)

AND

1. UNION OF INDIA
REPRESENTED BY THE JOINT SECRETARY
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
(DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION)
KRISHI BHAVAN
NEW DELHI 110001
2. DIRECTOR (SUGAR)
GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
DIRECTORATE OF SUGAR AND VEGETABLE OILS
KRISHI BHAVAN
NEW DELHI 110001
3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN



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DR RAJENDRA PRASAD MARG
NEW DELHI 110001

4. THE MANAGING DIRECTOR
BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE MUMBAI 40001
5. THE MANAGING DIRECTOR
INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051
6. THE MANAGING DIRECTOR
HINDUSTAN PETROLEUM CORPORATION LIMITED
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI
MAHARASHTRA MUMBAI 400020
7. THE MANGALORE REFINERY PVT. LTD.
(A SUBSIDIARY OF OIL AND NATURAL GAS
CORPORATION LIMITED)
KUTHETHOOR P.O., VIA KATIPALLA
MANGALORE-575030.

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B. KANAVI., SCGC FOR R1 TO R3
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6
SRI. JAGADISH PATIL., ADVOCATE FOR R7)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT, ORDER OR
DIRECTION IN THE NATURE OF CERTIORARI QUASHING THE
IMPUGNED COMMUNICATION/LETTER, DATED 07/12/2023 BEARING
NO.F.NO.3(2)/2023-SP VIDE ANNEXURE-J ISSUED BY 2ND
RESPONDENT AND IMPUGNED COMMUNICATION/LETTER, DATED
15/12/2023 BEARING NO.F.NO.3(2)/2023-SP ISSUED BY 2ND
RESPONDENT VIDE ANNEXURE-K AND ETC.



IN W.P.NO.100133/2024
BETWEEN

SHRI HIRANYAKESHI SAKKARE
SAHAKARI SAKKARE KHARKANA NIYAMITA
SANKESHWAR VILLAGE,
HUKKERI TALUK,
BELAGAVI DISTRICT,
(A SOCIETY REGISTERED UNDER THE
PROVISIONS OF MULTI STATE CO OPERATIVE
SOCIETIES ACT, 2002)
REP. BY ITS MANAGING DIRECTOR,
SRI. SATAPPA R KARKINAIK,
S/O RAYAPPA KARKINAIK,
AGED ABOUT 58 YEARS

...PETITIONER

(BY SRI: PRABHULING K. NAVADAGI., SENIOR COUNSEL FOR
SRI.MALLIKARJUNSWAMY B HIEMATH &
SRI. KUSHAL N. KAMBLE., ADVOCATES)

AND

1. UNION OF INDIA
REPRESENTED BY THE JOINT SECRETARY
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
(DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION)
KRISHI BHAVAN
NEW DELHI 110001
2. DIRECTOR (SUGAR)
GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
DIRECTORATE OF SUGAR AND VEGETABLE OILS
KRISHI BHAVAN
NEW DELHI 110001
3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN
DR RAJENDRA PRASAD MARG



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NEW DELHI 110001

4. THE MANAGING DIRECTOR
BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE MUMBAI 40001

5. THE MANAGING DIRECTOR
INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051

6. THE MANAGING DIRECTOR
HINDUSTAN PETROLEUM CORPORATION LIMITED
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI
MAHARASHTRA MUMBAI 400020

7. THE MANGALORE REFINERY PVT. LTD.
(A SUBSIDIARY OF OIL AND NATURAL GAS
CORPORATION LIMITED)
KUTHETHOOR P.O., VIA KATIPALLA
MANGALORE-575030.

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B. KANAVI., SCGC FOR R1 TO R3
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6
SRI. JAGADISH PATIL., ADVOCATE FOR R7)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED COMMUNICATION/LETTER, DATED 07/12/2023 BEARING NO.F.NO.392)/2023-SP, ISSUED BY RESPONDENT NO.2 VIDE ANNEXURE-J AND IMPUGNED COMMUNICATION/LETTER, DATED 15/12/2023 BEARING NO.F.NO.3(2)/2023-SP ISSUED BY 2ND RESPONDENT AS PER ANNEXURE-K AND ETC.

IN W.P.NO.100197/2024
BETWEEN



NC: 2024:KHC-D:6912
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matters

M/S E I D PARRY (INDIA) LIMITED
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS REGISTERED OFFICE AT
DARE HOUSE 234,
NSC BOSE ROAD,
PARRYS CORNER,
CHENNAI 600001,

HAVING ITS SUGAR FACTORY AT
NH 13 NAGARALAL POST,
NAINEGALI 585207,
BAGALKOT TALUK AND DISTRICT KARNATAKA

AND ALSO AT
HULLATTI
TQ. HALIYAL,
DIST. UTTARA KANNADA,
KARNATAKA,
REPRESENTED BY ITS AUTHORISED REPRESENTATIVE
MR. SHAJI THOMAS

...PETITIONER

(BY SRI: DHYAN CHINNAPPA., SENIOR COUNSEL FOR
SRI. G.I. GACHINAMATH., ADVOCATE)

AND

1. UNION OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAWAN
NEW DELHI 110001
REP BY ITS JOINT SECRETARY
2. DIRECTOR (SUGAR)
DIRECTORATE OF SUGAR AND VEGETABLE OILS DEPARTMENT
OF FOOD AND PUBLIC DISTRIBUTION MINISTRY OF
CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAVAN
NEW DELHI 110001



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3. M/s BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE
MUMBAI 400001, MAHARASTRA
REP BY ITS MANAGING DIRECTOR

4. M/s INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051
REP ITS MANAGING DIRECTOR

5. HINDUSTAN PETROLEUM CORPORATION LIMITED
HAVING ITS REGISTERED OFFICE AT
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI-400020
MAHARASHTRA
REP BY ITS MANAGING DIRECTOR

6. MANGALORE REFINERY AND PETROCHEMICALS LIMITED
MANGALORE REFINERY & PETROCHEMICALS LTD.
KUTHETHOOR POST,
VIA KATIPALLA
MANGALORE-575030
KARNATAKA
(REP BY ITS MD)

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B. KANAVI., SCGC FOR
SRI. VENKATSH M KHARVI., ADVOCATE R1 TO R2
SRI. C.V. ANGADI., ADVOCATE FOR R3 TO R5
SRI. JAGADISH PATIL., ADVOCATE FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO PASS AN APPROPRIATE WRIT, DIRECTION, OR ORDER, INCLUDING A WRIT IN THE NATURE OF CERTIORARI QUASHING THE NOTIFICATION DATED 07.12.2023 BEARING NO. F.NO. 3(2)/2023-SP, ISSUED BY THE SECOND RESPONDENT HEREIN ON BEHALF OF THE FIRST RESPONDENT, DIRECTING THE PETITIONER ENTITY NOT TO USE SUGARCANE



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JUICE/SUGAR SYRUP FOR ETHANOL FOR ESY 2023-24 WITH IMMEDIATE EFFECT, WHICH IS PRODUCED AS VIDE ANNEXURE-A TO THE WRIT PETITION, AS FAR AS IT CONCERNS THE PETITIONER AND ETC.

IN W.P.NO.100264/2024
BETWEEN

M/S MYLAR SUGARS LIMITED
SY. NO. 158/2, BEERABBI VILLAGE,
HADAGALI, VIJAYANAGARA DISRICT,
REPRESENTED BY ITS MANAGING DIRECTOR,
UDAYKUMAR
S/O GANGADHARAYYA PURANIKMATH,
AGE. 49 YEARS,
OCC. BUSINESS,
R/O. M/S MYLAR SUGARS LTD.,
CO PLOT NO. 6,
LAXMI PARK,
NEAR DOLLARS COLONY,
GOKUL ROAD,
HUBBALLI 580030

...PETITIONER

(BY SRI: SANGRAM S KULKARNI., ADVOCATE)

AND

1. UNION OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAWAN
NEW DELHI 110001
REP BY ITS JOINT SECRETARY

2. DIRECTOR (SUGAR)
DIRECTORATE OF SUGAR AND VEGETABLE OILS DEPARTMENT
OF FOOD AND PUBLIC DISTRIBUTION MINISTRY OF
CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAVAN
NEW DELHI 110001



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3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN
DR RAJENDRA PRASAD MARG
NEW DELHI 110001

4. M/s BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE
MUMBAI 400001, MAHARASTRA
REP BY ITS MANAGING DIRECTOR

5. M/s INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G-9, ALI YAVAR JUNG MARG
BANDRA EAST, MUMBAI
MAHARSHTRA 400051
REP ITS MANAGING DIRECTOR

6. HINDUSTAN PETROLEUM CORPORATION LIMITED
HAVING ITS REGISTERED OFFICE AT
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD, MUMBAI-400020
MAHARASHTRA
REP BY ITS MANAGING DIRECTOR

...RESPONDENTS

(BY SRI. VENKATSH M KHARVI., ADVOCATE R1 TO R3
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO STAY THE OPERATION OF NOTIFICATION BEARING NO.F NO.3(2)/2023-SP, DATED 07.12.2023 ISSUED BY THE SECOND RESPONDENT HERE ON BEHALF OF THE FIRST RESPONDENT, DIRECTING THE PETITIONER ENTITY NOT TO USE SUGARCANE JUICE/SUGAR SYRUP FOR ENTHNOL FOR ESY 2023-24 WITH IMMEDIATE EFFECT, WHICH IS PRODUCED AS ANNEXURE-A.

IN W.P.NO.100450/2024
BETWEEN



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

1. SHIRGUPPI SUGAR WORKS LTD.,
SY.NO.23/A (PART), 36/1A, 36/4A
40/1 (PART) 40/2B, 48/2B, 41
KAGWAD VILLAGE,
TQ. ATHANI
DIST. BELAGAVI
(REPRESENTED BY ITS MD)
2. MANAGING DIRECTOR
PRAVEEN DODDANAVR
AGE. 57 YEARS,
SHIRUGUPPI SUGAR WORKS LTD,
KAGWAD VILLAGE,
TQ. ATHANI
DIST. BELAGAVI

...PETITIONERS

(BY SRI: PRABHUYLING K. NAVADAGI., SENIOR COUNSEL FOR
SRI. OMKAR LAXMAN DESAI AND
SRI. KEERTHI REDDY., ADVOCATES)

AND

1. UNION OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAWAN
NEW DELHI-110001
REPRESENTED BY ITS JOINT SECRETARY
2. DIRECTOR SUGAR
DIRECTORATE OF SUGAR AND VEGETABLE OILS
DEPARTMENT OF FOOD AND PUBLIC
DISTRIBUTION
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
GOVERNMENT OF INDIA
KRISHI BHAWAN
NEW DELHI-110001
REPRESENTED BY ITS JOINT SECRETARY
3. THE SECRETARY



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN
DR. RAJENDRA PRASAD MARG
NEW DELHI-110001

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI M.B.KANAVI., SCGC, FOR R1 TO R3 FOR;
SRI. VENKATESH M. KHARVI., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO PASS AN APPROPRIATE WRIT,
DIRECTION, OR ORDER, QUASHING THE NOTIFICATION DATED
07.12.2023 ISSUED BY THE SECOND RESPONDENT HEREIN ON
BEHALF OF THE FIRST RESPONDENT, DIRECTING THE PETITIONER
ENTITY NOT TO USE SUGARCANE JUICE/SUGAR SYRUP FOR
ETHANOL FOR ESY 2023-24 WITH IMMEDIATE EFFECT, WHICH IS
PRODUCED AS ANNEXURE-A AND ETC.

IN W.P.NO.100743/2024
BETWEEN

M/S THE UGAR SUGAR WORKS LIMITED
A PUBLIC LIMITED COMPANY
REGISTERED UNDER THE COMPANY S ACT, 1956
HAVING ITS REGISTERED OFFICE
AT MAHAVEER NAGAR,
VAKHARBAGH, SANGLI-416416
MAHARASHTRA STATE
HAVING ITS FACTORY AT UGAR KHURD-591316
TQ. KAGVAD, BELAGAVI DISTRICT

R/BY ITS GPA HOLDER
SRI. ANANT SHAMRAO SIDDANTI
S/O. SHAMRAO,
AGED ABOUT 62 YEARS,
GENERAL MANAGER,
SUGAR CANE

...PETITIONER

(BY SRI: H.N. SHASHIDAR., SENIOR COUNSEL FOR
SRI. D.M.MALLI & SRI. H.S. SUSAS., ADVOCATES)

AND



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

1. THE UNION OF INDIA
R/BY ITS JOINT SECRETARY,
MINISTRY OF CONSUMER AFFAIRS
(FOOD AND PUBLIC DISTRIBUTION)
KRUSHI BHAVAN,
NEW DELHI-110001
2. THE DIRECTOR (SUGAR),
MINISTRY OF CONSUMER AFFAIRS,
DIRECTORATE OF SUGAR AND VEGETABLE OILS,
KURSHI BHAVAN,
NEW DELHI-110001
3. THE SECRETARY TO MINISTRY OF PETROLEUM
AND NATURAL GASSES,
SHASTRI BHAVAN,
DR. RAJENDRA PRASAD MARG,
NEW DELHI-110001
4. THE INDIAN OIL CORPORATION LIMITED,
INDIAN OIL BHAVAN,
G-9, ALIYAVAR JANG MARG,
BANDRA EAST,
MUMBAI-400051
MAHARASHTRA STATE
R/BY ITS MANAGING DIRECTOR
5. THE BHARAT PETROLEUM CORPORATION LIMITED,
BHARAT BHAVAN,
NO.4 AND 6, CURRIMBHY ROAD,
BELLAD ESTATE,
MUMBAI-400001
MAHARASHTRA STATE
R/BY ITS MANAGING DIRECTOR
6. THE HINDUSTAN PETROLEUM CORPORATION LIMITED,
PETROLEUM HOUSE,
NO.17, JEMSHETAJI TATA ROAD,
MUMBAI-400020
MAHARASHTRA STATE,
R/BY ITS MANAGING DIRECTOR

...RESPONDENTS



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI. M.B. KANA VI., SCGC FOR R1 TO R3;
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE COMMUNICATION BEARING F.NO. 3(2)/2023-SP DATED. 07.12.2023, VIDE ANNEXURE-A, AND COMMUNICATION BEARING F.NO. 3(2)/2023-SP DATED. 15.12.2023, VIDE ANNEXURE-B ISSUED BY THE 2ND RESPONDENT AND ETC.

IN W.P.NO.100765/2024
BETWEEN

M/S JAMKHANDI SUGARS LIMITED
A COMPANY INCORPORATED UNDER THE
COMPANY'S ACT 1956
HAVING ITS REGISTERED OFFICE AT
HIREPADASALAGI-587301
NAGANUR POST, JAMAKHANDI TALUK,
BAGALKOT DISTRICT.
R/BY ITS GENERAL MANAGER (FINANCE)
SR RAJNISH VARMA
S/O DEVAKUMAR
AGED ABOUT 51 YEARS,

...PETITIONER

(BY SRI: H.N. SHASHIDHAR., SENIOR COUNSESL FOR
SRI. D.M.MALLI & SRI. H.S.SUHAS., ADVOCATES)

AND

1. THE UNION OF INDIA
REP. BY ITS JOINT SECRETARY
MINISTRY OF CONSUMER AFFAIRS
(FOOD AND PUBLIC DISTRIBUTION)
KRUSHI BHAVAN,
NEW DELHI 110001
2. THE DIRECTOR (SUGAR)
MINISTRY OF CONSUMER AFFAIRS
DIRECTORATE OF SUGAR AND VEGETABLE OILS
KRUSHI BHAVAN



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

NEW DELHI 110 001

3. THE SECRETARY TO MINISTRY OF PETROLEUM
AND NATURAL GASSES
SHASHTRI BHAVAN,
DR. RAJENDRA PRASAD MARG,
NEW DELHI- 110 001
4. THE INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN,
G-9, ALIYAVAR JANG MARG,
BANDRA EAST, MUMBAI 400051
MAHARASHTRA STATE,
R/BY ITS MANAGING DIRECTOR
5. THE BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN
NO.4 AND 6, CURRIMBHY ROAD,
BELLARD ESTATE
MUMBAI 400001
MAHARASHTRA STATE,
R/BY ITS MANAGING DIRECTOR
6. THE HINDUSTAN PETROLEUM CORPORATION LIMITED
PETROLEUM HOUSE
NO.17, JEMSHETAJI TATA ROAD,
MUMBAI 400020
MAHARASHTRA STATE
R/BY ITS MANAGING DIRECTOR

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI. M.B. KANA VI., SCGC., FOR R1 TO R3;
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF
CERTIORARI QUASHING THE COMMUNICATION BEARING
F.NO.3(2)/2023-SP DATED 07.12.2023, VIDE ANNEXURE-A AND
COMMUNICATION BEARING F.NO.3(2)/2023-SP DATED 15.12.2023,
VIDE ANNEXURE-B ISSUED BY THE 2ND RESPONDENT.

IN W.P.NO.100979/2024
BETWEEN



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

1. SIDDAPUR DISITILLERES LTD
TALUK JAMKHANDI
BAGALKOT DISTRICT
KARNATAKA 591317
(REPRESENTED BY ITS EXECUTIVE DIRECTOR)
DHARMALINGAYYA GUDAGUNTI

2. EXECUTIVE DIRECTOR
DHARMALINGAYYA GUDAGUNTI
AGED 42 YEARS
M/S SIDDAPUR DISTILLERIES LTD
TALUK JAMKHANDI
BAGALKOT DISTRICT
KARNATAKA 591 317

...PETITIONERS

(BY SRI: PRABHULING K. NAVADAGI., SENIOR COUNSEL FOR
SRI. MALLIKARJUNSWAMY B HIREMATH,
SRI. UMESH P. HAKKARKI,
SRI. KEERTHI REDDY., ADVOCATES)

AND

1. UNION OF INDIA
REPRESENTED BY THE JOINT SECRETAY
MINISTRY OF CUNSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
KRISHI BHAWAN
NEW DELHI 110001

2. DIRECTOR (SUGAR)
GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
DIRECTORARE OF SUGAR AND VEGETABLE OILS
KRISHI BHAWAN
NEW DELHI 110001

3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN,



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

DR RAJENDRA PRASAD MARG
NEW DELHI 110001

4. THE MANAGING DIRECTOR
BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN 4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE MUMBAI 40001

5. THE MANAGING DIRECTOR
INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G 9 ALI YAVAR JUNG MARG
BANDRA EAST MUMBAI MAHARASHTRA 400051

6. THE MANAGING DIRECTOR
HINDUSTAN PETROLEUM LIMITED
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD MUMBAI
MAHARASHTRA MUMBAI 400020

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI. VENKATESH M., KHARVI., ADVOCATE FOR R1 TO R3;
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO PASS AN APPROPRIATE WRIT,
DIRECTION OR ORDER QUASHING COMMUNICATION / ORDER
DATED. 07-12-2023 ISSUED BY RESPONDENT NO. 2 WHICH IS
PRODUCED AT ANNEXURE-A AND THE NOTIFICATION DATED. 15TH
DECEMBER, 2023 PRODUCED AT ANNEXURE-B AND ETC.

