

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

The Hon'ble Justice Sabyasachi Bhattacharyya

WPA No. 19019 of 2021

**M/s. Bengal Energy Limited & Anr.
Vs.**

**The West Bengal Electricity Regulatory
Commission & Ors.**

With

WPA No. 21013 of 2021

**Tata Power Company Limited (Haldia) & Anr.
Vs.**

West Bengal Electricity Regulatory Commission

For the petitioners in WPA 19019 of 2021	:	Mr. Saktinath Mukherjee, Mr. Rahul Karmakar, Mr. Aasish Chowdhury, Ms. Aindrila Basu
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For the petitioners in WPA 21013 of 2021	:	Mr. Sanjoy Sen, Mr. Anand Srivastava, Mr. R. Elwin, Ms. Neha Dabral, Mr. Shivam Sinha, Mr. Avik Ghatak, Mr. Kumarjeet Ray
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For the WBERC	:	Mr. Pratik Dhar, Ms. Sharmistha Ghosh, Mr. Victor Chatterjee
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For the WBSEDCL	:	Mr. Jishnu Chowdhury Mr. Chayan Gupta Mr. Sandeep Dasgupta Mr. Saaqib Siddqui, Mr. Ariroop Mitra
For the CESC Limited	:	Mr. Shounak Mitra, Mr. Zulfiqar Ali, Ms. Prerona Banerjee
For the State	:	Mr. Anirban Roy, Ms. Amrita Panja Moulick
For the respondent no.7	:	Mr. Bratin Kumar Dey,
Hearing concluded on	:	18.02.2022
Judgment on	:	15.03.2022

Sabyasachi Bhattacharyya, J:-

1. The present writ petitions have been taken out primarily against the 2020 amendments brought by the West Bengal Electricity Regulatory Commission (WBERC) to the WBERC (Co-generation of Electricity from Renewable Sources of Energy) Regulations, 2013, that is, Regulation No.50 dated March 22, 2013.
2. A consequential challenge has also been preferred against the September 2, 2020 Order which was passed by the WBERC *suo moto* in Case No. SM – 24/20-21, on the basis of which the amendment was allegedly brought.
3. Certain ancillary reliefs have also been claimed by the writ petitioners in their respective petitions.

4. It is argued on behalf of the petitioners, who are co-generating companies of electricity, is that a body corporate can express itself only through a resolution. By placing reliance on the case of *The Vice-Chancellor, Utkal University and others Vs. S.K. Ghosh and others*, reported at AIR 1954 SC 217, it is contended that the order of the State Commission, on the basis of which the 2020 Amendment was brought in, is not a reasoned order. The learned Senior Advocate appearing for the writ petitioners seeks to draw support from Regulation 2.14 of the WBERC (Conduct of Business) Regulations, 2013, which provide for reasons to be given by the Commission in support of its orders.
5. It is next argued by the writ petitioners that the *Lloyd's* case dated December 2, 2013, rendered by the Appellate Tribunal for Electricity (APTEL), was passed in an appeal against an interim order. By placing reliance on *Empire Industries Limited and others Vs. Union of India and others*, reported at AIR 1986 SC 662 and *State of Assam Vs. Barak Upatyaka D.U. Karmachari Sanstha*, reported at (2009) 5 SCC 694, it is contended that decisions taken in interim orders are not precedents.
6. The writ petitioners further argue that Section 86(1)(e) of the Electricity Act, 2003 (hereinafter referred to as 'the 2003 Act') requires the Commission to promote co-generation and generation of electricity from renewable sources of energy by suitable measures. It is contended that the National Tariff Policy, 2016,

promulgated on January 28, 2016, by its proviso to Clause 6.4(1), rendered the *Lloyd's* case's decision inoperative.

7. It is submitted that Section 181 of the 2003 Act requires the Regulations framed by the State Commissions to be consistent with the parent Act and Rules. Section 86(4) of the 2003 Act also requires that, in the discharge of its functions, the State Commission shall also be guided by the tariff policy.
8. It is argued that on July 15, 2021, the Government of West Bengal issued a direction under Section 108 of the 2003 Act upon the State Commission in public interest, which was neither refuted nor heeded by the WBERC. The writ petitioners cite *Real Food Products and others Vs. A.P. Electricity Board and others*, reported at (1995) 3 SCC 295, for the proposition that such directions of the State Government are binding on the State Commission. Section 78A of the 1948 Act (on which the said decision was rendered), it is submitted, is similar in scope with Section 108 of the 2003 Act (which is applicable to the instant case).
9. It is contended that the proviso to Clause 6.4(1) of the tariff policy clearly stipulates that co-generation cannot be excluded from the benefit of Renewable Purchase Obligations (RPO). However, by the impugned amendment, the State Commission altered several clauses, which placed 'co-generation' on equal footing with 'renewable sources', and excluded co-generation from the purview of RPO.

