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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-01-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

WP Nos.25901, 32664 of 2018, 705, 1051, 1056 and 4454 of 2019

And

**WMP Nos.30103, 37872 of 2018, 31739, 5022, 1180, 777, 1178 and
32664 of 2019**

M/s.Rajshree Sugars and Chemicals Ltd.,
Represented by its Authorised Signatory
Mr.K.Subramanian,
aged 46 years, The Uffizi, 338/8,
Avinashi Road,
Coimbatore-641 004. .. Petitioner in WP 25901/2018

M/s.Sakthi Sugars Limited,
Represented by Mr.P.Sankararaja Pandian,
Vice-President,
Sakthi Nagar,
Bhavani Taluk,
Erode-638 315. .. Petitioner in WP 32664/2018

M/s.Ponni Sugars (Erode) Limited,
“ESVIN HOUSE”,
13, Rajiv Gandhi Salai (OMR),
Perungudi,
Chennai-600 096 Represented by
Mr.G.Lakshmi Narayanan,
DGM Accounts. .. Petitioner in WP 705/2019



WP Nos.25901, 32664 of 2018, 705, 10
1056 and 4454 of 2019

M/s.Kothari Sugars and Chemicals Limited,
"Kothari Buildings",
No.115, Mahatma Gandhi Salai,
Nungambakkam,
Chennai-600 034 Represented by its
Whole Time Director Mr.Silvester
Goldwin. .. Petitioner in WP 1051/2019

M/s.Dharani Sugars and Chemicals Limited,
New No.59 (Old No.57), Sterling Road,
Nungambakkam,
Chennai-600 034 Represented by
Mr.M.P.Kaliannan, President
(Corporate Finance). .. Petitioner in WP 1056/2019

M/s.Dhanalakshmi Srinivasan Sugars Pvt Ltd.,
Udumbiyam Village,
Venganoor Post,
Veppanthattai TK,
Perambalur DT,
Tamil Nadu, India-621 116 Represented by
Mr.N.Chinnappan,
Executive Director. .. Petitioner in WP 4454/2019

-VS-

Union of India,
Represented by the Chief Director,
Directorate of Sugar,
Ministry of Consumer Affairs, Food and Public
Distribution,
Department of Food and Public Distribution,



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WP Nos.25901, 32664 of 2018, 705, 1051, 1056 and 4454 of 2019



Krishi Bhavan,
New Delhi-110 001.

.. R-1 in WP 25901/2018, Respondent in
WPs 32664/2018, 705, 1051, 1056 and
4454/2019

Commissioner of Sugar,
No.690, 2nd Floor,
Aavin Building,
No.2, Muthuramalingam Salai,
Nandanam,
Chennai-600 035.

.. R-2 in WP 25901/2018

[R-2 impleaded vide order of Court
dated 22.06.2023 made in WMP No.17185
of 2023 in WP No.25901 of 2018]

WP 25901 of 2018 is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the first respondent from imposing any restrictions or quotas by way of monthly release orders on the petitioner in the manufacture of sale and supply of white and refined sugar to the extent of enabling the petitioner to pay the dues of the farmers, who have supplied the sugarcane to the petitioner-Company and to maintain the business viability of the petitioner-Company.

WP 32664 of 2018 is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondent from imposing any restrictions or quotas by way of monthly release orders on the petitioner in the manufacture of sale and supply of white and refined sugar to the extent of enabling the petitioner to pay the



dues of the farmers, who have supplied the sugarcane to the petitioner-Company and to maintain the business viability of the petitioner-Company.

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WP 705 of 2019 is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondent from imposing any restrictions or quotas by way of monthly release orders on the petitioner in the manufacture of sale and supply of white and refined sugar to the extent of enabling the petitioner to pay the dues of the farmers, who have supplied the sugarcane to the petitioner-Company and to maintain the business viability of the petitioner-Company.

WP 1051 of 2019 is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondent from imposing any restrictions or quotas by way of monthly release orders on the petitioner in the manufacture of sale and supply of white and refined sugar to the extent of enabling the petitioner to pay the dues of the farmers, who have supplied the sugarcane to the petitioner-Company and to maintain the business viability of the petitioner-Company.

WP 1056 of 2019 is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondent from imposing any restrictions or quotas by way of monthly release orders on the petitioner in the manufacture of sale and supply of white and refined sugar to the extent of enabling the petitioner to pay the



dues of the farmers, who have supplied the sugarcane to the petitioner-Company and to maintain the business viability of the petitioner-Company.