IN W.P.NO.101001/2024
BETWEEN

CHIDANAND BASAPRABHU KORE SAHAKARI
SAKKARE KARAKHANE NIYAMIT CHIKODI
DISTRICT BELAGAVI
KARNATAKA STATE
A MULTI STATE CO-OPERATIVE SOCIETY
REGISTERED UNDER THE PROVISIONS OF
THE MULTI STATE CO-OPERATIVE SOCIETIES ACT 2002
HAVING REGISTERED OFFICE AT CHIKODI 591247



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

DISTRICT BELAGAVI
KARNATAKA STATE
REPRESENTED BY ITS MANAGING DIRECTOR

...PETITIONER

(BY SRI: MALLIKARJUNSWAMY B HIREMATH., ADVOCATE)

AND

1. UNION OF INDIA
REPRESENTED BY THE JOINT SECRETARY
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
KRISHI BHAVAN
NEW DELHI 110001
2. DIRECTOR (SUGAR)
GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
DIRECTORATE OF SUGAR AND VEGETABLE OILS
KRISHI BHAVAN
NEW DELHI 110001
3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN,
DR RAJENDRA PRASAD MARG
NEW DELHI 110001
4. THE MANAGING DIRECTOR
BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN 4 AND 6 CURRIMBOY ROAD
BELLARD ESTATE MUMBAI 40001
5. THE MANAGING DIRECTOR
INDIAN OIL CORPORATION LIMITED
INDIAN OIL BHAVAN
G 9 ALI YAVAR JUNG MARG
BANDRA EAST MUMBAI MAHARASHTRA 400051



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

6. THE MANAGING DIRECTOR
HINDUSTAN PETROLEUM LIMITED
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD MUMBAI
MAHARASHTRA MUMBAI 400020

7. THE MANAGING DIRECTOR,
THE MANGALURU REFINERY PVT. LTD.
KUTHETHOOR P.O., VIA KATIPALLA
MANGALORE-575030.

...RESPONDENTS

(BY SRI. ARAVIND KAMATH., ASGI A/W
SRI. M.B. KANA VI., SCGC FOR R1 TO R3;
SRI. C.V. ANGADI., ADVOCATE FOR R4 TO R6;
SRI. JAGADISH PATIL., ADVOCATE FOR R7)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED COMMUNICATION/ LETTER, DATED. 07-12-2023 BEARING NO. F.NO.3(2)/2023-SP AND DATED. 15-12-2023 BEARING NO. F.NO.3(2)/2023-SP ISSUED BY 2ND RESPONDENT AS PER ANNEXURE-G AND ETC.

IN W.P.NO.101009/2024
BETWEEN

HARSHA SUGARS LIMITED
A COMPANY LIMITED REGISTERED UNDER
COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT
PLOT NO.16, CTS NO. 2296
HANUMAN NAGAR
BELGAUM
AND HAVING IT FACTORY AT
SAUDATTI VILLAGE OF SAUDATTI TALUKA IN
BELAGAVI DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR,
MR. CHANNARAJ B HATTI HOLI

...PETITIONER

(BY SRI: PRASHANT F GOUDAR., ADVOCATE)

AND



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

1. UNION OF INDIA
REPRESENTED BY THE JOINT SECRETAY
MINISTRY OF CUNSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
KRISHI BHAWAN
NEW DELHI 110001

2. DIRECTOR (SUGAR)
GOVERNMENT OF INDIA
DIRECTORARE OF SUGAR AND VEGETABLE OILS
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
KRISHI BHAWAN
NEW DELHI 110001

3. THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GASES
SHASTRI BHAVAN,
DR RAJENDRA PRASAD MARG
NEW DELHI 110001

4. THE MANAGING DIRECTOR
BHARAT PETROLEUM CORPORATION LIMITED
BHARAT BHAVAN 4 AND 6 CURRIMBHOY ROAD
BELLARD ESTATE MUMBAI 40001

5. THE MANAGING DIRECTOR
HINDUSTAN PETROLEUM LIMITED
PETROLEUM HOUSE 17
JAMSHEDJI TATA ROAD MUMBAI
MAHARASHTRA MUMBAI 400020

...RESPONDENTS

(ASGI- SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF
CERTIORARI OR ANY APPROPRIATE ORDER/S QUASHING THE ORDER



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

DATED 07.12.2023, BEARING F.NO.3(2)/2023-SP, ISSUED BY THE RESPONDENT NO.2 VIDE ANNEXURE-A AND ETC.

THESE WRIT PETITIONS COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 03.04.2024, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

ORDER

1. The petitioner in W.P.No.107496/2023 is before this Court seeking for the following reliefs.
 - a. *Issue a writ of certiorari quashing communication/order dated 07.12.2023 issued by respondent No.2 which is produced at Annexure-F; and*
 - b. *Issue such other writ/order/direction as deemed fit, in the interest of justice and equity.*

2. The petitioner in W.P.No. 107524/2023 is before this Court seeking for the following reliefs.
 - a. *Issue a writ of certiorari quashing communication/order dated 07.12.2023 issued by respondent No.2 which is produced at Annexure-G; and*
 - b. *Issue such other writ/order/direction as deemed fit, in the interest of justice and equity.*

3. The petitioner in W.P.No. 107955/2023 is before this Court seeking for the following reliefs.

NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters



- a. *Pass an appropriate writ, direction, or order, quashing the Notification dated 07.12.2023 issued by the R2 herein on behalf of the First Respondent directing the petitioner entity not to use Sugarcane Juice/Sugar Syrup for Enthnol for ESY 2023-24 with immediate effect, which is produced as Annexure-A;*
 - b. *Pass an appropriate writ, direction, or order, quashing the Notification dated 15.12.2023 issued in continuation of the Notification dated 07.12.202, by the R2 herein on behalf of the R1, directing the OMCs to issue a revised allocation of Sugarcane Juice and B-Heavy Molasses Enthnol for ESY 2023-24 to each distillery i.e., the petitioner herein, which is produced as Annexure-B*
 - c. *Pass such other order/s as this Hon'ble Court may deem fit, proper and necessary, in the ends of justice.*
4. The petitioner in W.P.No. 107956/2023 is before this Court seeking for the following reliefs.

- a. *Pass an appropriate writ, direction, or order, quashing the Notification dated 07.12.2023 issued by the R2 herein on behalf of the First Respondent directing the petitioner entity not to use Sugarcane Juice/Sugar Syrup for Enthnol for ESY 2023-24 with immediate effect, which is produced as Annexure-A;*
- b. *Pass an appropriate writ, direction, or order, quashing the Notification dated 15.12.2023 issued in continuation of the Notification dated 07.12.202, by the R2 herein on behalf of the R1, directing the OMCs to issue a revised allocation of Sugarcane Juice and B-Heavy Molasses Enthnol for*



ESY 2023-24 to each distillery i.e., the petitioner herein, which is produced as Annexure-B

- c. Pass such other order/s as this Hon'ble Court may deem fit, proper and necessary, in the ends of justice.*

5. The petitioner in W.P.No. 100125/2024 is before this Court seeking for the following reliefs.

- a. Pass an appropriate writ, direction, or order, quashing the Notification bearing No. F.No.3(2)/2023-SP dated 07.12.2023 issued by the R2 herein on behalf of the First Respondent directing the petitioner entity not to use Sugarcane Juice/Sugar Syrup for Ethnol for ESY 2023-24 with immediate effect, which is produced as Annexure-A;*
- b. Pass an appropriate writ, direction, or order, quashing the Notification bearing No. F.No.3(2)/2023-SP dated 15.12.2023 issued in continuation of the Notification dated 07.12.202, by the R2 herein on behalf of the R1, directing the OMCs to issue a revised allocation of Sugarcane Juice and B-Heavy Molasses Ethanol for ESY 2023-24 to each distillery i.e., the petitioner herein, which is produced as Annexure-B*
- c. Pass such other order/s as this Hon'ble Court may deem fit, proper and necessary, in the ends of justice.*

6. The petitioner in W.P.No. 100132/2024 is before this Court seeking for the following reliefs.



- a. *Issue writ, order or direction in the nature of certiorari quashing the impugned Communication/letter, dated 7.12.2023 bearing No. F.No.3(2)/2023 SP vide Annexure-J issued by R2 and impugned Communication/Letter dated 15.12.2023 bearing No. F.No.3(2)/2023-SP issued by the R2 vide Annexure-K*
- b. *Issue writ, order or direction in the nature of mandamus directing the Respondent No. 3 to 7 not to reduce the tender quantity of the Ethanol supply and consequently issue the indent to the Petitioner factory for the supply of Ethanol as agreed.*

7. The petitioner in W.P.No. 100133/2024 is before this Court seeking for the following reliefs.

- a. *Issue writ, order or direction in the nature of certiorari quashing the impugned Communication/letter, dated 7.12.2023 bearing No. F.No.3(2)/2023 SP vide Annexure-J issued by R2 and impugned Communication/Letter dated 15.12.2023 bearing No. F.No.3(2)/2023-SP issued by the R2 vide Annexure-K*
- b. *Issue writ, order or direction in the nature of mandamus directing the Respondent No. 3 to 7 not to reduce the tender quantity of the Ethanol supply and consequently issue the indent to the Petitioner factory for the supply of Ethanol as agreed.*
- c. *Pass such other orders as this Hon'ble Court deems fit in the facts and circumstances of the case, including costs, in the interest of justice and equity.*

8. The petitioner in W.P.No. 100197/2024 is before this Court seeking for the following reliefs.

NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters



- a. *Pass an appropriate writ, direction or order, including a Writ in the nature of Certiorari quashing the Notification dated 07.12.2023 bearing No. F.No.3(2)/2023-SP, issued by the Second Respondent herein on behalf of the First Respondent, directing the petitioner entity not to use Sugarcane Juice/Sugar Syrup for Ethanol for ES 2023-24 with immediate effect, which is produced as vide Annexure-A to the Writ Petition, as far as it concerns the Petitioner, and*
- b. *Pass an appropriate writ, direction or order, including a Writ in the nature of Certiorari quashing the Notification dated 15.12.2023 bearing No. F.No.3(2)/2023/SP issued in continuation of the Notification dated 07.12.2023, be the Second Respondent herein on behalf of the First Respondent, directing the OMCs to issue a revised allocation of Sugarcane Juice and B-Heavy Molasses Ethanol for ESY 2023-24 as per the original Letter of Intent (LoI) issued by the OMC's to each distillery of the petitioner herein, vide Annexure-B, as far as it concerns the petitioner and*
- c. *Pass an appropriate writ, direction, or order, including a writ in the nature of Mandamus directing the Respondent Nos, 3 to 6 to purchase the ethanol and its by-products/variants manufactured by the petitioner herein from Sugar Syrup/B-Heavy molasses as per the Letter of Intent issued by Respondent No. 3 to 6, without being affected by the impugned notifications dated 07.12.2023 & 15.12.2023, issued by the Second Respondent, which are produced as Annexure-A and Annexure-B respectively.*
- d. *Pass such other order/s as this Hon'ble Court may deem fit, proper and necessary, in the ends of justice.*



9. The petitioner in W.P.No.100264/2024 is before this Court seeking for the following reliefs.

- a. *Stay the operation of the Notification bearing No. F No.3(2)/2023-SP, dated 07.12.2023 issued by the R2 herein on behalf of the R1, directing the petitioner entity not to use Sugarcane Juice/Sugar Syrup for Ethanol for ESY 2023-24 with immediate effect, in relation the production activities and business of the petitioner herein which is produced as Annexure-A*
- b. *Stay the operation of the Notification bearing No. F No. 3(2)/2023-SP, dated 15.12.2023 issued in continuation of the Notification dated 07.12.2023 by the R2 herein on behalf of the R1, directing the OMCs to issue a revised allocation of Sugarcane Juice and B-Heavy Molasses Ethanol for ESY 2023-24 to each distillery i.e., the petitioner herein, in so far it relates and application to the petitioner herein which is produced as Annexure-B.*
- c. *Pass such other order/s as this Hon'ble Court may deem fit proper and necessary, in the ends of justice and equity.*

10. The petitioners are W.P.No. 100450/2024 is before this Court seeking for the following reliefs.

- a. *Pass an appropriate writ, direction, or order, quashing the Notification dated 07.12.2023 issued by the R2 herein on behalf of the First Respondent directing the petitioner entity not to use Sugarcane Juice/Sugar Syrup for Ethanol for ESY 2023-24 with immediate effect, which is produced as Annexure-A;*



- b. Pass an appropriate writ, direction, or order, quashing the Notification dated 15.12.2023 issued in continuation of the Notification dated 07.12.202, by the R2 herein on behalf of the R1, directing the distilleries to make ethanol from C-Heavy which is produced as Annexure-B*
- c. Pass such other order/s as this Hon'ble Court may deem fit, proper and necessary, in the ends of justice.*

11. The petitioner in W.P.No. 100743/2024 is before this Court seeking for the following reliefs.

- a. Issue a writ of certiorari quashing the communication bearing F.No.3(2)/2023-SP dated 07.12.2023, vide Annexure-A; and communication bearing F.No.3(2)/2023-SP dated 15.12.2023, vide Annexure-B issued by the 2nd Respondent.*
- b. Issue a writ of mandamus directing the respondents to honour the commitment under the agreements vide Annexure-D, E and F dated 02.12.2020 by allowing the petitioner to continue the production of ethanol and supply it to the respondents 4 to 6;*
- c. Issue a writ, order, direction, directing the Respondents to pay Rs.50 crores to the petitioner towards loss caused by the Respondents action and;*
- d. Issue such other writ/order/direction as it may deem fit in the facts and circumstances of the case including the costs.*



12. The petitioner in W.P.No.100765/2024 is before this Court seeking for the following reliefs.

- a. *Issue a writ of certiorari quashing the communication bearing F.No.3(2)/2023-SP dated 07.12.2023, vide Annexure-A; and communication bearing F.No.3(2)/2023-SP dated 15.12.2023, vide Annexure-B issued by the 2nd Respondent.*
- b. *Issue a writ of mandamus directing the respondents to honour the commitment under the agreements vide Annexure-D, E and F dated 27.11.2020 by allowing the petitioner to continue the production of ethanol and supply it to the respondents 4 to 6;*
- c. *Issue writ, order, direction to the respondents to permit the petitioner to manufacture from the stock of B Heavy Molasses;*
- d. *Issue a writ, order, direction, directing the Respondents to pay Rs.15 crores to the petitioner towards loss sustained by the petitioner because of impugned action and;*
- e. *Issue such other writ/order/direction as it may deem fit in the facts and circumstances of the case including the costs.*

13. The petitioners in W.P.No. 100979/2024 are before this Court seeking for the following reliefs.

- a. *Pass an appropriate writ, direction or order quashing the communication/order dated 07.12.2023 issued by respondent No.2 which is produced at Annexure-A and the notification dated 15th December, 2023 produced at Annexure-B and*



- b. Issue such other writ, order or direction as deemed fit in the interest of justice and equity.*

14. The petitioner in W.P.No. 101001/2024 before this Court seeking for the following reliefs.

- a. Issue a writ, order or direction in the nature of certiorari quashing the impugned Communication/Letter, dated 07.12.2023 bearing No. F.No.3(2)/2023-SP and dated 15.12.2023 bearing No. F.No.3(2)/2023-SP issued by 2nd Respondent as per Annexure-G*
- b. Issue a writ, order or direction in the nature of mandamus directing the Respondent No.3 to 7 not to reduce the tender quantity of the Ethanol supply and consequently issue the indent to the petitioner factory for the supply of Ethanol as agreed.*
- c. Issue writ, order or direction in the nature of mandamus directing the Respondent No. 3 to 7 as per the vision of National Ethanol Blending Programme, to periodically notify the tender notifications for the supply of ethanol from B Heavy, C Heavy, Sugar cane Juice/Sugar Syrup and Grains and especially from B heavy Molasses in the ESY 2023-24.*

15. The petitioner in W.P.No.101009/2024 are before this Court seeking for the following reliefs.

- a. Issue a writ of Certiorari or any appropriate order/s quashing the Order dated 07.12.2023 bearing F.No.3(2)/2023-SP, issued by the Respondent No.2, vide Annexure-A*
- b. Issue a writ of Certiorari or any appropriate order/s quashing the instructions dated 15.12.2023,*

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bearing F.No.3(2)/2023-SP, issued by the Respondent No.2, vide Annexure-B

c. Grant any other relief/s as may be deemed fit and proper by this Hon'ble Court in the interest of justice and equity.

16. In all the above matters, the petitioners are stated to be engaged in the business of producing ethanol from various feed stocks like Sugar Cane Juice, Sugar Syrup, 'B' Heavy Molasses, 'C' Heavy Molasses, Rice etc. Some of the petitioners are integrated plants inasmuch as the petitioners manufacture sugar as also ethanol. Some of the petitioners only manufacture ethanol, and as such, they are a standalone distillery.
17. The Union of India having come up with an Ethanol Blended with Petrol (EBP) programme. The purpose and object of it being to blend fuelgrade ethanol with petrol, which is stated to reduce pollution as also, reduce the import of petroleum to that extent, the Union of India promoted the manufacture of ethanol. The petitioners taking into consideration the



representation made by the Union to either establish a distillery to manufacture ethanol along with the sugar company or establish a separate distillery for the purpose of manufacturing of ethanol, and found that they would be entitled to the revenues of such sale of ethanol, most of the petitioners established ethanol manufacturing units making use of sugar syrup generated out of sugarcane. A promise was also held out of reduced interest in terms of the Interest Subvention Scheme of the Government of India. Thereafter, the petitioners made investments of huge sums of monies running into hundreds of crores in setting up of such a distillery.

18. On 7th December 2023, a communication was issued by respondent No.2 to all the CEOs and MDs of all the Sugar Mills/Distilleries, which reads as under:-

F. No. 3(2)/2023-SP

Government of India

Ministry of Consumer Affairs, Food and Public Distribution

Department of Food and Public Distribution



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(Directorate of Sugar & Vegetable Oils)

Krishi Bhawan, New Delhi.
Dated: 07th December, 2023

To,

CEOs/MDs of all Sugar Mills/Distilleries.

Subject: Supply of ethanol from sugar/molasses based distilleries-reg.

Sir/Madam,

In exercise of powers conferred under the Essential Commodities Act, 1955, Department Food & Public Distribution (DFPD) monitors the production, sale and stock availability of sugar in the country to ensure sufficient availability of sugar for domestic consumption at stable prices by implementation of the Sugar (Control) Order 1966,

2. In exercise of powers conferred under clause 4 & 5 of the Sugar (Control) Order 1966, it is directed to all sugar mills and distilleries not to use Sugar Cane Juice/Sugar Syrup for Ethanol in ESY 2023-24 with immediate effect. Supply of ethanol from existing offers received by OMCs from B-Heavy molasses will continue.