10. That apart, the expression “industrial waste” was excluded in the 2020 amendment from the purview of the definition of “renewable sources”.
11. The writ petitioners have co-generating units of electricity which are primarily powered by industrial waste. As such, the petitioners’ interests are directly hit by the impugned amendment.
12. It is further contended that the APTEL (Appellate Tribunal for Electricity), in *JSW Steel Limited Vs. Tamil Nadu Electricity Regulatory Commission*, reported at 2021 SCC OnLine APTEL 38, discussed the observations made by it in *Century Rayon Vs. MERC (Appeal No.252 of 2018)* dated January 28, 2020 and further explained the scope of the *Lloyd’s* case (supra). It is submitted that the APTEL, in *JSW* (supra), took into consideration Section 86(1)(e) of the 2003 Act and observed that the co-generating plants are required to be treated at par with renewable energy generating plants. Irrespective of the nature of fuel used in the co-generation process to generate power, co-generation has to be encouraged and promoted in terms of Section 86(1)(e) of the Act, it was held. Thus, co-generation plants, it was concluded, cannot be fastened with the liability of purchasing power of renewable sources to meet its RPO obligations irrespective of the fuel used.
13. It is contended that *Lloyd’s* case (supra) was rendered in the context of the Maharashtra Regulations, which did not include co-generation in the definition of renewable energy source. On such basis, the APTEL, in *Lloyd’s* case (supra), held that co-generation

could not be included within the ambit of renewable sources. However, the 2013 Regulations of the WBERC clearly mandated, as opposed to the Maharashtra Regulations, that co-generation and renewable sources are to be treated at par. Hence, the WBERC acted patently without jurisdiction in placing reliance solely on the *Lloyd's* case, which was not relevant in the context, to bring about a sea change in its own regulations.

14. It is next contended that there is nothing intrinsic in the concept of renewable energy which precludes the inclusion of industrial waste, as directed by the State of West Bengal under Section 108 of the Act. It is argued that the directions under Section 108 are binding on the WBERC.
15. Learned counsel, in the above context, places reliance on the definition of “co-generation” and “generate” as given in sub-sections (12) and (29) of Section 2 of the 2003 Act. It is argued that in Section 61(g), pertaining to tariff regulations and Section 86(1)(e), dealing with functions of the State Commission, promotion of co-generation and generation of electricity from renewable sources of energy have been equated.
16. It is submitted that the doctrines of promissory estoppel and legitimate expectation were violated by the WBERC in approving the agreements of the writ petitioners for co-generation even subsequent to the *Lloyd's* case and, in the same breath, permitting RPO to be applicable to such co-generation, contrary to the provisions of the agreements.

17. Articles 14 and 19 of the Constitution of India, it is argued, were violated by the WBERC by dint of the 2020 Amendments, by excluding co-generation from the scope of RPO.
18. By virtue of the 2020 Amendments, a distinction was brought about between co-generation from renewable sources and non-renewable sources. The specific stipulations in the Preamble as well as Section 86(1)(e) and the other provisions of the 2003 Act, which treat co-generation and renewable source at par insofar as promotion is concerned, were thus flouted.
19. It is argued that, being contrary to the National Tariff Policy, 2016 as well as the 2003 Act and the judgments prevailing in the field, the impugned amendments of 2020 ought to be set aside.
20. Learned counsel for the writ petitioners argue on the contemporary evolution of the concepts of co-generation and generation of electricity vis-à-vis renewable sources. Although co-generation is defined as a process which simultaneously produces two or more forms of useful energy (including electricity), generate means to produce electricity from a generating station for the purpose of giving supply to any premises or enabling a supply to be so given. Hence, the process of co-generation has not been distinguished inter se on the ground of its sources, renewable or otherwise, from the inception in the statute as well as West Bengal Regulations. However, by the 2020 amendments, such sub-classification has been incorporated by the WBERC, which is contrary to the law and

not based on either the definition clause or anywhere else in the statute.