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WP 4454 of 2019 is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondent from imposing any restrictions or quotas by way of monthly release orders on the petitioner in the manufacture of sale and supply of white and refined sugar to the extent of enabling the petitioner to pay the dues of the farmers, who have supplied the sugarcane to the petitioner-Company and to maintain the business viability of the petitioner-Company.

For Petitioner in all WPs : Mr.Vijay Narayan,
Senior Counsel for
Mr.C.Vigneswaran.

For Respondents in : Mr.AR.L.Sundaresan,
WPs 25901/2018 and Additional Solicitor General of India
for Respondent in Assisted by Mr.S.Makesh,
1056/2019 Central Government Standing Counsel.

For Respondent in : Mr.AR.L.Sundaresan,
WP 32664/2018 Additional Solicitor General of India
Assisted by Mr.K.B.Arul,
Central Government Standing Counsel.

For Respondent in : Mr.AR.L.Sundaresan,
WP 705/2019 Additional Solicitor General of India
Assisted by Mr.S.Dinakar,
Senior Panel Counsel.



For Respondent in
WP 1051/2019

: Mr.AR.L.Sundaresan,
Additional Solicitor General of India
Assisted by Mr.J.Madhanagopal Rao,
Senior Panel Counsel.

For Respondent in
WP 4454/2019

: Mr.AR.L.Sundaresan,
Additional Solicitor General of India
Assisted by Mr.V.Athikesavan,
Central Government Standing Counsel.

COMMON ORDER

The present writ petitions have been instituted for Mandamus to forbear the respondents from imposing any restrictions or quotas by way of monthly release orders on the petitioners in the manufacture of sale and supply of white and refined sugar to the extent of enabling the petitioners to pay the dues of the farmers who have supplied the sugarcane to the petitioner-Company and to maintain the business viability of the petitioner-Company.



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2. The Government of India in exercise of its powers under the Essential Commodities Act, 1955 has control over the production, supply and distribution of trade and commerce in certain commodities, which all are provided by the Government from time to time and one of the commodities, which is included is sugar. The Sugar (Control) Order has been issued to control the Sugar Industries falling under the administrative control of the Central and the respective State Governments. The Central Government by Gazette Notification dated 07.06.2018, notified the Sugar Price (Control) Order 2018 and by a separate order in S.O. 2346 dated 07.06.2018 fixed the minimum price of sugar at Rs.29/- per kg below which no manufacturer can sell white sugar or refrained sugar in the domestic market. Further Notification S.O. 2347 dated 07.06.2018, the Central Government directed that the producer of sugar shall hold such quantity of white sugar or refrained sugar at the end of each month as may be specified by the Central Government by each month. The restrictions by way of release orders are disproportionate to the requirement of funds. The farmers find it extremely difficult to pay the cane price and to meet the operational



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expenses to run their factories. The quantities fixed by the Central Government are so low that the realisation from the sale of such quantities are not enough for the Sugar Mills to meet neither the operation expenses nor the cane payments. The monthly release orders fixed the quota of sale made every month is affecting the sustenance of the Sugar Industry in the State of Tamil Nadu.

3. The power to impose restrictions on freedom of trade and commerce must pass the test of reasonableness. In the instant case, fixation of sale price of sugar, purchase of sugarcane are reasonableness and restricting the sale of sugar leads to destruction of Sugar Industry and the manufacturers are unable to run their Sugar Factories. Fixing the purchase of sugarcane and imposing further restrictions on the sale of sugar every month by way of release orders would amount to unreasonable restrictions. The monthly release orders are wholly inadequate and does not meet even the payment of cane price, statutory payments and the day-to-day operation expenses of the factory rendering the petitioner-Company unviable as a growing concern.



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4. The learned Senior Counsel Mr.Vijay Narayan would submit that the data sheet relating to monthly sales quota would show that the restrictions on the sale of sugar every month by way of release orders are causing impracticable situation resulting in huge financial loss to the Sugar Factories. The data provided by the petitioner-Company would be sufficient enough to form an opinion that an exemption is just and necessary in the State of Tamil Nadu for the purpose of protecting the Sugar Factories.