Yours faithfully,

Sd/-



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(Sangeet)
Director (Sugar)
Tele: 23383760

19. It is challenging the same, the petitioners are before this Court.
20. Though not in all the petitions, in some of the petitions, a further correspondence has been issued on 15.12.2023 is challenged, which reads as under:-

F. No. 3(2)/2023-SP

Government of India

Ministry of Consumer Affairs, Food and Public Distribution
Department of Food and Public Distribution
(Directorate of Sugar & Vegetable Oils)

Krishi Bhawan, New Delhi.
Dated: 15th December, 2023

To,

CEOS/MDs of all Sugar Mills/Distilleries.



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Subject: Supply of ethanol from sugar/molasses based distilleries-reg.

Sir/Madam,

In continuation to the Order of even No. dated 07 December 2023, following instructions are issued in exercise of powers conferred under clause 4 & 5 of the Sugar (Control) Order 1966:

- a. OMCs will issue a revised allocation of Sugarcane Juice (SCJ) and B Heavy Molasses (BHM) based ethanol for ESY 2023-24, to each distillery, and inform DFPD after placement of revised contracts.*
- b. On receipt of such communication from OMCs for the revised quantity of SCJ & BHM based ethanol as mentioned above, all sugar mills and distilleries will supply ethanol strictly as per the revised quantity of SCJ & BHM ethanol.*
- c. No diversion of sugarcane juice and B Heavy molasses is allowed for production of Rectified Spirit (RS)/Extra Neutral Alcohol (ENA).*
- d. All molasses based distilleries will endeavour to make ethanol from C Heavy molasses.*

Yours faithfully,



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Sd/-
(Sangeet)
Director (Sugar)
Tele: 23383760

21. Sri.Prabhuling K. Navadgi, learned Senior Counsel appearing for the petitioners in W.P.No.107496/2023, W.P.No.100132/2024, W.P.No.100125/2024, W.P.No.107524/2023, W.P.No.100450/2023, W.P.No.100979/2024, W.P.No.101001/2024 and W.P.No.100133/2024 submits that:

21.1. Primary challenge in most of the petitions is as regards the order dated 07.12.2023 and in some of the petitions even the order dated 15.12.2023 has been challenged.

21.2. Insofar as Hermes Distilleries Private Limited (for short, 'Hermes'), the petitioner in W.P.No.107496/2023, he submits that Hermes is a standalone distillery, having been granted



an Industrial Entrepreneur Memorandum (IEM) by the Government of India vide order dated 23.03.2022 for the purpose of establishing a distillery. Hermes does not have any facility to manufacture sugar nor is it involved in the manufacture of sugar.

21.3. Hermes established the factory in terms of the Ethanol Blending Programme (EBP) at an investment of Rs.220 crores. By way of the impugned order, the usage of sugar syrup for the purpose of manufacturing of ethanol has been prohibited, which would result in the stoppage of the working of the distillery of Hermes, which is contrary to the promises held out by the authorities.

21.4. Under the Interest Subvention Scheme dated 19.07.2018 issued by the Ministry of Consumer Affairs, Food and Public Distribution, Hermes was promised that if an investment was made



under EBP programme, they would be given interest subsidy of 50% than that charged by the financial institutions. The ethanol which has been produced by the distillery is required to be sold only to the oil marketing companies, which are only Government of India undertaking. In view of the order dated 07.12.2024, the OMCs are not taking delivery of the ethanol already produced, which is the reason why Hermes has approached this Court.

21.5. Insofar as Godavari Biorefineries Limited, the petitioner in W.P.No.100125/2024 is concerned, Godavari was granted an IEM for 15,000 metric tonne of sugar per day out of crushing of sugar cane. Thereafter, on the EBP programme being implemented the crushing capacity was expanded from 15,000 metric tonnes per day to 20,000 metric tonnes per day so as to enable 5,000 metric tonnes to be diverted for ethanol



production. 20,000 metric tonnes of crushed sugarcane cannot be utilized entirely for the production of sugar and therefore, under the Ethanol Blended Petrol (EBP) Programme, the distillery capacity was expanded from 400 KLPD to 600 KLPD by 200 KLPD which enables 5000 metric tonnes of sugarcane to be converted to sugar syrup for the purpose of ethanol manufacture.

21.6. As regards the establishment of a distillery, Godavari has spent more than Rs.223 crores, and in view of the impugned order passed the investment made by Godavari is brought to a standstill and is likely to go waste.

21.7. The submission of Sri.Prabhuling K. Navadgi, learned Senior Counsel is that the State is bound by the principles of promissory estoppel. The State seeking to prohibit the use of sugarcane juice for the production of ethanol



even though the factories of the petitioners have been established for the purpose of such manufacture would cause untold harm and loss to the petitioners who have acted upon the promise/s held out by the State. His submission is that there are 5 issues that would arise for determination by this Court and they are as under:-

a. Whether the impugned order which is passed in the purported exercise of the power conferred under clauses 5 & 6 of the Sugar Control Order 1966 is without jurisdiction and is ultra vires of Essential Commodities Act, 1955 and Sugar Control Order 1966?

Viz: Petitioner i.e., Hermes Distilleries Pvt Ltd (Standalone Distillery) is concerned.

b. Whether the impugned order which is passed in the purported exercise of the power conferred under clauses 5 & 6 of the Sugar Control Order 1966 is without jurisdiction and is ultra vires of Essential Commodities Act, 1955 and Sugar Control Order 1966?

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Viz: Godavari Biorefineries Ltd and other related industries which have a hybrid production of Ethanol and Sugar.

c. Whether the impugned direction by which the present order is passed is irrational and arbitrary in so far as it doesn't take into account the production capacity of each sugar factory?

d. Whether the impugned order is liable to be struck down on the ground that it violates the Fundamental rights guaranteed to the Petitioner under Article 19 (1) (g) of the Constitution of India the present order cannot be considered a reasonable restriction contemplated under Article 19(6)?

e. Whether the impugned order is liable to be quashed since the Government is estopped from re-tracing its steps after having the Petitioner invest in the Ethanol industry?

21.8. Issue (a): Insofar as the first issue is concerned, he submits that Section 3 of the Essential Commodities Act, 1955 (for short, 'EC Act') provides for the Government to make an order in respect of an essential commodity, in furtherance of which the Sugar Control Order, 1966 has been promulgated where under in terms of Clause 2 (b) a '**producer**' means a



person carrying on the business of manufacturing sugar and not one manufacturing ethanol and therefore, it is contended that the Sugar Control Order would not apply to a distillery exclusively manufacturing ethanol.

21.9. As a corollary, his submission is that it is only a producer of sugar who comes within the ambit of Sugar Control Order, 1966.

21.10. As regards the Essential Commodities Act, his contention is that ethanol is not an essential commodity, no special order could have been issued in respect of ethanol directing it to be an essential commodity, Sugar Control Order, 1966 cannot be made applicable in respect of a standalone distillery who is not a producer of sugar.

21.11. He relies upon the decision of the Hon'ble Apex Court in ***State of U.P. v. Chhabra Bricks &***



Tiles Mfg. Co.¹, more particularly Para 5 thereof which has been reproduced hereunder for easy reference:-

5. The High Court, in a judgment delivered on 22-12-1983 in the case of Soni Bricks Trading Co. v. State of U.P. dealt with the provisions of the said Order in some detail and came to the conclusion that the said Order had to be quashed to the extent it applied to persons manufacturing bricks with the aid of slack coal and to brick kilns being run by them for the manufacture of bricks in that manner. It said that there was no doubt that coal being an essential commodity, the State Government was within its powers to ensure that it was not misused or its availability at a fair price was not put in jeopardy. Since brick-kiln owners were only consumers of coal and not dealers, all the provisions that were applicable to dealers, particularly those with respect to movement, sale, price, etc. could not be made applicable to brick-kiln owners as bricks were not an essential commodity. It was, however, open to the State Government to make adequate provisions for ensuring that the coal issued for the purpose either under a permit or otherwise was not misused, but those provisions had to be made separately with this sole objective in view. The said Order insofar as it regulated the distribution, import, export and price, etc. of coal was severable as regards its application to brick-kiln owners who manufactured bricks with the aid of slack coal. That being so, the said Order was not

¹(2000) 2 SCC 111 : 1999 SCC OnLine SC 1291 at page 113 : 1999 INSC 548



struck down in its entirety but was allowed to continue to apply to coal dealers and to regulate other matters relating to the supply and availability of coal.

21.12. Relying on the above, he submits that merely because an essential commodity is incidentally involved in the production of a non-essential commodity, the Essential Commodities Act or the Rules made there under cannot be made applicable. This he substantiates by contending that merely because a sugar syrup which is used for manufacture of sugar is also used for the manufacture of ethanol, such use for the purpose of manufacture of ethanol or ethanol by itself cannot be said to be an essential commodity. Hence, the submission is that for the application of the Essential Commodities Act and more particularly Sugar Control Order, sugar or sugar syrup must be directly involved in the production of non-essential commodities.



21.13. Issue (b): his submission is that even in respect of sugar factories which has the facility of production of ethanol, the impugned order dated 07.12.2023 is not applicable. Ethanol not being an essential commodity, the Central Government cannot get any jurisdiction over the factories manufacturing ethanol using sugar syrup. By way of the direction issued by the Central Government, what is sought to be controlled and regulated is not an essential commodity like sugar but a non-essential commodity like ethanol, which was beyond the scope of the Sugar Control Order, 1966 and therefore suffers from the vires of excessive jurisdiction.

21.14. Apart from Sugar Control Order, 1966, there is also a Sugarcane Control Order which deals with uses of sugarcane. Under the Sugarcane



Control Order only two aspects that are required to be considered, i.e., the fixation of the cane price payable to the farmer/producer of sugarcane and to ensure that there is minimum distance of 15 kms between two units while setting up a factory. This being in order to ascertain and make available sufficient amount of sugarcane growing land to each of the factories so that they do not fall short of raw material.

21.15. The use of sugarcane is as provided under the Sugarcane Control Order and not under the Sugar Control Order, 1966 which deals with the already produced sugar. Under the Sugarcane Control Order, a direction can be issued only to producer of sugar, no direction could be issued to producer of ethanol who does not produce sugar. In this regard, he refers to the decision



in ***Bihar Distillery v. Union of India***², more particularly Para 23 thereof which is reproduced hereunder for easy reference:

23. We are of the respectful and considered opinion that the decision in Synthetics [(1990) 1 SCC 109 : 1989 Supp (1) SCR 623] did not deal with the aspects which are arising for consideration herein and that it was mainly concerned with industrial alcohol, i.e., denatured rectified spirit. While holding that rectified spirit is industrial alcohol, it recognised at the same time that it can be utilised for obtaining country liquor (by diluting it) or for manufacturing IMFLs. When the decision says that rectified spirit with 95% alcohol content v/v is "toxic", what it meant was that if taken as it is, it is harmful and injurious to health. By saying "toxic" it did not mean that it cannot be utilised for potable purposes either by diluting it or by blending it with other items. The undeniable fact is that rectified spirit is both industrial alcohol as well as a liquor which can be converted into country liquor just by adding water. It is also the basic substance from which IMFLs are made. (Denatured rectified spirit, of course, is wholly and exclusively industrial alcohol.) This basic factual premise, which is not and cannot be denied by anyone before us [If rectified spirit is toxic and unfit for human consumption, why is it necessary to denature it, asks the learned Additional Advocate General for the State of Uttar Pradesh.

²(1997) 2 SCC 727 at page 742 : 1997 INSC 43



Denaturing is meant precisely for making what is meant for human consumption unfit for human consumption, he says.] , raises certain aspects for consideration herein which were not raised or considered in Synthetics [(1990) 1 SCC 109 : 1989 Supp (1) SCR 623] . Take a case where two industries 'A' and 'B' come forward with proposals to manufacture rectified spirit; 'A' says that it proposes to manufacture rectified spirit and then denature it immediately and sell it as industrial alcohol while 'B' says that it will manufacture rectified spirit and utilise it entirely for obtaining country liquor (arrack or by whatever other name, it may be called) or for manufacturing IMFLs from out of it or to supply it to others for the said purpose. According to Synthetics [(1990) 1 SCC 109 : 1989 Supp (1) SCR 623] , 'A' is under the exclusive control of the Union and the only powers of the State are those as are enumerated in para 86 quoted above. But what about 'B'? The rectified spirit manufactured by it is avowedly meant only for potable purposes. Can it yet be called "industrial alcohol"? Can it still be said that the State concerned has no power or authority to control and regulate industry 'B' and that the Union alone will control and regulate it until the potable liquors are manufactured? The Union is certainly not interested in or concerned with manufacture or process of manufacture of country liquor or IMFLs. Does this situation not leave a large enough room for abuse and misuse of rectified spirit? It should be remembered that according to many States before us, bulk of the rectified spirit produced in their respective States is meant for and is utilised for obtaining or manufacturing potable liquors. Can it be said even in such a situation that the State



should fold its hands and wait and watch till the potable stage is reached. Yet another and additional circumstance is this: It is not brought to our notice that any notified orders have been issued under Section 18-G of the IDR Act regulating the sale, disposal or use of rectified spirit for the purpose of obtaining or manufacturing potable liquors which means that by virtue of Entry 33 of List III, the States do have the power to legislate on this field — field not occupied by any law made by the Union. It is these and many other situations which have to be taken into consideration and provided for in the interests of law, public health, public revenue and also in the interests of proper delineation of the spheres of the Union and the States. The line of demarcation can and should be drawn at the stage of clearance/removal of the rectified spirit. Where the removal/clearance is for industrial purposes (other than the manufacture of potable liquor), the levy of duties of excise and all other control shall be of the Union but where the removal/clearance is for obtaining or manufacturing potable liquors, the levy of duties of excise and all other control shall be that of the States. This calls for a joint control and supervision of the process of manufacture of rectified spirit and its use and disposal. We proceed to elaborate:

(1) So far as industries engaged in manufacturing rectified spirit meant exclusively for supply to industries (industries other than those engaged in obtaining or manufacture of potable liquors), whether after denaturing it or without denaturing it, are concerned, they shall be under the total and



exclusive control of the Union and be governed by the IDR Act and the rules and regulations made there under. In other words, where the entire rectified spirit is supplied for such industrial purposes, or to the extent it is so supplied, as the case may be, the levy of excise duties and all other control including establishment of distillery shall be that of the Union. The power of the States in the case of such an industry is only to see and ensure that rectified spirit, whether in the course of its manufacture or after its manufacture, is not diverted or misused for potable purposes. They can make necessary regulations requiring the industry to submit periodical statements of raw material and the finished product (rectified spirit) and are entitled to verify their correctness. For this purpose, the States will also be entitled to post their staff in the distilleries and levy reasonable regulatory fees to defray the cost of such staff, as held by this Court in ShriBileshwarKhandUdyogKhedutSahakariM andali Ltd. v. State of Gujarat [(1992) 2 SCC 42 : (1992) 1 SCR 391] and Gujchem Distillers India Ltd. v. State of Gujarat [(1992) 2 SCC 399 : (1992) 1 SCR 675] .

(2) So far as industries engaged in the manufacture of rectified spirit exclusively for the purpose of obtaining or manufacturing potable liquors — or supplying the same to the State Government or its nominees for the said purpose — are concerned, they shall be under the total and exclusive control of the States in all respects and at all stages including the establishment of the distillery. In other words, where the entire rectified spirit produced is



supplied for potable purposes — or to the extent it is so supplied, as the case may be — the levy of excise duties and all other control shall be that of the States. According to the State Governments, most of the distilleries fall under this category.

(3) So far as industries engaged in the manufacture of rectified spirit, both for the purpose of (a) supplying it to industries (other than industries engaged in obtaining or manufacturing potable liquors/intoxicating liquors) and (b) for obtaining or manufacturing or supplying it to Governments/persons for obtaining or manufacturing potable liquors are concerned, the following is the position: The power to permit the establishment and regulation of the functioning of the distillery is concerned, it shall be the exclusive domain of the Union. But so far as the levy of excise duties is concerned, the duties on rectified spirit removed/cleared for supply to industries (other than industries engaged in obtaining or manufacturing potable liquors), shall be levied by the Union while the duties of excise on rectified spirit cleared/removed for the purposes of obtaining or manufacturing potable liquors shall be levied by the State Government concerned. The disposal, i.e., clearance and removal of rectified spirit in the case of such an industry shall be under the joint control of the Union and the State concerned to ensure evasion of excise duties on rectified spirit removed/cleared from the distillery. It is obvious that in respect of these industries too, the power of the States to take necessary steps to ensure against the misuse



or diversion of rectified spirit meant for industrial purposes (supply to industries other than those engaged in obtaining or manufacturing potable liquors) to potable purposes, both during and after the manufacture of rectified spirit, continues unaffected. Any rectified spirit supplied, diverted or utilised for potable purposes, i.e., for obtaining or manufacturing potable liquors shall be supplied to and/or utilised, as the case may be, in accordance with the State excise enactment concerned and the rules and regulations made thereunder. If the State is so advised, it is equally competent to prohibit the use, diversion or supply of rectified spirit for potable purposes.

(4) It is advisable — nay, necessary — that the Union Government makes necessary rules/regulations under the IDR Act directing that no rectified spirit shall be supplied to industries except after denaturing it save those few industries (other than those industries which are engaged in obtaining or manufacturing potable liquors) where denatured spirit cannot be used for manufacturing purposes.

(6) So far as rectified spirit meant for being supplied to or utilised for potable purposes is concerned, it shall be under the exclusive control of the States from the moment it is cleared/removed for that purpose from the distillery — apart from other powers referred to above.



(7) The power to permit the establishment of any industry engaged in the manufacture of potable liquors including IMFLs, beer, country liquor and other intoxicating drinks is exclusively vested in the States. The power to prohibit and/or regulate the manufacture, production, sale, transport or consumption of such intoxicating liquors is equally that of the States, as held in McDowell [(1996) 3 SCC 709].

21.16. Based on the above, he submits that the jurisdiction of the Central Government under the Sugar Control Order would be restricted only insofar as production of sugar is concerned and not ethanol, which only comes within the purview of the State Government in terms of Entry 24 of List 2 of Schedule 7 which is reproduced hereunder for easy reference:

'24. Industries subject to the provisions of [Entries 7 and 52] of List I.'

21.17. Issue (c): he submits that the impugned direction/order is irrational and arbitrary and



does not take into account the production of each sugar factory and as such, is hit by the doctrine of proportionality. There is no reasonable/rational nexus to the objects sought to be achieved with the order. The only reason why the orders are stated to have been passed is on account of sugar production being on decline as regards which no particulars have been provided. There is no justification or reasoning provided as to how the diversion of ethanol will impact the sugar consumption of the consumers.