- 21.** By placing the relevant provisions from the 2013 and 2020 Regulations, the writ petitioners contend that wherever “co-generation” and “renewable sources” were mentioned simultaneously, qualified by the conjunction “and” or “and/or”, the 2020 amendment has deleted the expression “co-generation”, thereby excluding co-generation from the purview of RPO.
- 22.** It is submitted that a previous writ petition, challenging the 2020 amendments, was not pressed by the petitioners solely in view of the State Government directions under Section 108, which had come in the meantime. However, the WBERC blatantly flouted the said directions of the State Government, *de hors* the law.
- 23.** The CESC Limited, being a respondent in the writ petitions, supports the contention of the writ petitioners.
- 24.** The learned Senior Advocate appearing for the WBERC contends that the 2020 amendment has been brought about in consonance with similar provisions in several other State Regulations, including Assam, Arunachal Pradesh, Chhattisgarh, Delhi, Gujarat, Haryana, Jharkhand, Kerala, Meghalaya, Nagaland, Odisha, Tripura, Uttarakhand and Uttar Pradesh. It is contended that in all the said Regulations, “renewable energy sources” means the usual sources such as small hydro, wind, solar as well as bio-mass, bio-fuel co-generation and urban or municipal waste and other sources as

recognised or approved by the Ministry of New and Renewable Energy (MNRE).

- 25.** It is contended that the *Lloyd's* case (supra) could not be confined to the interim stage of the said matter, since a proposition of law was settled in the said judgment of the APTEL. The present amendment, it is argued, rightly segregates between co-generation, which is merely a process of generation and renewable sources, which pertains to the resources used in production of electricity.
- 26.** The distinction between co-generation from renewable and non-renewable sources is sought to be justified by the learned Senior Advocate appearing for the WBERC on the ground that the renewable source co-generation plants fall within the broader category, "renewable sources" and are, thus, entitled to RPOs. However, co-generation from non-renewable sources does not merit such special incentive as applicable to renewable sources.
- 27.** It is further contended by the WBERC that, in consonance with the contemplation in the 2003 Act and the Tariff Regulations, exemptions were given to co-generation. Promotion of fossil fuel based co-generation, for example, can be found in the amended Regulation at Clause 4.2, which stipulates that the purchase of power from such co-generation plants would be subject to the ceiling price specified in the Regulations. Although such co-generation plants have been kept outside the purview of RPO, the price cap for co-generation plants introduced by the amendment offsets the gross differences in cost of production of generation and

co-generation from renewable and non-renewable sources. Whereas co-generation is always cheaper than thermal generation, the determination of prices has been left under the Regulations to the mutual negotiations between the co-generators and the distribution licensees, only subject to a ceiling price. Such price cap does not operate as a deterrent to co-generation but is, rather, an adjunct of promotion in view of the cheaper prices of the co-generating units.

- 28.** It is argued that industrial waste does not come within the scope of renewable sources.
- 29.** The directions of the State under Section 108 of the 2003 Act, in the present case, it is argued, are not binding on the State Commission but only have persuasive effect.
- 30.** It is argued by the WBERC that, without impleading the MNRE (Ministry of New and Renewable Energy) as a party to the instant writ petitions, the writ petitions suffer from non-joinder of necessary party, since the MNRE is the only authority under the law which can approve other renewable sources than the existent ones. Despite such point having been taken categorically, at the outset, it is argued, the writ petitioners chose not to implead the MNRE as a party. In the event the MNRE, at any future point of time, includes industrial waste within the scope of renewable sources, the Commission has no issues in incorporating such change as a part of the Regulations.
- 31.** By placing reliance on *Polyplex Corporation Limited Vs. Uttarakhand Regulatory Commission and others*, reported at (2011) SCC OnLine

APTEL 15, the Commission contends that directions of the State Government under Section 108 of the 2003 Act are not binding to the extent those are contrary to the statute and/or the Regulations.