21.18. There is absolute bar which has been imposed on the use of sugar syrup for the manufacture of ethanol which is not proportionate to the intention of the authorities. In this regard, he relies upon the decision of the Hon'ble Apex Court in ***Modern Dental College & Research***



Centre v. State of M.P.³, more particularly
Paras 57, 58 and 59 thereof which are
reproduced hereunder for easy reference:

57. It is well settled that the right under Article 19(1)(g) is not absolute in terms but is subject to reasonable restrictions under clause (6). Reasonableness has to be determined having regard to the nature of right alleged to be infringed, purpose of the restriction, extent of restriction and other relevant factors. In applying these factors, one cannot lose sight of the directive principles of State policy. The Court has to try to strike a just balance between the fundamental rights and the larger interest of the society. The Court interferes with a statute if it clearly violates the fundamental rights. The Court proceeds on the footing that the legislature understands the needs of the people. The Constitution is primarily for the common man. Larger interest and welfare of student community to promote merit, achieve excellence and curb malpractices, fee and admissions can certainly be regulated.

58. Let us carry out this discussion in some more detail as this is the central issue raised by the appellants.

Doctrine of proportionality explained and applied

59. Undoubtedly, the right to establish and manage the educational institutions is a fundamental right recognised under Article 19(1)(g) of the Act. It also cannot be denied that this right is not "absolute" and is subject to limitations i.e. "reasonable restrictions" that can be

³(2016) 7 SCC 353 : 2016 SCC OnLine SC 373 at page 411 : 2016 INSC 267



imposed by law on the exercise of the rights that are conferred under clause (1) of Article 19. Those restrictions, however, have to be reasonable. Further, such restrictions should be "in the interest of general public", which conditions are stipulated in clause (6) of Article 19, as under:

"19. (6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law insofar as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law insofar as it relates to, or prevent the State from making any law relating to—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

60. *Another significant feature which can be noticed from the reading of the aforesaid clause is that the State is empowered to make any law relating to the professional or technical qualifications necessary for practising any profession or carrying on any occupation or trade or business. Thus, while examining as to whether the impugned provisions of the statute and rules amount to reasonable restrictions and are brought out in the interest of the general public, the exercise that is required to be undertaken is the balancing of fundamental right to carry on occupation on the one hand and the restrictions imposed on the other hand. This is what is known as "doctrine of proportionality". Jurisprudentially, "proportionality" can be defined as the set of rules*



*determining the necessary and sufficient conditions for limitation of a constitutionally protected right by a law to be constitutionally permissible. According to Aharon Barak (former Chief Justice, Supreme Court of Israel), there are four sub-components of proportionality which need to be satisfied [Aharon Barak, *Proportionality: Constitutional Rights and Their Limitation* (Cambridge University Press 2012).] , a limitation of a constitutional right will be constitutionally permissible if:*

(i) it is designated for a proper purpose;

(ii) the measures undertaken to effectuate such a limitation are rationally connected to the fulfilment of that purpose;

(iii) the measures undertaken are necessary in that there are no alternative measures that may similarly achieve that same purpose with a lesser degree of limitation; and finally

(iv) there needs to be a proper relation ("proportionality stricto sensu" or "balancing") between the importance of achieving the proper purpose and the social importance of preventing the limitation on the constitutional right.

21.19. He also relies upon the decision of the Hon'ble Apex Court in ***Akshay N. Patel v. RBI***⁴, more particularly Para 63 thereof which is reproduced hereunder for easy reference:

⁴(2022) 3 SCC 694 : 2021 SCC OnLine SC 1180 at page 735 : 2021 INSC 828



63. This Court must be circumspect that the rights and freedoms guaranteed under the Constitution do not become a weapon in the arsenal of private businesses to disable regulation enacted in the public interest. The Constituent Assembly Debates had carefully curated restrictions on rights and freedoms, in order to retain democratic control over the economy. Regulation must of course be within the bounds of the statute and in conformity with executive policy. A regulated economy is a critical facet of ensuring a balance between private business interests and the State's role in ensuring a just polity for its citizens. The Constitution Bench in Modern Dental College [Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] had remarked on the role of regulatory mechanisms in liberalised economies. Speaking for the Bench, A.K. Sikri, J. had observed : (SCC pp. 425-26, paras 87-89)

"87. Regulatory mechanism, or what is called regulatory economics, is the order of the day. In the last 60-70 years, economic policy of this country has travelled from laissez faire to mixed economy to the present era of liberal economy with regulatory regime. With the advent of mixed economy, there was mushrooming of the public sector and some of the key industries like aviation, insurance, railways, electricity/power, telecommunication, etc. were monopolised by the State. Licence/Permit raj prevailed during this period with strict control of the Government even in respect of those industries where private sectors were allowed



to operate. However, Indian economy experienced major policy changes in early 90s on LPG Model i.e. liberalisation, privatisation and globalisation. With the onset of reforms to liberalise the Indian economy, in July 1991, a new chapter has dawned for India. This period of economic transition has had a tremendous impact on the overall economic development of almost all major sectors of the economy.

88. When we have a liberal economy which is regulated by the market forces (that is why it is also termed as market economy), prices of goods and services in such an economy are determined in a free price system set up by supply and demand. This is often contrasted with a planned economy in which a Central Government determines the price of goods and services using a fixed price system. Market economies are also contrasted with mixed economy where the price system is not entirely free, but under some government control or heavily regulated, which is sometimes combined with State led economic planning that is not extensive enough to constitute a planned economy.

89. With the advent of globalisation and liberalisation, though the market economy is restored, at the same time, it is also felt that market economies should not exist in pure form. Some regulation of the various industries is required rather than allowing self-regulation by market forces. This intervention through regulatory bodies, particularly in pricing, is considered necessary for the welfare of the society and the economists



point out that such regulatory economy does not rob the character of a market economy which still remains a market economy. Justification for regulatory bodies even in such industries managed by private sector lies in the welfare of people. Regulatory measures are felt necessary to promote basic well being for individuals in need. It is because of this reason that we find regulatory bodies in all vital industries like, insurance, electricity and power, telecommunications, etc.”

21.20. He also relies upon the decision of the Hon’ble Apex Court in ***Association for Democratic Reforms & Anr. v. Union of India &Ors.***⁵, more particularly Paras 24 and 25 thereof which are reproduced hereunder for easy reference:

Justice Sanjiv Khanna's Judgment:

24. Hon’ble the Chief Justice has rejected the Union of India’s submissions by applying the doctrine of proportionality. This is a principle applied by courts when they exercise their power of judicial review in cases involving a restriction on fundamental rights. It is applied to strike an appropriate balance between the fundamental right and the pursued purpose and objective of the restriction.

⁵(2024) INSC 113



25. The test of proportionality comprises four steps:

(i) The first step is to examine whether the act/measure restricting the fundamental right has a legitimate aim (legitimate aim/purpose).

(ii) The second step is to examine whether the restriction has rational connection with the aim (rational connection).

(iii) The third step is to examine whether there should have been a less restrictive alternate measure that is equally effective (minimal impairment/necessity test).

(iv) The last stage is to strike an appropriate balance between the fundamental right and the pursued public purpose (balancing act).

21.21. By relying on the above, he submits that the decision taken by the Authorities is only on estimates and these estimates are always subject to change. Infact, the impugned order would indicate that the decision was subject to review meeting in month of January and not one for perpetuity. The said portion requiring review has been redacted in the order with a purposeful intent of misleading the Court.



21.22. A review can only be conducted on the basis of the price of the sugar. The price being Rs.38 per k.g. prior to November 2023 and in February 2024 is Rs.33.90 per kg would establish that the sugar prices have decreased, therefore leading to the only conclusion that there is no gap between the demand and the supply of sugar, which would lead to increase in the price. Infact, the gap having reduced, the price has also reduced to Rs.33.90 per kg. On the above basis, he submits that the order was passed on an assumption, and the very assumption being wrong the investment made by the petitioners for establishing industry ought to have been taken into consideration which has not been done.

21.23. Issue (d): his submission is that by way of the impugned order the fundamental right guaranteed under the constitution for trade and



business has been violated without satisfying the requirement of Article 19(6). He relies upon the decision of the Hon'ble Apex Court in ***Chintamanrao v. State of M.P.***⁶, more particularly Para 8 thereof which is reproduced hereunder for easy reference:

8. The phrase "reasonable restriction" connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word "reasonable" implies intelligent care and deliberation, that is, the choice of a course which reason dictates. Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness and unless it strikes a proper balance between the freedom guaranteed in Article 19(1)(g) and the social control permitted by clause (6) of Article 19, it must be held to be wanting in that quality.

21.24. Relying on the above, he submits that the prohibition which has been imposed in use of sugar syrup or manufacture of ethanol is a complete prohibition and cannot be said to be a reasonable restriction, let alone in public

⁶1950 SCC 695 : 1950 SCC OnLine SC 34 : 1950 INSC 27



interest. He relies upon the decision of the Hon'ble Apex Court in ***Internet & Mobile Assn. of India v. RBI***⁷, more particularly Paras 194, 207, 213 thereof which are reproduced hereunder for easy reference:

194. *The parameters laid down in Mohd. Faruk [Mohd. Faruk v. State of M.P., (1969) 1 SCC 853] are unimpeachable. While testing the validity of a law imposing a restriction on the carrying on of a business or a profession, the court must, as formulated in Mohd. Faruk [Mohd. Faruk v. State of M.P., (1969) 1 SCC 853] , attempt an evaluation of (i) its direct and immediate impact upon of the fundamental rights of the citizens affected thereby, (ii) the larger public interest sought to be ensured in the light of the object sought to be achieved, (iii) the necessity to restrict the citizens' freedom, (iv) the inherent pernicious nature of the act prohibited or its capacity or tendency to be harmful to the general public and (v) the possibility of achieving the same object by imposing a less drastic restraint.*

207. *But nevertheless, the measure taken by RBI should pass the test of proportionality, since the impugned Circular has almost wiped the VC exchanges out of the industrial map of the country, thereby infringing Article 19(1)(g).*

⁷(2020) 10 SCC 274 : 2020 SCC OnLine SC 275 at page 377 : 2020 INSC 264



On the question of proportionality, the learned counsel for the petitioners relies upon the four-pronged test summed up in the opinion of the majority in Modern Dental College & Research Centre v. State of M.P. [Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] These four tests are (i) that the measure is designated for a proper purpose, (ii) that the measures are rationally connected to the fulfilment of the purpose, (iii) that there are no alternative less invasive measures and (iv) that there is a proper relation between the importance of achieving the aim and the importance of limiting the right. The Court in the said case held that a mere ritualistic incantation of "moneylaundering" or "black money" does not satisfy the first test and that alternative methods should have been explored.

213. *We cannot and need not go as far as the majority had gone in Bank Mellat [Bank Mellat v. Her Majesty's Treasury (No. 2), 2014 AC 700 : (2013) 3 WLR 179 : 2013 UKSC 39] . UK has a statute where standards of procedure for judicial review are set out and the majority decision was on the application of those standards. But even by our own standards, we are obliged to see if there were less intrusive measures available and whether RBI has at least considered these alternatives. On the question of availability of alternatives, the July 2018 Report of the European Union Parliament (titled "Cryptocurrencies and Blockchain") is relied upon by Shri Ashim Sood. The relevant portion (in Para 5.4) reads as follows:*



"In this respect we also note that some cryptocurrencies that are now on the market, such as Dash and Monero, are fully anonymous, whereas others, such as Bitcoin and the like are pseudo-anonymous, basically meaning that if great effort is made and complex techniques are deployed, it is possible for authorities to find out users' identities. These fully anonymous cryptocurrencies are designed to stay in the dark and outside of the scope of authorities. After AMLD5 (Fifth Anti-Money Laundering Directive of the European Union) this will no longer be possible to the fullest extent : the cryptocurrency users that want to convert their cryptocurrency into fiat currency via a virtual currency exchange or hold their portfolio via a custodian wallet provider, will be subject to customer due diligence. But, as aforementioned, there is still a whole world outside of these new obliged entities under AMLD5. It goes without saying that this may sound particularly interesting for criminals seeking for new ways to launder money, finance terrorists or evade taxes. If a legislator does not want to outright ban these cryptocurrencies — and for not imposing such a ban a good argument is that cash is also fully anonymous and lawful — the only way to find out who uses them is to require users to register mandatorily. For reasons of proportionality it could then be considered to make the registration subject to a materiality threshold."

(emphasis supplied)



21.25. On that basis, he submits that the measure of prohibition is not connected to or related to the object proposed to be achieved. It is not categorically stated that as to whether there is no other option available. There are other bulk users of sugarcane juice or sugar syrup like the manufactures or soft drinks, chocolates, confectionary items, sweets etc., which are not essential commodities, thus no restriction having been imposed on them, restriction being imposed only on ethanol manufacturers is a pick and choose policy adopted by the government, which is not reasonable let alone sustainable. He relies upon the decision of the Hon'ble Apex Court in ***Mohd. Faruk v. State of M.P.***⁸, more particularly Paras 8, 9 and 10 thereof which are reproduced hereunder for easy reference:

⁸(1969) 1 SCC 853 at page 856 : 1969 INSC 97



8. *The power to issue Bye-laws indisputably includes the power to cancel or withdraw the Bye-laws, but the validity of the exercise of the power to issue and to cancel or withdraw the Bye-laws must be adjudged in the light of its impact upon the fundamental rights of persons affected thereby. When the validity of a law placing restriction upon the exercise of fundamental rights in Article 19(1) is challenged, the onus of proving to the satisfaction of the Court that the restriction is reasonable lies upon the State. A law requiring that an act which is inherently dangerous, noxious or injurious to public interest, health or safety or is likely to prove a nuisance to the community, shall be done under a permit or licence of an executive authority, it is not per se unreasonable and no person may claim a licence or permit to do that act as of right. Where the law providing for grant of a licence or a permit confers a discretion upon an administrative authority regulated by rules or principles expressed or implied, and exercisable in consonance with rules of natural justice, it will be presumed to impose a reasonable restriction. Where, however, power is entrusted to an administrative agency to grant or withhold a permit or licence in its uncontrolled discretion, the law ex facie infringes the fundamental right under Article 19(1). Imposition of restriction on the exercise of a fundamental right may be in the form of control or prohibition, but when the exercise of a fundamental right is prohibited, the burden of proving that a total ban on the exercise of the right alone may ensure the maintenance of the general public interest lies heavily upon the State.*



9. *This Court in Narendra Kumar v. Union of India [(1960) 2 SCR 375] held that the word "restriction" in Articles 19(5) and 19(6) of the Constitution includes cases of "prohibition" also; that where a restriction reaches the stage of total restraint of rights special care has to be taken by the Court to see that the test of reasonableness is satisfied by considering the question in the background of the facts and circumstances under which the order was made, taking into account the nature of the evil that was sought to be remedied by such law, the harm caused to individual citizens by the proposed remedy, the beneficial effect reasonably expected to result to the general public, and whether the restraint caused by the law was more than what was necessary in the interests of the general public.*

10. *The impugned notification, though technically within the competence of the State Government, directly infringes the fundamental right of the petitioner guaranteed by Article 19(1)(g) and may be upheld only if it be established that it seeks to impose reasonable restrictions in the interests of the general public and a less drastic restriction will not ensure the interest of the general public. The Court must in considering the validity of the impugned law imposing a prohibition on the carrying on of a business or profession, attempt an evaluation of its direct and immediate impact upon the fundamental rights of the citizens affected thereby and the larger public interest sought to be ensured in the light of the object sought to be achieved, the necessity to restrict the citizen's freedom, the inherent pernicious nature of the act prohibited*



or its capacity or tendency to be harmful to the general public, the possibility of achieving the object by imposing a less drastic restraint, and in the absence of exceptional situations such as the prevalence of a state of emergency national or local — or the necessity to maintain essential supplies, or the necessity to stop activities inherently dangerous, the existence of a machinery to satisfy the administrative authority that no case for imposing the restriction is made out or that a less drastic restriction may ensure the object intended to be achieved.

21.26. Relying on the above, he submits that the restriction now imposed is a prohibition and cannot be said to be reasonable. The Central Government has failed to satisfy the test laid down in the above decisions in the present case.

21.27. The provision of Sugarcane Control Order, 1966 cannot be used for Sugar Control Order, 1966 since both of them are completely different and operate in two different situations.

21.28. The Essential Commodities Act, 1955 is also penal in nature. Any violation of the Control



Order would require prosecution and therefore before passing any order, the authorities ought to have taken into consideration all the relevant aspects so as not to unnecessarily prosecute anyone under the Essential Commodities Act. In this regard, he relies upon Section 7 of the Essential Commodities Act to state that if there is any contravention, the same would invite penal consequences.

21.29. He also relies upon the decision of the Hon'ble Apex Court in **Commr. of Customs v. Dilip Kumar & Co.**⁹, more particularly Paras 21, 22, 23 and 24 thereof which are reproduced hereunder for easy reference:

21. The well-settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the courts are bound to give effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and

⁹(2018) 9 SCC 1 : 2018 SCC OnLine SC 747 at page 18 : 2018 INSC 646



ordinary sense. The words used declare the intention of the legislature.

22. In Kanai Lal Sur v. Paramnidhi Sadhukhan AIR 1957 SC 907 , it was held that if the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.

23. In applying rule of plain meaning any hardship and inconvenience cannot be the basis to alter the meaning to the language employed by the legislation. This is especially so in fiscal statutes and penal statutes. Nevertheless, if the plain language results in absurdity, the court is entitled to determine the meaning of the word in the context in which it is used keeping in view the legislative purpose. [Commr. v. Mathapathi Basavannevva, (1995) 6 SCC 355] Not only that, if the plain construction leads to anomaly and absurdity, the court having regard to the hardship and consequences that flow from such a provision can even explain the true intention of the legislation. Having observed general principles applicable to statutory interpretation, it is now time to consider rules of interpretation with respect to taxation.

24. In construing penal statutes and taxation statutes, the Court has to apply strict rule of interpretation. The penal statute which tends to deprive a person of right to life and liberty has



to be given strict interpretation or else many innocents might become victims of discretionary decision-making. Insofar as taxation statutes are concerned, Article 265 of the Constitution ["265. Taxes not to be imposed save by authority of law.—No tax shall be levied or collected except by authority of law."] prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because the State cannot at their whims and fancies burden the citizens without authority of law. In other words, when the competent Legislature mandates taxing certain persons/certain objects in certain circumstances, it cannot be expanded/interpreted to include those, which were not intended by the legislature.

21.30. Relying on the above, he submits that all penal statutes and taxation statutes have to be construed by applying the strict rule of interpretation and there cannot be any lee way to any authority including the State or the Centre. On that basis, he submits that the Central Government lacks jurisdiction to issue directions insofar as standalone distillery are concerned, and insofar as hybrid industry that



is industry which are manufacturing both sugar and ethanol, the direction can only be restricted to the manufacturing of sugar and not as regards manufacture of ethanol, over which the State/Centre has no jurisdiction.

21.31. The power under Clause V of the Sugar Control Order has its own inherent limitations. The word 'production' used in the said clause can only mean production of sugar and not production of ethanol. The production of ethanol being an independent severable activity, no directions could be issued under the Sugar Control Order as regards production of ethanol.

21.32. His last submission is that whether the notification/orders are temporary or permanent, both would have to stand the test of judicial review. Even if the contention that the order would apply to only one ethanol



season is taken into account, the said prohibition for ethanol season would have an adverse bearing on the industry. Though the Authorities were to contend that the prohibition is temporary, insofar as affected person is concerned, the prohibition for that season would have a completely adverse impact on the industry.

21.33. On the basis of all the above he submits that the petitions have to be allowed.

22. Sri.Dhyan Chinnappa, learned Senior counsel appearing in W.P.No.100197/2024 while adopting the submissions of Sri.Prabhulinga Navalgi, learned Senior Counsel, would additionally submit that:

22.1. An artificial distinction is sought to be made out between 'B' Heavy molasses and 'C' Heavy Molasses. His submission is that molasses are generated as byproduct during the manufacture



of sugar. This molasses cannot be used for any other purposes than for manufacture of ethanol. Once a byproduct, either 'B' heavy molasses or 'C' heavy molasses is manufactured, the same cannot be used for the manufacture of sugar, and the only possibility is to manufacture ethanol, as such, the distinction drawn by the Authorities is in futility.

22.2. There is no statistics which have been placed on record by the Authorities as regards the reduction in the manufacture of sugar, growth of sugarcane or the like except a statement made. This statement being only on the basis of assumption and presumption cannot be a basis for implementation of such a prohibitory order.

22.3. There is a legitimate expectation on part of the petitioners that the promise made to the petitioners to manufacture ethanol, on them



setting up of an ethanol manufacturing plant would be adhered to and in this regard, he relies upon the decision of the Hon'ble Apex Court in ***State of Jharkhand v. Brahmputra Metallics Ltd.***¹⁰, more particularly Paras 34, 36, 39, 41, 45, 51 thereof which are reproduced hereunder for easy reference:-

34. Under English law, the doctrine of promissory estoppel has developed parallel to the doctrine of legitimate expectations. The doctrine of legitimate expectations is founded on the principles of fairness in government dealings. It comes into play if a public body leads an individual to believe that they will be a recipient of a substantive benefit. The doctrine of substantive legitimate expectation has been explained in R. v. North & East Devon Health Authority, ex p Coughlan [R. v. North & East Devon Health Authority, ex p Coughlan, 2001 QB 213 : (2000) 2 WLR 622 (CA)] in the following terms : (QB pp. 241-42, paras 56-57)

"56. ... 'But what was their legitimate expectation?' Where there is a dispute as to this, the dispute has to be determined by the court, as happened in Findlay In re [Findlay In re, 1985 AC 318 :

¹⁰(2023) 10 SCC 634 : 2020 SCC OnLine SC 968 at page 661 : 2020 INSC 667



(1984) 3 WLR 1159 (HL)] . This can involve a detailed examination of the precise terms of the promise or representation made, the circumstances in which the promise was made and the nature of the statutory or other discretion.

57. ... Where the court considers that a lawful promise or practice has induced a legitimate expectation of a [Ed. : The matter between two asterisks has been emphasised in original as well.] benefit which is substantive [Ed. : The matter between two asterisks has been emphasised in original as well.] , not simply procedural, authority now establishes that here too the court will in a proper case decide whether to frustrate the expectation is so unfair that to take a new and different course will amount to an abuse of power. Here, once the legitimacy of the expectation is established, the court will have the task of weighing the requirements of fairness against any overriding interest relied upon for the change of policy."

(emphasis supplied)

36. Another difference between the doctrines of promissory estoppel and legitimate expectation under English law is that the latter can constitute a cause of action. [Rebecca Williams, "The Multiple Doctrines of Legitimate Expectations", (2016) 132 (Oct) Law Quarterly Review 639, 645.] The scope of the doctrine of legitimate expectation is wider than promissory estoppel because it not only takes into consideration a promise made by a public body but also official practice, as well. Further, under



the doctrine of promissory estoppel, there may be a requirement to show a detriment suffered by a party due to the reliance placed on the promise. Although typically it is sufficient to show that the promisee has altered its position by placing reliance on the promise, the fact that no prejudice has been caused to the promisee may be relevant to hold that it would not be "inequitable" for the promisor to go back on their promise. [American Law Institute, Restatement of the Law (2d), Contracts (1981), para 4-095.] However, no such requirement is present under the doctrine of legitimate expectation. In R. v. Newham London Borough Council [R. v. Newham London Borough Council, (2002) 1 WLR 237 (CA)] , the Court of Appeal held : (Newham London Borough Council case [R. v. Newham London Borough Council, (2002) 1 WLR 237 (CA)] , WLR p. 250, para 55)

"55. The present case is one of reliance without concrete detriment. We use this phrase because there is moral detriment, which should not be dismissed lightly, in the prolonged disappointment which has ensued; and potential detriment in the deflection of the possibility, for a refugee family, of seeking at the start to settle somewhere in the United Kingdom where secure housing was less hard to come by. In our view these things matter in public law, even though they might not found an estoppel or actionable misrepresentation in private law, because they go to fairness and through fairness to possible abuse of power. To disregard the legitimate expectation because no concrete detriment can be shown would be to place the weakest in society at a particular



disadvantage. It would mean that those who have a choice and the means to exercise it in reliance on some official practice or promise would gain a legal toehold inaccessible to those who, lacking any means of escape, are compelled simply to place their trust in what has been represented to them.”

(emphasis supplied)

39. While this doctrinal confusion has the unfortunate consequence of making the law unclear, citizens have been the victims. Representations by public authorities need to be held to scrupulous standards, since citizens continue to live their lives based on the trust they repose in the State. In the commercial world also, certainty and consistency are essential to planning the affairs of business. When public authorities fail to adhere to their representations without providing an adequate reason to the citizens for this failure, it violates the trust reposed by citizens in the State. The generation of a business friendly climate for investment and trade is conditioned by the faith which can be reposed in Government to fulfil the expectations which it generates. Professors Jain and Deshpande characterise the consequences of this doctrinal confusion in the following terms:

“Thus, in India, the characterisation of legitimate expectations is on a weaker footing, than in jurisdictions like UK where the courts are now willing to recognize the capacity of public law to absorb the moral values underlying the notion of estoppel in the light of



the evolution of doctrines like LE [Legitimate Expectations] and abuse of power. If the Supreme Court of India has shown its creativity in transforming the notion of promissory estoppel from the limitations of private law, then it does not stand to reason as to why it should also not articulate and evolve the doctrine of LE for judicial review of resilement of administrative authorities from policies and longstanding practices. If such a notion of LE is adopted, then not only would the Court be able to do away with the artificial hierarchy between promissory estoppel and legitimate expectation, but, it would also be able to hold the administrative authorities to account on the footing of public law outside the zone of promises on a stronger and principled anvil. Presently, in the absence of a like doctrine to that of promissory estoppel outside the promissory zone, the administrative law adjudication of resilement of policies stands on a shaky public law foundation."

41. However, before we do this, it is important to clarify the understanding of the doctrine of legitimate expectation in previous judgments of this Court. In National Buildings Construction Corpn. v. S. Raghunathan [National Buildings Construction Corpn. v. S. Raghunathan, (1998) 7 SCC 66 : 1998 SCC (L&S) 1770] ("National Buildings Construction Corpn."), a three-Judge Bench of this Court, speaking through S. Saghir Ahmad, J., held that : (SCC p. 75, para 18)

"18. The doctrine of "legitimate expectation" has its genesis in the field of administrative law. The Government and its departments, in



administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statements cannot be disregarded unfairly or applied selectively. Unfairness in the form of unreasonableness is akin to violation of natural justice. It was in this context that the doctrine of "legitimate expectation" was evolved which has today become a source of substantive as well as procedural rights. But claims based on "legitimate expectation" have been held to require reliance on representations and resulting detriment to the claimant in the same way as claims based on promissory estoppel."

(emphasis supplied)

45. In Union of India v. P.K. Choudhary [Union of India v. P.K. Choudhary, (2016) 4 SCC 236 : (2016) 1 SCC (L&S) 640] , speaking through T.S. Thakur, C.J., the Court discussed the decision in Monnet Ispat [Monnet Ispat & Energy Ltd. v. Union of India, (2012) 11 SCC 1] and noted its reliance on the judgment in Attorney General for New South Wales v. Quin [Attorney General for New South Wales v. Quin, (1990) 64 Aust LJR 327 : (1990) 170 CLR 1] . It then observed : (P.K. Choudhary case [Union of India v. P.K. Choudhary, (2016) 4 SCC 236 : (2016) 1 SCC (L&S) 640] , SCC p. 267, para 56)

"56. ... This Court went on to hold that if denial of legitimate expectation in a given case amounts to denial of a right that is guaranteed



or is arbitrary, discriminatory, unfair or biased, gross abuse of power or in violation of principles of natural justice, the same can be questioned on the well-known grounds attracting Article 14 of the Constitution but a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles.”

Thus, the Court held that the doctrine of legitimate expectation cannot be claimed as a right in itself, but can be used only when the denial of a legitimate expectation leads to the violation of Article 14 of the Constitution.

51. Therefore, it is clear that the State had made a representation to the respondent and similarly situated industrial units under the Industrial Policy, 2012. This representation gave rise to a legitimate expectation on their behalf, that they would be offered a 50% rebate/deduction in electricity duty for the next five years. However, due to the failure to issue a notification within the stipulated time and by the grant of the exemption only prospectively, the expectation and trust in the State stood violated. Since the State has offered no justification for the delay in issuance of the notification, or provided reasons for it being in public interest, we hold that such a course of action by the State is arbitrary and is violative of Article 14.



22.4. The policy of the State vide the impugned order is completely irrational, not proportionate to the requirements and requires this Court to intervene is his submission.

23. Sri.Ajay Kadkol, learned counsel for the petitioner in W.P.No.107956/2023 would submit that:

23.1. The petitioner in the said matters viz., Trualt BioEnergy Limited (Trualt) is a standalone distillery like Hermes which has been established by the petitioner to achieve the ethanol blending goals in terms of the EMP programme. The petitioners having established units in Mudhol Taluk, Bagalkot District has provided employment opportunities to several thousands of farmers which will be adversely affected if the impugned order were to continue, since without manufacturing process,



the persons who had employed would have to be retrenched since they would have no work.

23.2. Respondents No.3 to 5 – OMCs had announced a target quantity of 825 crore litres of ethanol consumption for the ethanol supply year of 2023-24. Out of which, 640 crore litres have been awarded to various manufacturers after a tender bidding process, but even as per that announcement, there is a large amount of nearly 185 crore ltrs which is remaining and it is in that background that Trualt invested huge amounts of money to establish a distillery. Trualt has been allotted 4,09,53,000 ltrs and was expecting much more allotment in terms of the promises made.

23.3. Pursuant to the impugned order, OMCs have revised the requirement. The allocated 40953 kilo ltrs have been now reduced to 19577 ltrs that is less than 50% of the original allocation,



even though Trualt had already manufactured ethanol to that extent.

23.4. He also adopts the submission of Sri.Prabhuling Navadgi, learned Senior counsel and submits that the exercise of powers under Clause (4) and (5) of the Sugar Control Order are only relatable to producer as defined under Clause 2(b) and dealer as defined under Clause 2(c). Trualt being neither a producer nor a dealer, the powers under Clause (4) and (5) cannot be exercised against Trualt.

23.5. Though the definition of factory as contained in Sugarcane Control Order covers a producer of ethanol – distillery, the said definition cannot apply to Sugar (Control) Order. Both the orders being operational in two different fields, one cannot apply to the other.

23.6. The definition clause of one statute cannot be made use to interpret the meaning of other



statute and in this regard, he relies upon the decision of Hon'ble Apex Court in **P.C. Cheriyan v. Barfi Devi**¹¹, (1982) 2 SCC 461 more particularly Para 11, thereof which is reproduced hereunder for easy reference:-

11. Before parting with this judgment, we may sound a note of caution, that definitions of "manufacture" given in other enactments, such as, in the Factories Act or the Excise Act should not be blindly applied while interpreting the expression "manufacturing purposes" in Section 106 of the Transfer of Property Act. In some enactments, for instance in the Excise Act, the term "manufacture" has been given an extended meaning by including in it "repairs", also.

23.7. He relies upon the decision of Hon'ble Apex Court in **MSCO. (P) Ltd. v. Union of India**¹², more particularly Paras 4 and 5, thereof which are reproduced hereunder for easy reference:

4. The expression 'industry' has many meanings. It means 'skill', 'ingenuity',

¹¹(1980) 2 SCC 461 : 1980 SCC (Tax) 261 at page 465 : 1979 INSC 211

¹²(1985) 1 SCC 51 : 1985 SCC (Tax) 19 at page 54 : 1984 INSC 206



'dexterity', 'diligence', 'systematic work or labour', 'habitual employment in the productive arts', 'manufacturing establishment' etc. But while construing a word which occurs in a statute or a statutory instrument in the absence of any definition in that very document it must be given the same meaning which it receives in ordinary parlance or understood in the sense in which people conversant with the subject-matter of the statute or statutory instrument understand it. It is hazardous to interpret a word in accordance with its definition in another statute or statutory instrument and more so when such statute or statutory instrument is not dealing with any cognate subject. Craies on Statute Law, Sixth Edn., says thus at p. 164:

"In construing a word in an Act caution is necessary in adopting the meaning ascribed to the word in other Acts. "It would be a new terror in the construction of Acts of Parliament if we were required to limit a word to an unnatural sense because in some Act which is not incorporated or referred to such an interpretation is given to it for the purposes of that Act alone." (Macbeth & Co. v. Chislett [1910 AC 220, 223 : 79 LJKB 376 : 102 LT 82 (HL)])

5. When the word to be construed is used in a taxing statute or a notification issued thereunder it should be understood in its commercial sense. It is well known that under the law levying customs duties sometimes exemptions are given from the levy of the whole or a part of customs duty when the goods in question are sold either in the form in



which they are received or in a manufactured or semi-manufactured state to a manufacturing establishment for purposes of using them in manufacturing finished or semi-finished goods in order to lessen the cost of machinery or equipment employed in or raw materials used by such manufacturing establishment. The object of granting such exemption is to give encouragement to factories or establishments which carry on manufacturing business. The appellant, however, relies upon the meaning assigned to the word 'industry' in the Industrial Disputes Act, 1947 in support of its case. The expression 'industry' is no doubt given a very wide definition in Section 2(j) of the Industrial Disputes Act, 1947. It reads thus:

"2(j) 'Industry' means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen."

23.8. His submission is that whatever has been allocated to the petitioner cannot be revised. If revised, such executive action would become retrospective in nature which is not permissible. In this regard, he relies upon the decision of the Hon'ble Apex Court in ***Bharat Sanchar***



Nigam Ltd. v. Tata Communications Ltd.¹³,

more particularly Paras 29 and 30 which are reproduced hereunder for easy reference:

29. It is a settled principle of law that it is the Union Parliament and State Legislatures that have plenary powers of legislation within the fields assigned to them, and subject to certain constitutional and judicially recognized restrictions, they can legislate prospectively as well as retrospectively. Competence to make a law for a past period on a subject depends upon present competence to legislate on that subject. By a retrospective legislation, the Legislature may make a law which is operative for a limited period prior to the date of its coming into force and is not operative either on that date or in future.

30. The power to make retrospective legislations enables the Legislature to obliterate an amending Act completely and restore the law as it existed before the amending Act, but at the same time, administrative/executive orders or circulars, as the case may be, in the absence of any legislative competence cannot be made applicable with retrospective effect. Only law could be made retrospectively if it was expressly provided by the Legislature in the Statute. Keeping in mind the afore-stated principles of law on the subject, we are of the view that applicability of the circular dated

¹³2022 SCC OnLine SC 1280 : 2022 INSC 994



12th June, 2012 to be effective retrospectively from 1st April 2009, in revising the infrastructure charges, is not legally sustainable and to this extent, we are in agreement with the view expressed by the Tribunal under the impugned judgment.

23.9. He also reiterates that the price of the sugar has remained stable and there is no material available to demonstrate shortage of sugar and/or increase in the price of the sugar that the apprehension on part of the Authorities, he contends that is completely wrong.

24. Sri.Prashant S. Goudar, learned counsel for petitioner in W.P.No.101009/2014 (M/s.Harsha Sugar) would also adopts the submission of Sri.Prabhuling Navadgi, learned Senior counsel and Sri.Dhyan Chinnappa, learned Senior counsel and in addition, he submits that the order passed does not comply with the requirements of law inasmuch as the powers conferred under Section 4 and 5 of the Sugarcane



Control Order would have to be exercised in terms of Section 3(5)(a) of the Essential Commodities Act, which reads as under:-

Section 3(5)(a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

24.1. Official Gazette is defined under Section 2(39) of the General Clauses Act, 1897, which reads as under:-

"Official Gazette" or "Gazette" shall mean the Gazette of India or the Official Gazette of a State.

24.2. In terms of sub-section 3(6) of Essential Commodities Act, 1955, the order has to be placed before the Houses of Parliament, which has not been passed. Section 3(6) reads as under:-

Section 3(6) Every order made under this section by the Central Government or by any officer or authority of the Central Government shall be laid before both Houses of Parliament, as soon as may be, after it is made.



- 24.3. Thus, on the above basis, he submits that any order to be passed would have to be made by any officer or authority of the Central Government laid before both Houses of the Parliament, published in the official gazette. None of these having complied with, he submits that the impugned order is required to be set aside.
25. The other counsels appearing in the matter viz., W.P.No.100264/2024, W.P.No.10799955/2023, W.P.No. 100765/2024 and W.P.No.100743/2024 adopt the submissions of Sri.Prabhuling Navadgi, learned Senior counsel and Sri.Dhyan Chinnappa, learned Senior counsel.
26. Sri.Aravind Kamath, learned Additional Solicitor General of India submitted as under:-
- 26.1. The impugned direction is in the nature of restrictive measures on the use of sugarcane



juice and/or its derivatives, 'B' heavy molasses for manufacture of ethanol necessitated on account of the low production of sugarcane due to the prevailing drought circumstances so as to ensure sufficient sugarcane and sugarcane juice is available for manufacture of sugar which is an essential commodity.

26.2. In the event of sugar or sugarcane juice being diverted for manufacture of ethanol, the quantity of sugarcane and sugarcane juice available for manufacture of sugar would stand reduced thus impacting on the quality life of a common man.

26.3. The projected sugar balance sheet indicates a drop in the farming of sugarcane necessitating the Government to take immediate proactive measures to safeguard the interest of the citizens. The projected balance sheet gives details of the availability of the sugar for a



particular season which begins in October and ends in September providing the opening stock and closing stock and also includes estimates of production of sucrose quantity that could be diverted to ethanol, total availability and estimated domestic consumption as also estimated quantity available for exports.