- 32.** The arguments regarding the order preceding the amendment of 2020 being devoid of reasons is not tenable in law, it is argued. The State Commission has both adjudicatory and regulatory functions. In the latter role, the Commission acts as a delegated legislator; thus, such amendments to the Regulations as in the present case are not required to be backed by any specific order, let alone reasoned order, which could be relevant only in respect of decisions taken in the Commission's adjudicatory capacity. In order to elaborate the above arguments, the learned Senior Advocate for the WBERC cites the following judgments, which are on similar propositions:

- i) *(2013) SCC OnLine APTEL 147, reported at Lloyds Metal & Energy Pvt. Ltd. Vs. Maharashtra Electricity Regulatory Commission & Ors.*
- ii) *(2011) SCC OnLine APTEL 15, reported at Polyplex Corporation Limited Vs. Uttarakhand Electricity Regulatory Commission & Ors.*
- iii) *(2010) 4 SCC 603, reported at PTC India Limited Vs. Central Electricity Regulatory Commission.*
- iv) *(2015) 12 SCC 611, reported at Hindustan Zinc Limited Vs. Rajasthan Electricity Regulatory Commission.*
- v) *(2020) SCC OnLine APTEL 5, reported at Century Rayon (A Division of Century Textiles and Industries Limited) Vs. Maharashtra Electricity*

Regulatory Commission through its Secretary & Anr.

vi) (2019) SCC OnLine APTEL 19, reported at JSW Steel Limited Vs. Tamil Nadu Electricity Regulatory Commission.

33. Upon hearing learned counsel for the parties and considering the materials on record, the following **questions** fall for consideration in the instant case:

- i) Whether the direction of the State Government dated July 15, 2021 is binding on the State Electricity Regulatory Commission;**
- ii) Whether the principles of promissory estoppel and/or legitimate expectation are applicable in the present case;**
- iii) Whether the impugned 2020 amendments of the WBERC are *ultra vires* in the context of the statute or the Constitution of India.**

34. The Central and State Regulatory Electricity Commissions contemplated under the 2003 Act have a large degree of autonomy and insulation from State interference. Section 108 of the 2003 Act governs the interplay of the two. Sub-section (1) of the section provides that, in the discharge of its functions, the State Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing. Interestingly, sub-section (2) of Section 108 lends primacy

to the State Government's decision on questions "whether any such direction relates to a matter of policy involving public interest".

35. The power conferred on the State under sub-section (2) is more fundamental than meets the eye at the first blush; it leaves the decision on the State Government, as to whether its own directions relate to "matters of policy involving public interest".
36. Neither the Commission nor the Court can impose their own notions of public policy, since the State Government has been vested by the legislature, in its own wisdom, with the power to decide which are matters of public policy and which are not, under Section 108 (2) of the 2003 Act.
37. The limited domain of judicial interference is only to test the Constitutionality and legality of such decisions. Section 108 of the 2003 Act stipulates the law. No fundamental right can be said to have been violated by the direction of the State. "Renewable Purchase Obligation" or "RPO", in brief, is in the nature of an incentive which is a valid mode of economic and technological course-correction by the Executive. Hence, any breach of Article 14 or Article 19 of the Constitution of India cannot be ideologically imported in the context.
38. The basis of classification sought to be demarcated either by the State, in its directions under Section 108, or the State Electricity Regulatory Commission, in its impugned 2020 amendment of regulations, cannot be said to be patently unreasonable.

- 39.** The direction of the State Government in the present case is found in the communication dated July 15, 2021. In such written communication, the Government refers repeatedly to the directions made therein to pertain to “public policy”. Conspicuously, in paragraph no. 4 of the communication, the State Government clearly states that, “after carefully considering the various salient aspects including the Industrial Development in the State, the continued existence of the Industries which have set up the cogeneration plant, the interest of the economy, the employment situation and resolving the adverse impact that may be caused to the industries as well as the DISCOMs in the fulfilment of the RPO obligations”, it “considers in the public interest that there is a necessity to issue the directive under Section 108 of the Electricity Act, 2003 as a policy decision of the State Government”.
- 40.** Hence, in the instant case, the directions incorporated in the directive dated July 15, 2021 are binding on the West Bengal Electricity Regulatory Commission since, in the notion of the State Government those pertain to policy decisions within the contemplation of Section 108 of the 2003 Act.
- 41.** Hence, the first issue is answered in the positive.
- 42.** As regards the second question, it is well settled that the principles of promissory estoppel and/or legitimate expectation cannot be broadened to the extent that those override the law.
- 43.** Section 108 of the 2003 Act, as it stands, makes it amply clear that, inasmuch as the final word as to whether a directive pertains to a

policy decision in the public interest is concerned, the same is retained in the State Government.