- 26.4. This projected balance sheet being prepared by the concerned department being the Directorate of Sugar and Vegetable Oils, Department of Food and Public Distribution coming under the Ministry of Consumer Affairs, Food and Public Distribution is based on the actual data received from statutory authority like Cane Commissioners of each of the States, Department of Agriculture and Farmers Welfare, etc. These data provided by the said persons is collated and on that basis, the



balance sheet prepared and a projection made on the actual data.

26.5. Thus, he submits that the projection is very much real and on real data and is not a hypothetical figure or presumption or assumption. Though it may be based on estimates, these estimates are based on real numbers, which projected balance sheet having been considered by the Committee of Ministers which reviews the status and price of essential commodities has been guided by it and the said committee has thought it fit for limiting the diversion of sugar or sugarcane juice for manufacture of ethanol at the cost of manufacturing of sugar.

26.6. By relying on the projected balance sheet, he submits that the total production of sugar for the year 2021-22 was 359 lakh metric tonnes which fell to 330 lakh metric tonnes for the



year 2022-23 and for the year 2023-24 the estimated production of sugar is stated to be 303 lakh metric tonnes. Thus, on the basis of the above, he submits that there is an expected drop of 53 lakh metric tonnes from 2021-22 to 2023-24 which is stated to be enormous decline mainly on account of low rain fall, drought etc., in the concerned areas more particularly in Maharashtra and Karnataka which are stated to be sugar production centers.

26.7. It is after taking into account these estimates that the Committee of Ministers considering the enormous decline was of the opinion that if further sugar syrup is diverted towards manufacture of ethanol, the production of sugar would further come down which would affect a citizen of India, and in that background the powers under Clause (5) of the Sugar Control Order has been exercised.



26.8. The effect of the above is to not reduce the sugar syrup available for manufacture of sugar. Thus, this exercise of powers has a direct bearing on the production of sugar which can only be exercised by Directorate of Sugar and merely because the production of ethanol is affected would not make the said order go outside the purview of Directorate of Sugar.

26.9. In pith and substance, he submits that the effect, object and purport of the directions is to ensure production of sugar. Merely because the raw material for sugar and ethanol are one and the same and a direction has been issued that sugarcane is not used for ethanol, the said order cannot be one only with reference to ethanol when restrictions on manufacture of ethanol would result in the increased availability of sugar syrup for manufacture of sugar.



26.10. He submits that Section 3 of the Essential Commodities Act (ECA) empowers the Central Government to control the production, supply and distribution of essential commodities. Exercising such powers, Sugarcane Control Order, 1966 and the Sugar Control Order, 1966 have been issued. He submits that according to him there is no need for two separate orders. There could have been one single order which could have been passed. Both the orders relating to sugar or sugarcane, the powers under both the orders could be used since they do not operate in watertight compartments. In that background, he submits that a 'producer of sugar' as defined under Sugarcane Control Order, 1966 can also be regulated under Sugar Control Order, 1966, both the orders have to be read together.



26.11. There is no restriction for the applicability of Sugar Control Order, 1966 in respect of producer of sugar when a producer of sugar would also include a producer of ethanol. An ethanol manufacturer could also be regulated under Sugar Control Order, 1966.

26.12. He negates the submissions of the learned counsel for the petitioners by contending that the order passed is a very reasonable order in the circumstances of the matter and they do not violate any rights, fundamental commercial or otherwise of the petitioners. In this regard, he relies upon the decision of the Hon'ble Apex Court in **Akshay N. Patel v. RBI**¹⁴, more particularly Para 63 which is reproduced hereunder for easy reference:

63. This Court must be circumspect that the rights and freedoms guaranteed under the Constitution do not become a weapon in the arsenal of private businesses to disable regulation enacted in the public interest. The

¹⁴ (2022) 3 SCC 694 : 2021 INSC 828



Constituent Assembly Debates had carefully curated restrictions on rights and freedoms, in order to retain democratic control over the economy. Regulation must of course be within the bounds of the statute and in conformity with executive policy. A regulated economy is a critical facet of ensuring a balance between private business interests and the State's role in ensuring a just polity for its citizens. The Constitution Bench in Modern Dental College [Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] had remarked on the role of regulatory mechanisms in liberalised economies. Speaking for the Bench, A.K. Sikri, J. had observed : (SCC pp. 425-26, paras 87-89)

"87. Regulatory mechanism, or what is called regulatory economics, is the order of the day. In the last 60-70 years, economic policy of this country has travelled from laissez faire to mixed economy to the present era of liberal economy with regulatory regime. With the advent of mixed economy, there was mushrooming of the public sector and some of the key industries like aviation, insurance, railways, electricity/power, telecommunication, etc. were monopolised by the State. Licence/Permit raj prevailed during this period with strict control of the Government even in respect of those industries where private sectors were allowed to operate. However, Indian economy experienced major policy changes in early 90s on LPG Model i.e. liberalisation, privatisation and globalisation. With the onset of reforms to liberalise the Indian economy, in July 1991, a



new chapter has dawned for India. This period of economic transition has had a tremendous impact on the overall economic development of almost all major sectors of the economy.

88. When we have a liberal economy which is regulated by the market forces (that is why it is also termed as market economy), prices of goods and services in such an economy are determined in a free price system set up by supply and demand. This is often contrasted with a planned economy in which a Central Government determines the price of goods and services using a fixed price system. Market economies are also contrasted with mixed economy where the price system is not entirely free, but under some government control or heavily regulated, which is sometimes combined with State led economic planning that is not extensive enough to constitute a planned economy.

89. With the advent of globalisation and liberalisation, though the market economy is restored, at the same time, it is also felt that market economies should not exist in pure form. Some regulation of the various industries is required rather than allowing self-regulation by market forces. This intervention through regulatory bodies, particularly in pricing, is considered necessary for the welfare of the society and the economists point out that such regulatory economy does not rob the character of a market economy which still remains a market economy. Justification for regulatory bodies even in such industries managed by private sector lies in



the welfare of people. Regulatory measures are felt necessary to promote basic well being for individuals in need. It is because of this reason that we find regulatory bodies in all vital industries like, insurance, electricity and power, telecommunications, etc.”

26.13. Relying on the above, he submits that there are four tests which has been laid down by the Hon'ble Apex Court for determining the proportionality of the restrictive measure viz., (1) is the measure in furtherance of a legitimate claim (2) is the measure suitable for achieving such an aim (3) is the measure necessary for achieving the aim (4) is the measure adequately balanced vis-v-vis the right of the individual.

26.14. As regards the first point, he submits that the power of the authority to issue the direction cannot be questioned. Therefore, legitimacy is not in dispute.



26.15. Coming to the second point, he submits that the aim of the State can be split into two parts i.e., immediate aim and final aim. The immediate aim of the direction being to ensure that enough quantity of sugar is manufactured so as to meet the target laid down in the sugar balance sheet 2023-24. The final aim is to ensure that the price of sugar is stable and would not rise if short fall in the supply. Both these aims being in the public interest, he submits that the aim of the State in this regard being proper and legitimate, a restrictive measure is sought to be applied to achieve the above purpose.

26.16. His submission is that the only methodology of achieving the aforesaid aim of having enough raw material to manufacture sugar and stop a rise in the price of the sugar due to short fall of supply is to control the availability of sugarcane



juice and derivatives 'B' heavy molasses which are raw material for both manufacture of sugar and ethanol. If this sugarcane juice and 'B' heavy molasses are used for ethanol, then the amount of sugarcane juice and 'B' heavy molasses available for manufacture of sugar would go down and vice-versa. There being no other raw material available for manufacture of sugar, there being other raw material available for manufacture of ethanol in order to maintain sufficient quantity of sugar, the State would be required to ensure sufficient quantity of sugarcane juice.

26.17. Apprehending that there would be reduced production of sugar due to diversion of sugarcane juice and 'B' Heavy Molasses, the impugned directions have been issued.



26.18. As regards third proposition, he submits that merely because sugarcane is a common raw material for sugar as also ethanol, it cannot be contended that a direction issued in respect of production of ethanol cannot be issued by the Directorate of Sugar under the Sugarcane Control Order or Sugar Control Order. The object and intent as indicated above being for maintenance of the quantity of production of sugar by not using sugarcane juice for production of ethanol would also come under the purview of Sugarcane Control Order and Sugar Control Order.

26.19. His submission is also that it is only on account of the proactive steps taken by the Directorate of Sugar that there is no diversion, the production of sugar is continued at the required quantity and the price as also not increased. If the diversion was to an extent of 40 LMT as



was done for earlier two years viz., 36 LMT for ESY 2021-22 and 43 LMT for ESY 2022-23, average out at 40, the production of sugar for sugar season 2023-24 would have come down to 280 LMT taking into consideration the open stock of 57 LMT, the total availability would have been 337 LMT and domestic consumption being at 287 LMT, the buffer stock would have considerably reduced which would put unnecessarily constrain on the resources and give rise to increase in the price of sugar.

26.20. Apart from the above, it is on account of a statutory obligation imposed on the State to make available essential commodity to the citizens that is the larger public interest the directions have been issued so as to ensure the production of adequate sugar thereby ensuring optimal price of the sugar having a stability in the market. This being so for the reason that



the sugar being an essential commodity being used by everyone in the country. Any increase in the price due to reduction of supply would have a bearing on the inflation of the country which is avoidable.

26.21. In respect of the fourth test above, he submits that the directions adequately balance the rights of the petitioner with the rights of the State vis-v-vis the rights of the general populus. There is no prohibition on manufacture of ethanol. Initially the directions prohibited the use of sugarcane juice for manufacture of ethanol. Subsequently, the said direction was modified to permit manufacture of ethanol from sugarcane juice and 'B' heavy molasses as per the revised allocation of quantity by the OMCs. There has never been any restriction on the use of 'C' heavy molasses for manufacture of ethanol.



- 26.22. As countervailing duty of 50% on export of 'C' Heavy molasses has been imposed so that the same is available for domestic consumption.
- 26.23. Apart therefrom, for ethanol manufactured using 'C' heavy molasses, a further relief of Rs.6.80 per ltr is made available. This would offset any additional expenses that a manufacturer were to incur for manufacture of 'C' heavy molasses. The restrictions imposed now is only for temporary period of ESY 2023-24. The same would undergo a periodic review if the production of sugarcane were to improve depending on the rainfall and other factors then the restrictions would be suitably altered taking into consideration the prevalent circumstances.
- 26.24. The directions having been issued in public interest, there is a balance which the Central Government has sought to achieve taking into consideration a plethora of conditions and



permutations and combinations. The only ground on which the petitioners are stated to be aggrieved is on the financial commercial ground as reduction in profit or increase in cost of production, the same cannot be a ground to challenge a measure taken by the Government in the interest of public.

26.25. On the basis of the above, it is submitted that four tests laid down by the Hon'ble Apex Court in **Akshay Patel's** case have been satisfied. He submits that the decision relied upon by Mr. Navadgi in **Chintaman Rao's** case is not applicable to the present case since **Chintaman Rao's** case is dealt with a complete ban whereas in the present case it is only a restrictive measure. He submits that **Mohd. Farooq's** case would also not be applicable since that case also dealt with a complete ban.



26.26. In terms of measures adopted by the Authorities, the petitioners are entitled to carry on their business. All the relevant aspects have been taken into consideration by the authorities. The Council of Minister has issued the directions in the interest of general public. The rights of the general public as also the rights of few of the manufacturers have been balanced. Few of manufacturers cannot claim higher benefit than the general public.

26.27. He relies on the decision in ***K. Janardhan Pillai vs. Union of India***¹⁵, more particularly Para 16 and 25 thereof, which are reproduced hereunder for easy reference:

16. It is well known that the food eaten by human beings consists of cereals like wheat, rice or other coarse grains, pulses, oil-seeds, vegetables, sugar, fruits and nuts, animal foodstuffs and seafood like meat, beef, mutton and fish and dairy products like milk, butter, eggs etc. According to "Webster's Third New International Dictionary", the word "food" means "fodder" also. One of the meanings of

¹⁵ (1981) 2 SCC 45 :1981 INSC 17



the word "food" given in that Dictionary is "material consisting of carbohydrates, fats, proteins and supplementary substances (as minerals, vitamins) that is taken or absorbed into the body of an organism in order to sustain growth, repair, and all vital processes and to furnish energy for all activity of the organism". In the same Dictionary "foodstuff" is defined as "a substance with food value" and "the raw material of food before or after processing". One of the usages of the said word is given as "a bountiful crop of cereal foodstuffs". Therefore, "foodstuff" need not necessarily mean only the final food product which is consumed. It also includes raw food articles which may after processing be used as food by human beings.

25. It was, however, urged that even though cashewnut was an article which could be eaten, it was an article which was eaten by very few persons on rare occasions and hence it is difficult to conceive cashewnut as an essential commodity. It is no doubt true that cashewnut having become expensive, it is now more of a luxury. Due to export of cashewnut on a large scale, it is a commodity which is in short supply in the country and therefore the price at which it sells is beyond the reach of the common man. But nevertheless it is an article of food. It is eaten in raw form and after it is fried. It is also commonly used in various preparations of food like pulav, sweets etc. There is no basis for the assertion that it is a rare commodity outside the State where it is grown. It is eaten not only in Kerala but also in other parts of the country. When cashewnut is exported, it is exported as a foodstuff. Now



it cannot be that cashewnut eaten abroad is a foodstuff, and whatever is consumed within the country is not a foodstuff. It is, therefore, a foodstuff and must be classified as an essential commodity. Its importance as a foodstuff can also be seen from the statements filed in these cases in which it is stated that in the State of Kerala in the year 1976-77 the total quantity of raw cashewnut procured was in the order of 60,000 tonnes, the number of workers engaged in the cashewnut processing industry was about 1,20,000 and that there were 269 cashew factories.

- 26.28. By relying on the above decision, he submits that the sugarcane used in the manufacture of sugar is foodstuff and both sugar and sugarcane being essential commodities can be regulated under the framework of Sugar Control Order, 1966 and the Sugarcane Control Order, 1966.
- 26.29. Insofar as the contention of the petitioners that the State is governed by the principles of Promissory Estoppel, the State having promised that individual manufacturers would set up



ethanol producing plants, it is on that basis that investment has been made would not be applicable inasmuch as the manufacturer can still continue to manufacture by using 'C' heavy molasses for now without any restrictions. By using sugar syrup and 'B' heavy molasses as per the allocation of the OMCs. In future on a review being made with a better monsoon, better rains and better production of sugarcane, these restrictions would undoubtedly have to be lifted inasmuch as ethanol is a very much essential item to achieve the policy of the petroleum ministry to have 25% of all petrol sold in the country blended with ethanol. The said policy is not being deviated from, it is only the priority attributed now to sugar as essential commodity resulting in the direction which cannot be found fault with.



27. Sri.M.V.Kanavi, learned counsel for Ministry of Petroleum submits that:

27.1. As per National Policy on Biofuels, 2018, BPIO, Ministry of Petroleum and National Gas have issued a road map for ethanol blending in India based on expert committee report whereunder a target of blending petroleum with ethanol is fixed at 25% by 2025.

27.2. The blending of ethanol on a pilot basis started in the year 2001 and has continued from that time. The Government of India has notified the National Policy on Biofuel, 2018 under which an Interest Subvention Scheme for molasses and grain based distilleries were notified. The Ministry of Road Transport and Highways has also notified ethanol blended petrol for adoption in automotive fuel. The Ministry has estimated an ethanol demand of 1016 crore ltrs by 2025. The current ethanol production in India is 426



crore ltrs from molasses-based distillery and 256 crore ltrs from grains-based distillery which is proposed to be expanded to 760 and 740 crore ltrs respectively.

27.3. One of the problems in using ethanol blended petrol is that the fuel efficiency decreases by 6 to 7% in four wheelers and 3 to 4% in two wheelers which require ethanol blended compatible vehicles which are right now not available in the market in huge number. Going forward, those vehicles would be available and would be able to use ethanol blended petrol which require BS6 norms. The vehicles being under design and as such, as and when those vehicles are coming into market and on the road, the same could be used.

27.4. Even though there is a loss to the Central Government in terms of the Excise Duty concessions on use of ethanol to an extent of



Rs.10950/- crore per annum, the Government is promoting the use of ethanol blended petrol. Sugarcane being a high-water intensive crop, this aspect is also being taken note of by the Ministry. At present, ethanol cannot be blended with diesel but can only be blended with petrol.

27.5. There is a gradual progression being made by the Petroleum Ministry for achieving the requirement of national policy of bio-fuels and as part of the same, OMC will issue tenders periodically in which the manufacturers of ethanol can participate.

27.6. Sugarcane Juice/Sugar Syrup being the common raw material for both ethanol and sugar, the Department of Food and Public Distribution would be the Nodal Department which could issue necessary directions and as such, the directions issued on 07.12.2023 and



15.12.2023 are as per the policy guidelines and are supported by the Ministry of Petroleum.

28. Sri. C. V. Angadi, learned counsel appearing for OMCs would submit that:

28.1. OMCs have issued tenders in pursuance of which quarter-I allocation have been made to various successful tenderers and these allocations have been taken delivery of by the OMCs depending on the availability of storage capacity. The OMCs having been directed by the Ministry of Food and Public Distribution to reduce the allocation, OMC's have re-calculated and re-worked the allocation to be made.

28.2. In view of the interim order passed by a coordinate bench of this Court on 21.12.2023, the revision is not being insisted upon and the



original allocation is being adhered to. For any future allocation to be made, tenders have to be issued and the allocation would be made as per the tender to the successful tenderer.

28.3. OMCs cannot buy ethanol from the manufacturers without there being a tender. OMCs would however adhere to any directions issued by this Court. The OMCs have nothing to do with the directions issued by the Ministry of Food and Public Distribution. OMCs are only concerned with purchase of ethanol, and OMCs are bound to follow any directions issued by the Ministry of Food and Public Distribution since the same is also supported by the Ministry of Petroleum.

29. After the matter was reserved for judgment, the matter was moved by the petitioners to contend that huge amount of ethanol which has been



manufactured and stored are not being taken delivery of by the OMCs despite the undertaking of the Additional Solicitor General. The submission of Sri.Prabhulinga Navadgi, learned Senior counsel for the petitioners is that ethanol having already been manufactured, the Additional Solicitor General having already indicated that the manufactured ethanol could be purchased, the OMCs are not abiding by the submissions made by the Additional Solicitor General and as such, necessary directions have to be issued.

30. Sri.C.V.Angadi, learned counsel appearing for the OMCs would once again reiterate that insofar as allocation which had been made for quarter I in terms of the tender issued, the OMCs will purchase the ethanol manufactured at the most by May 2024 but insofar as additional purchase over and above, the allocation fresh tenders would have to be issued.