- 44.** On the other hand, Section 181 of the 2003 Act, which empowers the State Commission to make regulations “consistent with” the Act, by so providing, circumscribes such power by Section 108, which mandates the Commission to be “guided by” such directions in writing which, in the notion of the State Government, are policy decisions in public interest. Where there is a conflict between public policy of the Government and the technical acumen of the Commission, the State Government has the final say in the matter in terms of sub-section (2) of Section 108. The language of Section 108 of the 2003 Act leaves no room for discretion on the part of the Commission when a public policy decision of the State is involved. Such an approach is justiciable, since the public mandate behind the Executive rationalizes its notion of ‘public interest’ as opposed to the technical opinion of the Commission. Undoubtedly, the Court is vested with the power of judicial review, but such domain is not unbridled and has to adhere to the test of Constitutional/legal legitimacy of such decision; otherwise there might arise an anarchy of democracy.
- 45.** Rule of Law is a much more cardinal principle than the legal fictions of promissory estoppel and legitimate expectation. Hence, in the instant case, such doctrines are not applicable.
- 46.** The second question is, accordingly, answered in the negative.

47. In view of the above discussions, the third issue acquires supreme importance in order to ascertain as to whether the power under Article 226 of the Constitution ought to be exercised in the case.
48. As discussed above, Section 181, read in conjunction with Section 108, of the 2003 Act lend a legitimate legal basis to the State directions, more so, since the previously existing 2013 Regulations of the WBERC itself, which is in parity with the State directions, had held the field for seven years, before the impugned amendments were introduced in the year 2020.
49. Although the Commission was well within its competence and authority otherwise to revisit the issue of RPO and to reframe the particular modes of incentives to be given to cogeneration and renewable energy sources, such authority is, in turn subjugated to the State Government's directions, if such directions relate to "policy decisions in public interest" from the perspective of the Government.
50. The Wednesbury touchstone of reasonableness has to be ruled out at the outset, since neither of the views, adopted either by the State Government or the State Commission respectively, defy the common man's logic. The issue, however, requires and deserves a tad more detailed examination.
51. From the perspective of the WBERC, the existing Regulations of 2013 required a paradigm change in view of evolving circumstances. The writ petitioners' argument, that the amendments had to be backed by reasoned orders, does not find support in reason or law.

The State Commission, within the contemplation of the 2003 Act, plays the dual role of an adjudicator and a regulator. In its first capacity, the State Commission has to issue sufficiently reasoned orders to pass the test of legality and reasonableness.

- 52.** However, in its second Avatar, the Commission is to regulate and frame rules which would supplant and further the cause of the existing body of law. Delegated legislation is subtly implicit in such regulatory functions, since the Regulations framed by the State Commission have the force of law. However, Section 181 of the 2003 Act puts in a note of caution that the Regulations are subjugated by the existing law. The Regulations can ‘supplant’ the law and acquire a binding nature akin to delegated legislation, but can, under no circumstance, ‘supplement’ or contradict the law. The ‘policies’ adopted by the regulator in discharge of its functions cannot be equated with ‘public policy’ enunciated by the State, although there is an interplay, as well as intersecting spheres, between the two.
- 53.** The Commission’s viewpoint is not patently unjustified. The proviso to Clause 6.4 (1) of the National Tariff Policy, 2016 clearly stipulates that cogeneration from sources other than renewable sources shall not be excluded from the applicability of RPOs. Such a provision can be interpreted in both ways – from the demand and the supply perspectives. It can be argued that, as per the said proviso, cogenerating units are also subject to Renewable Purchase obligations and have to comply therewith as distribution licensees. However, it can equally be contended that the cogenerators, as

generating companies, are also entitled to get the benefit of the incentivisation of RPOs keeping in parity with generators from renewable sources of energy.