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31. Heard Sri.Prabhuling K.Navadgi, learned Senior Counsel for the petitioner/s in W.P.No.107496/2023, W.P.No.107524/2023, W.P.No.107955/2023, W.P.No.100125/2024, W.P.No.100132/2024, W.P.No.100133/2024, W.P.No.100450/2024, W.P.No.100979/2024, W.P.No.101001/2024, Sri.Dhyan Chinnappa, learned Senior Counsel for the petitioner/s in W.P.No.100197/2024, Sri.Ajay Kadkol, learned counsel for the petitioner/s in W.P.No.107956/2023, Sri.Sangram S.Kulkarni, learned counsel for the petitioner/s in W.P.No.100264/2024, Ms.Keerti Krishna Reddy, learned counsel for the petitioner/s in W.P.No.107955/2023, Sri.Ajay Kadkol learned counsel for petitioner/s in W.P.No.107956/2023, Sri.H.N.Shashidhar, learned Senior Counsel for the petitioner in W.P.No.100743/2024, W.P.No.100765/2024, Sri.Prashant T.Goudar, learned counsel for the petitioner in



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W.P.No.101009/2024, Sri.Sangram S.Kulkarni,
learned counsel for the petitioner in
W.P.No.100264/2024, Sri.Aravind Kamath, ASGI a/w
Sri.M.B.Kanavi, SCGC and a/w Sri.Venkatesh
M.Kharvi, learned counsel for R1 - R3 in
W.P.No.107524/2023, W.P.No.107955/2023,
W.P.No.100132/2024, W.P.No.100125/2024,
W.P.No.100133/2024, W.P.No.100450/2024,
W.P.No.100743/2024, 100765/2024,
W.P.No.100979/2024, W.P.No.101001/2024,
Sri.Aravind Kamath, ASGI a/w Sri.M.B.Kanavi, SCGC
for respondents No.1 and 2 in W.P.No.107956/2023,
W.P.No.100197/2024, Sri.C.V.Angadi, learned
counsel for R4-R6 in W.P.No.107524/2023,
W.P.No.107955/2023, W.P.No.100125/2024,
W.P.No.100132/2024, W.P.No.100133/2024,
W.P.No.100264/2024, W.P.No.100743/2024,
W.P.No.100765/2024, W.P.No.100979/2024,
W.P.No.101001/2024, Sri.C.V.Angadi, learned



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counsel for respondents No.3 to 5 in W.P.No.107956/2023, W.P.No.100197/2024, Jagadish Patil, learned counsel for respondent No.7 in W.P.No.100132/2024, W.P.No.100133/2024, Jagadish Patil, learned counsel for respondent No.6 in W.P.No.100197/2024, Sri.Venkatesh M.Kharvi, learned counsel for respondents No.1 to 3 in W.P.No.100264/2024 and perused papers.

32. The points that would arise for consideration by this Court are:

- 1) Whether the impugned orders could have been issued in purport and exercise of powers under Clause 5 and 6 of the Sugar Control Order, 1966 in respect of ethanol which is not an essential commodity and which is not covered under Sugar Control Order, 1966?**
- 2) Whether the impugned orders could be issued in respect of a standalone distillery?**
- 3) Whether the impugned orders are irrational and arbitrary and do not take into account the production capacity of the sugar factory and the distillery?**



- 4) Whether the impugned orders are violative of Article 19 (1)(g) since the restriction now imposed is not reasonable?
- 5) Whether the impugned orders could be issued in light of the promises held out by the State that manufacturers could set up ethanol manufacturing plants and the manufactured ethanol would be purchased by the State?
- 6) What order?

33. I answer the above points as under

34. **Answer to Point No.1 & 2: Whether the impugned orders could have been issued in purport and exercise of powers under Clause 5 and 6 of the Sugar Control Order, 1966 in respect of ethanol which is not an essential commodity and which is not covered under Sugar Control Order, 1966?**

And

Point No.2: Whether the impugned orders could be issued in respect of a standalone distillery?

34.1. The Essential Commodities Act, 1955 (for short, 'ECA') has been promulgated with an intention to provide, in the interest of the general public, for the control of the production, supply and distribution of, trade and commerce, in certain commodities.



34.2. Sugar is defined under sub-section (e) of Section 2 as under:-

(e) "**sugar**" means—

(i) any form of sugar containing more than ninety per cent, of sucrose, including sugar candy;

(ii) khandsari sugar or bura sugar or crushed sugar or any sugar in crystalline or powdered form; or

(iii) sugar in process in vacuum pan sugar factory or raw sugar produced therein.

34.3. In terms of Section 3 of ECA, the Central Government if of the opinion that it is necessary or expedient for maintaining or increasing supplies of any essential commodities or for securing their equitable distribution and availability at fair prices, it may by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein. Section 3 of ECA is reproduced hereunder for easy reference:

3. Powers to control production, supply, distribution, etc., of essential commodities.—

(1) *If the Central Government is of opinion that it is necessary or expedient so to do for*



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maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, 2 [or for securing any essential commodity for the defence of India or the efficient conduct of military operations], it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

3* * * * *¹⁶

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;

(b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops.

(c) for controlling the price at which any essential commodity may be bought or sold;

¹⁶ *Sub-section (1A) omitted by Act 40 of 2021, s. 3 (w.e.f. 30-11-2021).*

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(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of, any essential commodity;

(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

(f) for requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any essential commodity,—

(a) to sell the whole or a specified part of the quantity held in stock or produced or received by him or,

(b) in the case of any such commodity which is likely to be produced or received by him, to sell the whole or a specified part of such commodity when produced or received by him,

to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government or to such other person or class of persons and in such circumstances as may be specified in the order.

Explanation 1.—An order made under this clause in relation to foodgrains, edible oilseeds or edible oils, may, having regard to the estimated production, in the concerned area, of such foodgrains, edible oilseeds and edible oils, fix the quantity to be sold by the



producers in such area and may also fix, or provide for the fixation of, such quantity on a graded basis, having regard to the aggregate of the area held by, or under the cultivation of, the producers.

Explanation 2.—For the purpose of this clause, “production” with its grammatical variations and cognate expressions includes manufacture of edible oils and sugar;]

*(g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs 2*** which, in the opinion of the authority making the order, are, or, if unregulated, are likely to be, detrimental to the public interest;*

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(i) for requiring persons engaged in the production, supply or distribution of or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

[(ii) for the grant or issue of licences, permits or other documents, the charging of fees therefore, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any



such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;]

[(j) for any incidental and supplementary matters, including, in particular, the entry, search or examination of premises, aircraft, vessels, vehicles or other conveyances and animals, and the seizure by a person authorised to make such entry, search or examination,—

(i) of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being, or is about to be committed and any packages, coverings or receptacles in which such articles are found;

(ii) of any aircraft, vessel, vehicle or other conveyance or animal used in carrying such articles, if such person has reason to believe that such aircraft, vessel, vehicle or other conveyance or animal is liable to be forfeited under the provisions of this Act; 3

[(iii) of any books of accounts and documents which in the opinion of such person, may be useful for, or relevant to, any proceeding under this Act and the person from whose custody such books of accounts or documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of an officer having the custody of such books of accounts or documents.]]

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(3) Where any person sells any essential commodity in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to him the price therefore as hereinafter provided:—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

[(3A) (i) If the Central Government is of opinion that it is necessary so to do for controlling the rise in prices or preventing the hoarding, of any food-stuff in any locality, it may, by notification in the Official Gazette, direct that notwithstanding anything contained in sub-section (3), the price at which the food-stuff shall be sold in the locality in compliance with an order made with reference to clause (f) of sub-section (2) shall be regulated in accordance with the provisions of this sub-section.

(ii) Any notification issued under this sub-section shall remain in force for such period not exceeding three months as may be specified in the notification.



(iii) Where, after the issue of a notification under this sub-section, any person sells foodstuff of the kind specified therein and in the locality so specified, in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to the seller as the price therefor—

(a) where the price can, consistently with the controlled price of the foodstuff, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated with reference to average market rate prevailing in the locality during the period of three months immediately preceding the date of the notification.

(iv) For the purposes of sub-clause (c) of clause (iii), the average market rate prevailing in the locality shall be determined by an officer authorised by the Central Government in this behalf, with reference to the prevailing market rates for which published figures are available in respect of that locality or of a neighbouring locality; and the average market rate so determined shall be final and shall not be called in question in any court.]

[(3B) Where any person is required, by an order made with reference to clause (f) of

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sub-section (2), to sell to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government, any grade or variety of foodgrains, edible oilseeds or edible oils in relation to which no notification has been issued under sub-section (3A), or such notification having been issued, has ceased to be in force, there shall be paid to the person concerned, notwithstanding anything to the contrary contained in sub-section (3), an amount equal to the procurement price of such foodgrains, edible oilseeds or edible oils, as the case may be, specified by the State Government, with the previous approval of the Central Government having regard to—

(a) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of foodgrains, edible oilseeds or edible oils;

(b) the general crop prospects;

(c) the need for making such grade or variety of foodgrains, edible oilseeds or edible oils available at reasonable prices to the consumers, particularly the vulnerable sections of the consumers; and

(d) the recommendations, if any, of the Agricultural Prices Commission with regard to the price of the concerned grade or variety of foodgrains, edible oilseeds or edible oils.]

[(3C) Where any producer is required by an order made with reference to clause (f) of



sub-section (2) to sell any kind of sugar (whether to the Central Government or to a State Government or to an officer or agent of such Government or to any other person or class of persons) whether a notification was issued under sub-section (3A) or otherwise, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer only such amount as the Central Government may, by order, determine, having regard to—

(a) the fair and remunerative price, if any, determined by the Central Government as the price of sugarcane to be taken into account under this section;

(b) the manufacturing cost of sugar;

(c) the duty or tax, if any, paid or payable thereon; and

(d) a reasonable return on the capital employed in the business of manufacturing of sugar:

Provided that the Central Government may determine different prices, from time to time, for different areas or factories or varieties of sugar:

Provided further that where any provisional determination of price of levy sugar has been done in respect of sugar produced up to the sugar season 2008-2009, the final determination of price may be undertaken in accordance with the provisions of this sub-



section as it stood immediately before the 1st day of October, 2009.

Explanation 3 [I].— For the purposes of this sub-section,—

(a) "fair and remunerative price" means the price of sugarcane determined by the Central Government under this section;

(b) "manufacturing cost of sugar" means the net cost incurred on conversion of sugarcane into sugar including net cost of transportation of sugarcane from the purchase centre to the factory gate, to the extent it is borne by the producer;

(c) "producer" means a person carrying on the business of manufacturing sugar;

(d) "reasonable return on the capital employed" means the return on net fixed assets plus working capital of a producer in relation to manufacturing of sugar including procurement of sugarcane at a fair and remunerative price determined under this section.]

[Explanation II.—For the removal of doubts, it is hereby declared that the expressions "fair and remunerative price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital employed" referred to in clause (d), of this sub-section do not include the price paid or payable under any order or any enactment of any State Government and any price agreed



to between the producer and the grower or a sugarcane growers' co-operative society.]

[(3D) The Central Government may direct that no producer, importer or exporter shall sell or otherwise dispose of or deliver any kind of sugar or remove any kind of sugar from the bonded godowns of the factory in which it is produced, whether such godowns are situated within the premises of the factory or outside or from the warehouses of the importers or exporters, as the case may be except under and in accordance with the direction issued by the Government:

Provided that this sub-section shall not affect the pledging of such sugar by any producer or importer in favour of any scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934) or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), so, however, that no such bank shall sell the sugar pledged to it except under and in accordance with a direction issued by the Central Government.

(3E) The Central Government may, from time to time, by general or special order, direct any producer or importer or exporter or recognised dealer or any class of producers or recognised dealers, to take action regarding production, maintenance of stocks, storage, sale, grading, packing, marking, weighment, disposal,

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delivery and distribution of any kind of sugar in the manner specified in the direction.

Explanation.—For the purposes of sub-section (3D) and this sub-section,—

(a) "producer" means a person carrying on the business of manufacturing sugar;

(b) "recognised dealer" means a person carrying on the business of purchasing, selling or distributing sugar;

(c) "sugar" includes plantation white sugar, raw sugar and refined sugar, whether indigenously produced or imported.]

(4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorize any person (hereinafter referred to as an authorized controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part thereof,—

(a) the authorized controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument



determining the functions of the persons in-charge of the management of the undertaking, except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

(5) An order made under this section shall,—

(a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

(b) in the case of an order directed to a specified individual be served on such individual—

(i) by delivering or tendering it to that individual, or

(ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report there of shall be prepared and witnessed by two persons living in the neighbourhood.

(6) Every order made under this section by the Central Government or by any officer or



authority of the Central Government shall be laid before both Houses of Parliament, as soon as may be, after it is made.

34.4. In terms of Section 5 of ECA, the Central Government may, by notified order, direct that the power to make orders or issue notifications, to such officer or authority subordinate to the Central Government or the State Government, or such officer or authority subordinate to a State Government. Section 5 of ECA is reproduced hereunder for easy reference:

5. Delegation of powers.—*The Central Government may, by notified order, direct that [the power to make orders or issue notifications under section 3] shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—*

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or such authority subordinate to a State Government, as may be specified in the direction.



34.5. It is in exercise of powers under Section 3 of ECA, the Central Government made an order known as Sugar (Control) Order, 1966 on 10.06.1966 by issuing GSR.912/Ess.Com/Sugar. Shortly thereafter, on 16.07.1966 vide GSR 1126.Ess.Com/Sugarcane, Sugarcane (Control) Order, 1966. A 'producer' in terms of sub-clause (b) of Clause (2) of Sugar Control Order is a person carrying on the business of manufacturing sugar. Clause (3) of Sugar Control Order provides for 'Power to regulate production of sugar'. Clause (4) of Sugar Control Order provides for 'Power to restrict sale etc., of sugar by producers or importers'. Clause (5) of Sugar Control Order provides for 'Power to issue directions to producers and dealers'. Apart there from, there are various other powers vested with the Central



Government as regards 'regulation of quality of sugar', 'utilization of sugar', 'inspection', 'drawing samplings' and 'call for information' etc. Suffice it to say, under the Sugar (Control) Order, the Central Government has the power to direct that the Sugar is not produced or is produced and the manner of sale thereof.

34.6. Sugarcane (Control) Order defines 'producer of sugar' under Sub-Clause (i) of Clause 2 as under:-

(i) "Producer of sugar" means a person carrying on the business of manufacturing sugar by vacuum pan process and at its own option, ethanol either directly from sugarcane juice or from molasses, including B-Heavy molasses, or both;

34.7. Thus, a producer of sugar would be a person who could carry on the manufacturing of sugar by vacuum pan process or also carry on the business of ethanol, either directly from sugarcane juice or from molasses including B-Heave molasses or both. The above being the



definition of producer of sugar which is slightly different from Sugar (Control) Order.

34.8. The Sugarcane (Control) Order deals with 'minimum price of sugarcane payable by producer of sugar', 'rebate that can be deducted', 'minimum price of sugarcane to be paid by producer of Khandsari sugar', 'rebate in respect thereto', 'price to be paid for purchase of sugarcane', 'distribution and movement of sugarcane', 'restriction on setting up of two sugar factories within the radius of 15 kms' etc.

34.9. Thus, Sugar (Control) Order deals with sugar *per se*, Sugarcane (Control) Order deals with sugarcane *per se*. The submission of Sri.Prabhuling Navadgi, learned Senior counsel and other counsel appearing for the petitioners is that the impugned order could not have been issued in terms of Clause (5) and (6) of Sugar (Control) Order, firstly, for the reason that



many of the petitioners are not manufacturing of sugar but are standalone distilleries manufacturing ethanol to whom the Sugar (Control) Order, 1966 would not apply. The impugned order has not been issued under the Sugarcane (Control) Order, 1966, which deals with sugarcane. Any order passed under the Sugarcane (Control) Order would also impact standalone distilleries for the reason that such distilleries are not purchasing sugarcane but are only purchasing sugar syrup from sugar manufacturing companies and/or sugarcane crushing mills. His submission is insofar as standalone distilleries are concerned, no regulations could be made either under the Sugar (Control) Order, 1966 or Sugarcane (Control) Order, 1966.

34.10. Insofar as the other petitioners who are both manufacturers of the sugar and ethanol, the



submission of Sri.Dhyan Chinnapa, learned Senior counsel is that under the guise of a notification under Sugarcane (Control) Order , 1966, the production of ethanol is sought to be regulated by reducing the availability of sugar syrup and/or 'B' Heavy molasses for manufacture thereof, which is a direct impingement on the manufacturing capability and capacity of some of the petitioners, and therefore, under the guise of Sugar (Control) Order, 1966, no such order could have been passed which would have an effect on persons who are manufacturing ethanol using sugarcane or sugarcane juice or any derivatives thereof including 'B' Heavy molasses.

34.11. The submission of Sri.Arvind Kamath, learned Additional Solicitor General is that what essentially is sought to be controlled by the Central Government is the production of sugar.



Merely because sugarcane/sugarcane juice is the common raw material for both sugar and ethanol, it cannot be said that an order passed in respect of sugarcane juice could not be so done since there is an impact on production of ethanol.

34.12. The other counsel appearing for the petitioners have adopted the submission as aforesaid, so are the Counsel for OMC and Petroleum Industry who have adopted the submission of the ASG as aforesaid.

34.13. What is required to be considered by this Court is the plea of the Central Government stating that it is a temporary measure which has been introduced only to protect the manufacture of sugar and ensure the availability of sugar to all the citizens of India, considering that the same is an essential commodity, and it is in that background that the diversion of sugarcane



juice and 'B' heavy molasses for the manufacture of ethanol is curtailed and sought to be regulated so as to increase the sugarcane syrup available for the manufacture of sugar. This, as per submission, is required to be done on account of low or no rainfall for the last year as also for this year which has resulted in lower production of sugarcane, thereby lower availability of sugarcane for production of sugarcane juice which can be used for the manufacture of both sugar and ethanol. This being the background of the impugned notification, what would be required to be considered is the applicability of various decisions relied upon by Sri.Prabhuling Navadgi, learned Senior counsel.

34.14. By relying on the case of ***Chhabra Bricks supra***, he submitted that merely because slack coal was used for the purpose of manufacture



of bricks, though the Central Government/State Government was within its power to ensure that regulation of coal being an essential commodity, no regulation could be made applicable to Brick-kiln owners who are consumers of coal for the purpose of manufacture of bricks, since bricks were not an essential commodity. The Hon'ble Apex Court in the said decision has held that the regulation can only be made in respect of essential commodity and not regards anything else. This decision in my considered opinion would not apply to the present case for the reason that the restriction imposed as regards sugarcane syrup and 'B' heavy molasses from being used for the manufacture of sugar, ethanol being cognate product cannot be said to be so different that the production of ethanol by use of sugarcane syrup or 'B' heavy molasses



cannot be regulated under the Sugar (Control) Order.