- 54.** Again, co-generation, although defined as a “process” in the 2003 Act, can also acquire the characteristics of a “source”. Taking a pragmatic approach, a co-generation gives rise to two phases – the first, where the cogenerators themselves utilize other resources, either fossil fuel or renewable sources, for undertaking the process of co-generation itself. However, at the second level, the co-generators, by definition, “co-generate” electricity as energy. In the latter phase, thus, the co-generation itself becomes a “source” of electricity, to be transmitted to distribution licensees for being distributed to the consumers. Therefore, “co-generation”, in the same breath, can signify a process *using* energy and a source *of* energy (including electrical energy). Taken in the second sense, such source would have characteristics of a “renewable” alternative energy source from the perspective of a distribution licensee. From such perspective, “industrial waste”, along with municipal and urban waste, is a renewable source of the co-generated electricity, since such source can replenish itself with reasonable frequency. There is no demarcation line, strictly speaking, to delineate a renewable from a non-renewable source. The terms “renewable” and “non-renewable” denote differences of degree and frequency of refilling and are not pigeon-hole straitjacket entities qualitatively.

- 55.** Hence, it would be equally valid to argue that the proviso to Clause 6.4 (1) of the 2016 Tariff Regulations indicates that the co-generators, as generators, are entitled to get the benefit of the incentive given in the form of RPOs which bind the distribution licensees to the obligation to purchase their electricity from the co-generators on an equal footing as that of renewable sources of generation, as it would be to reason that, as per the said proviso, the co-generators are subject to the RPO regime as distribution licensees.
- 56.** The sub-classification of co-generation into co-generation from renewable and non-renewable sources does not find place in the governing statute, that is, the 2003 Act. Even after the *Lloyd's Case (supra)* judgment, the WBERC approved several co-generation agreements of the writ petitioners, which included "industrial waste" within the ambit of renewable sources and applied the concept of RPO to co-generation plants as well. Thus, such sub-classification, even if otherwise rational (since both co-generation and generation from renewable sources may have common features), is alien to the statute and the Tariff Regulations and is, thus, amenable to challenge.
- 57.** In any event, in view of the State Government directives in the present case relating to policy decisions in public interest, at least in the State's notion (the final arbiter of which proposition is the Government, not the Commission, under Section 108 (2) of the

2003 Act), those are binding on the WBERC and ought to have been implemented by the latter.

58. In the circumstances, the impugned amendment of 2020, which substantially alters the 2013 Resolution on cardinal aspects, cannot withstand judicial scrutiny, being contrary to the State Government directives under Section 108 of the 2003 Act, which prevail over the WBERC decision in terms of Section 108 of the 2003 Act. The said amendment is, thus, bad in law and, accordingly, set aside.
59. Since various provisions of the 2020 amendment are *ultra vires*, being contrary to the State Government's directions under Section 108 of the 2003 Act as well as the Electricity Act, 2003 and the National Tariff Policy, 2016, and as such provisions are interconnected with the other provisions of the 2020 amendment, which, in some cases, operate as mutual checks and balances, there is no scope of culling out the *ultra vires* provisions in isolation, which would effectively demolish the entire scheme of the Regulations. Thus, there is no other option but to strike down the entire 2020 amendment as a whole.
60. However, it is beyond the jurisdiction of the writ court to grant the other reliefs of declaration in respect of agreements, sought by the writ petitioners. Hence the merits of such reliefs are not entered into, since such a consideration would be without jurisdiction.
61. Accordingly, WPA 19019 of 2021 and WPA 21013 of 2021 are partially allowed, thereby quashing and setting aside the impugned Resolution, being the West Bengal Electricity Regulatory

Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulation [Notification No. 71/WBERC] dated December 21, 2020 and reviving Notification No. 50/WBERC dated March 22, 2013 as it stood immediately prior to the 2020 amendment.

- 62.** All acts or action, if any, done or taken on the basis of the impugned 2020 Resolution, stand reversed.
- 63.** Nothing in this order shall, however, preclude the WBERC from drawing up a fresh Resolution in consonance with the State Government's directives.
- 64.** The agreements of the writ petitioners, not being a valid subject matter of the writ petitions and having never been directly abrogated, continue to stand on their own footing subject, however, to the consequence of the above quashing; however, no specific declaration can be granted by the writ court on such aspect of the matter.
- 65.** There will be no order as to costs.
- 66.** Urgent certified server copies of this order, if applied for, be supplied to such applicants upon satisfaction of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

Later

Since substantial questions of law are involved in the matter, on the prayer of the learned Senior Advocate appearing for the WBERC, the operation of the above judgment and order is stayed till April 30, 2022.

However, for the ends of justice, the operation of the impugned Regulations of 2020 shall also remain stayed for the same period, that is, till April 30, 2022.

This order be deemed to be a part of the above judgment.

(Sabyasachi Bhattacharyya, J.)