34.15. One of the main raw material for manufacture of ethanol is sugarcane syrup and/or 'B' heavy molasses which is a byproduct of sugar manufacturing process. Though there are other methodologies of producing and manufacturing ethanol, the basic use by standalone distilleries also distilleries connected or associated with a sugar mills is the use of sugarcane syrup or 'B' heavy molasses. Though ethanol may not be an essential commodity, the fact that sugar syrup is used for the purpose of the manufacture of ethanol and if large quantities of such sugarcane syrup are diverted for the manufacture of ethanol, the availability of sugarcane syrup for the manufacture of sugar would reduce cannot be lost sight of. The fact remains, which has not been controverted, that



the reduced rain both for the last year and this year resulting in draught like situation has led to lower production of sugarcane, which would essentially mean low production of sugarcane syrup and consequently lower production of sugar. If this lower sugarcane or sugarcane syrup is diverted for the manufacture of ethanol, the availability for manufacture of sugar would further reduce.

34.16. The decision relied upon by Sri.Navadgi, learned Senior counsel in ***Bihar Distillery's*** case, wherein it is held that the restriction cannot be imposed on the use of industrial alcohol/rectified spirit, in my considered opinion, would not apply to the present case. In that case, industrial alcohol could be used for obtaining country liquor, IMFL, industrial alcohol, which could also be for potable purposes, and it is on that basis that it was held



that the use of rectified spirit for potable purposes would come within the exclusive control of the State and others under the Central Government. The said decision is only as regards the nature of manufacture and the use of industrial alcohol for manufacture of various other products. It is depending on the products which were manufactured that they would come under the purview of the State Government or the Central Government. In the present case, the raw material being sugarcane juice or 'B' heavy molasses, the final product being sugar or ethanol, both of them comes under the prerogative of the Central Government and not the State Government. Be that as it may, what is regulated is use of the sugarcane syrup which is an essential ingredient for the manufacture of sugar, sugar being an essential commodity.



34.17. In the above background, it can be seen that sugarcane juice and/or 'B' heavy molasses is one of the main ingredients for the manufacture of ethanol. Apart from sugarcane syrup and 'b' heavy molasses, ethanol can also be manufactured from grains etc. However, sugar cannot be manufactured without sugarcane juice, which is the basic ingredient and raw material for the manufacture of sugar. Thus, I am of the considered opinion that the order regulating the use of sugar syrup can be issued under the Sugar (Control) Order, 1966, since the same has been issued for the purpose of ensuring adequate production of sugar. This order could also be applied insofar as a standalone distillery is concerned since the regulation is that of sugar syrup and not of ethanol or the distillery. The distillery could use other raw material to produce ethanol if it can



so do. What is restricted temporarily is the use of sugarcane syrup since the production of sugarcane is reduced on account of drought or less rain.

35. **Answer to Point No.3: Whether the impugned orders are irrational and arbitrary and do not take into account the production capacity of the sugar factory and the distillery?**

And

36. **Answer to Point No.4: Whether the impugned orders are violative of Article 19 (1)(g) since the restriction now imposed is not reasonable?**

- 36.1. By relying on the decisions in ***Modern Dental College, Akshay N. Patel and Association for Democratic Reforms***, the submissions of both the side is that the State is empowered to make any law, but while doing so, the interest of the general public, the balancing of the fundamental rights has to be made, which is known as Doctrine of Proportionality, such as,



the Rule determining the necessary and sufficient conditions. The doctrine of proportionality could be defined as set of rules determining the necessary and coefficient conditions for the limitation of the constitutionally protected right by law, constitutionally permissible. Both the said counsel submit that the limitation on the constitutional right will be constitutionally permissible if (1) it is designated for a proper purpose; (2) the measures undertaken to effectuate such a limitation are rationally connected to the fulfillment of that purpose (3) the measures undertaken are necessary in that there are no alternative measures that may similarly achieve that same purpose with a lesser degree of limitations and finally (4) there needs to be a proper relation between the importance of achieving the proper purpose and



the social importance of preventing the limitations on the constitution right.

36.2. The submission of the counsel for the petitioners is that none of these tests are satisfied, whereas submission on part of the Central Government is that all these tests are satisfied.

36.3. It is these two contradictory arguments which have to be considered by this Court with reference to the aforesaid decision to ascertain if the Doctrine of Proportionality is satisfied or not.

36.4. Insofar as first test of being designated for a proper purpose is concerned, there cannot be much doubt on this inasmuch as sugarcane juice or sugar syrup is an ingredient for both sugar and ethanol. The quantum of usage made for production of ethanol would naturally have a consequence on the quantum available



for manufacturing of sugar. The purpose in the present matter being to ensure higher production of sugar and/or maintain the existing production of sugar by making available sugarcane, sugarcane syrup, sugar syrup for the manufacture of sugar without diverting the same for manufacture of ethanol, would satisfy the requirement of designation for a proper purpose and as such, the first test in the present matter is satisfied.

36.5. Insofar as the second test relating to the measure undertaken is to effectuate such a situation which is rationally connected to the fulfillment of that purpose. As afore described and dealt with sugarcane juice and sugar syrup being the sole raw material for the manufacture of sugar, any reduction in the same or quantum of raw material declining would have a direct impact on the manufacture of sugar. Thus, I



am of the considered opinion that even the second test is satisfied. Thus the limitation imposed on use of sugarcane juice or sugar syrup for the manufacture of ethanol will have a direct positive impact on the manufacture of sugar relating to a higher production thereof.

36.6. As regards the third test, as aforesaid, the sugarcane juice and/or sugar syrup being the essential raw material for the manufacture of sugar, there being drought and reduced rain, which has resulted in lesser production of sugarcane, the said sugar cane being a water intensive crop. It is clear that if there is less sugar cane juice and/or less sugar syrup available there would be less sugar which can be produced. The production of sugar cane juice itself having gone down, it is essential for the Central Government to make available as much sugar cane juice and sugar syrup as



possible for the manufacture of sugar, the lesser production of sugar cane being on account of Act of God , there being no other viable alternative being available for the manufacture of sugar other than use of sugar cane juice and sugar syrup, I am of the considered opinion that the measures undertaken by the Central Government are proper and correct and there is no alternative measure which could have been resorted too by the Central Government in such a situation.

36.7. There is however some credence in the submission made by Mr Navadgi as regards other bulk users of Sugar or Sugar Syrup or Sugar Cane Juice not being imposed upon and regulation.

36.8. In as much as there are bulk manufacturers of beverages, sweets, chocolates, confectionary etc., who are bulk consumers of sugar, this



sugar once consumed by such bulk manufacturers, sugar to that extent would not be available in the local market for purchase and consumption by a citizen. Which would also mean that the price of sugar is also determined by the demand for sugar by such bulk consumers.

36.9. Furthermore there being large scale export of these beverages, sweets, chocolates, confectionary etc., the sugar manufactured in India is used for the purpose of manufacture of above goods which are exported and consumed outside India. This aspect has been completely ignored by the authorities while imposing the present restriction of use of Sugarcane Juice, Sugar Syrup and B Heavy Molasses on manufacture of Ethanol. Since the Ethanol supply year has nearly come to a closure and the Interim order granted by a co-ordinate



bench of this court has protected the Petitioners to some extent, in the event of the restriction being extended for the next ethanol supply year, then in such event the authorities will also have to impose such restrictions on bulk users/consumers of sugar, sugarcane juice/sugar syrup/ B heavy molasses, since for such bulk users sugar is not an essential commodity but is only a commodity of commerce. All persons or entities who use sugar, sugarcane juice/sugar syrup/ B heavy molasses as a commodity of commerce or to manufacture a commodity of commerce would have to yield to the requirements of a citizen of the country to use sugar by itself as an essential commodity. This alternative has not been explored by the authorities, which could well negate the 3rd test laid down, however taking into account that there was no much



time to control the use of raw material for purpose of manufacture of sugar, this non - consideration for now is not held against the authorities. In the event of the restriction being extended it would be required that the authorities take into consideration all alternatives available including imposition of restriction of such bulk consumers as may be required and towards that end the ethanol manufacturers and bulk consumers are treated on the same footing.

36.10. In view of the correlation and answer to Points No.1, 2 and 3 above, I am of the considered opinion that there is a proper relation between the restriction imposed and object sought to be achieved. Since the restriction imposed is with an intention to maintain the production of sugar as done for the last season, so as to make available similar amount/quantum of sugar for



the general populus so as to further ensure that there is no increase in the price of sugar which would affect every citizen of the country since he or she would not be able to purchase the sugar on account of increase in the price thereof.

36.11. The decision in ***Chintamanrao's case***, which deals with reasonable restrictions and defines reasonable restrictions, would not help the petitioners in the present case since the restrictions being temporary and the restrictions being imposed due to drought situation cannot be firstly said to be unreasonable. Secondly I find that such restriction is reasonable in order to cater to the requirements of the general public. The decision in ***Internet & Mobile Assn. of India's case supra***, would also not be applicable to the present facts inasmuch as the



restrictions again is a temporary once, only for this year and has been imposed only in the exceptional circumstances. If the rains are good in the next year, the restrictions would not be imposed and the petitioners would be free to bid for any contracts issued by the OMCs.

36.12. Hence, I answer Points No.3 and 4 by holding that the impugned orders are not irrational or arbitrary, and have taken into account the overall requirement of the Country and the population. It would not be necessary to go into the production capacity of each sugar factory or distillery. This being a temporary arrangement, as and when there are more rains and there is more production of sugarcane, this restriction would not apply. The present restriction being applicable to the ethanol



supply year 2023-24 will not apply to the next year unless another notification is issued.

37. **Answer to Point No.5: Whether the impugned orders could be issued in light of the promises held out by the State that manufacturers could set up ethanol manufacturing plants and the manufactured ethanol could be purchased by the State?**

37.1. The contention of the petitioner is that there is a legitimate expectation on part of the petitioners that adequate raw material would be provided to the petitioners to manufacture ethanol as per the ethanol policy which envisages 25% of the petroleum products to be blended with ethanol. As of now only 10-12% of the petroleum product being blended with ethanol, the petitioners had invested huge amounts of money under the hope that they will get more contracts to achieve 25% ethanol blended petroleum.

37.2. The policy is also held out to be a basis for invoking the principle of promissory estoppel.



The petitioners contended that due to the representations made, the petitioners have changed their position in such a way that if the promises were not to be implemented, the petitioners would suffer irreparable harm. Both these aspects would arise only if there is a permanency in the decision taken by the Centre or the State.

37.3. That is to say, if the Centre or the State had taken a stand that in future there won't be any blending of ethanol with petroleum products, then the submissions made by the petitioners would be said to be correct and the applicability of the principles of legitimate expectations and promissory estoppel could be looked into. However, in the present case, the steps taken by the Authorities are only temporary in nature necessitated by the drought in the sugarcane farming areas, which has resulted in lesser



production of sugarcane. As observed above, if there is more rain in the next monsoon or the next season, then this restriction which has been imposed for this year may not be extended for the next year and the situation would revert to what it was last year/last season. This being a temporary phase applicable for only this year, introduced by the Authorities only to see to it that sugar is manufactured to the extent required so as not to increase the price of sugar.

37.4. The State discharging its sovereign functionality in making available essential commodity like sugar to the general populus as also ensuring that there is adequate amount of sugar which is manufactured. The commercial interest of industrial unit like the petitioner ought to yield to larger public interest so that larger public interest is not adversely affected due to the



commercial industrial interest like that of the petitioners.

37.5. The invocation of legitimate expectations and/or promissory estoppel would arise only when all things being equal and there is no change in circumstances and/or that there is no higher obligations imposed on the State/Centre, to be discharged greater than the promise held out.

37.6. Though it is contended by the learned Additional Solicitor General that the principle of promissory estoppel would not apply by contending that what has been only made available is a promise to charge lesser interest on loans made available for setting up of ethanol manufacturing units either standalone or otherwise. I am unable to agree with the submission of the learned Additional Solicitor General inasmuch as the whole purpose of



borrowing loans is to set up an ethanol manufacturing unit which would serve no purpose, if there is a restriction on manufacture of ethanol.

37.7. The distillery set up by the petitioners being one which can be used for manufacture of ethanol by using sugarcane juice or sugar syrup, it cannot be now contended by the authorities that there is no promise held out to promote the manufacture of ethanol.

37.8. The very purpose of taking a loan is to set up a distillery, to set up the plant which in turn is for manufacture of ethanol. The loan is required to be serviced by the sale of ethanol manufactured in the plant. If ethanol is not manufactured or capable of being manufactured, the question of servicing the loan would not arise. Thus, I am of the considered opinion that there is a legitimate



expectation on part of the manufacturer that the policy held out would be implemented that the Ministry of Petroleum would endeavour to promote blending of ethanol in petroleum products more particularly petrol/gasoline to an extent of 25% of total consumption and as such, there is a legitimate expectation on the part of the ethanol manufacturer that the ethanol manufactured by them would be procured by the OMCs for such blending.

37.9. The petitioners have also changed their stand and position on the basis of the promises held out, have borrowed loans, set up the ethanol manufacturing plants and have infact started manufacturing ethanol under the hope that such ethanol manufactured by them would be purchased by the State. Though the principles of legitimate expectations and promissory estoppel are applicable, the same would also



have to be considered by this Court taking into account the larger public interest.

37.10. The decision ***Brahmputra Metallics Ltd's case supra***, would not be applicable, taking into consideration the above reasoning inasmuch as the circumstances having changed, the representations which had been made by the authorities and the expectations that any business entity or citizen of India can have has to be taken into consideration contextually. The context having changed and there being higher obligations imposed on the State to make available the essential commodity like sugar to the citizens, the changed circumstances which are in force temporarily cannot make principles of legitimate expectation and promissory estoppel apply in all their rigor.



37.11. Doctrine of proportionality would also require that no person suffers due to no fault of his or the extent of sufferance is brought to a minimum. Thus it would have to be taken note of that many of the petitioners have borrowed loans in order to set up their ethanol manufacturing unit and are required to service the loans. The non utilisation of the unit is not on account of any fault on part of the Petitioners but is on account of the Act of State in stopping the availability of raw material for use of the manufacturing unit. In that view of the matter, the authorities would have to come to the rescue of manufacturers who have taken such loan and grant such moratorium as required during the period the restriction is in force, from making payment of both the principal and interest as regards the said loan.



37.12. Similarly it would also be for the authorities to protect and safeguard the workers who were employed with the petitioners, who would now be out of a job for atleast temporary period during which the manufacture is stopped.

37.13. Hence, I answer Point No.5 by holding that though legitimate expectations and promissory estoppel would be applicable to the present case, the same cannot be invoked by the petitioners in view of the impugned orders having been issued in the larger public interest of making available an essential commodity like sugar to the general populus and thereby performing an essential sovereign function towards the citizens.

38. **Answer to Point No.6: What order?**

38.1. In view of my answers to various points raised above, the prayers which had been sought in the various petitions by themselves cannot be



considered. However, during the course of arguments it has come up that in pursuance of the interim order granted by coordinate Bench of this Court on 15.12.2023, the petitioners have continued the manufacture of ethanol using sugarcane juice, sugar syrup and 'B' heavy molasses. The manufactured ethanol is stored by the petitioners in storage tanks, which has not been taken delivery of by the OMCs on account of the impugned orders.

38.2. It has also come to the notice of this Court that there is a large stock of 'B' heavy molasses which has been produced as byproduct of the sugar manufacturing process, which are also stored by the petitioners and/or industries like the petitioners. This 'B' heavy molasses either being produced as a byproduct or having been purchased by the petitioners cannot be used for any other purpose nor can it reverted to a



situation or state where sugar can be manufactured therefrom.

38.3. The ethanol which has already been manufactured cannot be used for any other purpose nor can 'B' heavy molasses which has arisen as byproduct or purchased by the petitioners be used for any other purpose.

38.4. Once the same came to the notice of this Court, the petitioners were directed not to manufacture any more ethanol and also not to manufacture 'B' heavy molasses as a byproduct or purchase 'B' heavy molasses from the general market. Hence, ensuring that there is no further ethanol being manufactured or 'B' heavy molasses being procured.

38.5. Be that as it may, there is a quantity of ethanol and 'B' heavy molasses which is available with the manufacturers like the petitioners, which cannot be used for any other purpose. If the



ethanol manufactured by the petitioners is not used by the OMCs, the same would only amount to a national waste of scarce natural products.

38.6. Even though the impugned orders have been upheld, the manufactured ethanol by the petitioners and other similarly situated person being in pursuance of the interim orders, the said ethanol in my considered opinion would also have to be purchased by the OMCs at the earliest and made use of in the ethanol blended with petrol project.

38.7. This being so, not only on account of the said ethanol being rendered waste but also on account of the fact that the ethanol which is now stored in the storage tanks could be a cause for a fire mishap or otherwise due to the exceedingly hot summer that is prevalent in the State of Karnataka this year. It would



therefore be required for this ethanol to be evacuated from the storage tanks and supplied to the OMCs who can use it in the ethanol blended petrol project at the earliest.

38.8. Insofar as the 'B' heavy molasses is concerned, these molasses having already been produced, there is no particular process available to manufacture sugar out of 'B' heavy molasses, which could be financially remunerative and feasible. That apart, there is no machinery which has been installed by the manufacturers like the petitioners, which machinery can use 'B' heavy molasses for manufacture of sugar. Thus, these 'B' heavy molasses generated out of sugar cane juice and/or sugar syrup during the course of manufacture of sugar is also a use made of an essential commodity and will not be in the interest of anyone to not make use of 'B' heavy molasses.



38.9. Thus, I am of the considered opinion that manufacturers like the petitioners are to be permitted to manufacture ethanol from these 'B' heavy molasses and such manufactured ethanol to be procured by the OMCs. This being a temporary measure only for the purpose of this year, hoping that there won't be a requirement for the authorities to extend the applicability of the impugned orders for the next year. Hence, I pass the following:

ORDER

- i) The Writ petitions are disposed.
- ii) The petitioners are restrained from generating any more 'B' heavy molasses and/or purchasing 'B' heavy molasses from the market.
- iii) The OMCs shall procure the ethanol already manufactured by the petitioners from the petitioners within a period of three weeks from today.



- iv) Such of the petitioners who have a stock of 'B' heavy molasses are permitted to manufacture ethanol from such stock which manufacturing process is to be completed within eight weeks from now. On such manufacturing being complete or during the process of manufacture, OMCs are directed to procure the ethanol manufactured from such 'B' heavy molasses in terms of the contract already entered into by the OMCs with the manufacturers.
- v) The impugned orders being applicable only for this year and being subject to review by the Group of Ministers, the applicability or otherwise of the said impugned order for the next year would depend on the deliberations and opinion of the Group of Ministers who would have all the



necessary information and resources at their disposal to make such decisions taking into account the observations made herein.

- vi) The Respondents are directed to come up with such policy or moratorium as required during the time the restriction is in force so as to provide succour to the petitioners from making payment of the principal and/or interest on any loan borrowed for establishment of an ethanol manufacturing unit and/or ancillary units thereof.
- vii) The Respondents are directed to come up with such policy or scheme as required during the time the restriction is in force so as to provide for the workers of the ethanol manufacturing units who will loose their job on account of the restrictions



NC: 2024:KHC-D:6912
WP No. 107496 of 2023 and Connected
matters

imposed from and out of the funds of the
Central Government.

Sd/-
JUDGE

List No.: 19 Sl No.: 1