5. The learned Senior Counsel would urge that the Chief Secretary to Government of Tamil Nadu in letter dated 20.07.2018 put-forth the grievances and difficulties of the Sugar Factories and made a request to the Ministry of Consumer Affairs, Food and Public Distribution, New Delhi to grant exemption to Tamil Nadu Sugar Mills for maintenance of buffer stock and monthly release mechanism of sugar. Subsequently the Chief Secretary in letter dated 27.02.2019 also addressed the issues to the Ministry of Consumer Affairs, Food and Public Distribution, New Delhi to grant exemption to the State of Tamil Nadu from maintenance of buffer stock and



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monthly release mechanism of sugar. Despite the fact that the Chief Secretary, Government of Tamil Nadu addressed several letters to the Government of India to consider the peculiar circumstances prevailing in the State of Tamil Nadu, the first respondent has failed to initiate any actions and therefore, the petitioners are constrained to move the present writ petitions.

6. The learned Additional Solicitor General of India Mr.AR.L.Sundaresan would strenuously oppose the contentions raised on behalf of the petitioners by stating that the issuance of monthly release orders of sugar is well within the powers conferred on the Central Government under Section 3 of the Essential Commodities Act, 1955 read with Rules 4 and 5 of the Sugar Cane Control Order. The Central Government considered the over all situation relating to the sugarcane and supply of sugar and issuing orders by exercising the powers conferred under the sugar cane control order. It is the policy decision taken by reviewing the actual situation prevailing in the market, to protect the Sugar Industries across the country.



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7. There are several Cooperative Sugar Factories functioning within the State of Tamil Nadu and the petitioners herein alone are raising concern to take undue advantage, which would cause irreparable damage to the sugar market and the controlling system, which becomes imminent for the purpose of maintenance of sugar imports, exports and supply within the parameters contemplated under the Act and the control order. Therefore, the contention of the petitioners that they are facing certain difficulties, cannot be a ground to grant the relief as such sought for in the present writ petitions.

8. Mr.AR.L.Sundaresan would submit that the reliefs as such sought for in the present writ petitions are not maintainable. The monthly release orders for every month has been issued by the Central Government for regulating the Sugar Factories and supply of sugar. The policy decisions are taken based on various factors and the other criterias. More-so, the Central Government is issuing such monthly release orders well within the powers conferred under the Essential Commodities Act, 1955 and Sugar



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Cane Control Order. The petitioners are seeking *omnibus* prayer to forbear the respondent from imposing any restrictions and such relief sought for is not maintainable and if granted, it would directly hit the powers conferred on the Central Government to regulate the Sugar Industries within the provisions of the Act and the controlling orders.

9. The learned Additional Solicitor General of India would contend that the petitioners are unduly benefited from and out of the interim orders granted in the present writ petitions for the past about five years. Therefore, any further leniency by this Court would cause irreparable damage to the Sugar Industries across the country and would infringe the rights of the Central Government to regulate the Sugar Industries.

10. This Court is of the considered opinion that all the issues raised between the parties in these writ petitions were elaborately considered by the High Court of Judicature at Bombay Bench at Aurangabad in the case of **Saikrupa Sugar and Allied Industries Ltd., through its General Manager vs. The Government of India through**



Secretary and others [Judgment pronounced on 07.06.2019 in WP No.12609 of 2018], the Division Bench at Aurangabad elaborately considered the issues both factually and legally and the said judgment would be sufficient to form a final opinion in respect of the issues raised in the present writ petitions. The relevant paragraphs of the abovesaid judgment, are as under:-

“8. There cannot be any dispute with the proposition that this Court in exercise of its powers under [Article 226](#) of the Constitution of India would be loath in interfering with the economic policies of the Government. This Court would not sit as an Appellate Authority over the decision taken by the experts, more particularly in matters involving financial and economic ramifications.

9. The respondents have given the cause and the reason for evolving the policy. The Government, it appears that pursuant to the powers under [Section 3](#) of the Essential Commodities Act read with clauses 4 and 5 of the Sugar (Control) Order, 1966 issued executive



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instructions providing for formula on the basis of stock holding limits of each and every sugar factory. The said formula is as under :

"Opening stock as on 01.03.2019 plus (+) Production during the month of March, 2019 minus (-) Domestic dispatch in the month of March, 2019 not exceeding the quantity as mentioned in column (4) of the table below against respective sugar mill minus (-) Dispatch for export during the month of March 2019".

10. Because of the policy evolved by the respondents, the petitioner may face some hardship, however, the balance will have to be struck. The respondents certainly have unfettered powers under [Section 3](#) of the Essential Commodities Act read with Clauses 4 and 5 of the Sugarcane (Control) Order, 1966 to evolve policy so as to take care of the imbalance of the demand and supply and to regulate the sugar prices. The respondents have on affidavit placed the data demonstrating huge surplus stock in the market adversely affecting the market sentiments. In order to stabilize the sugar price at reasonable level and to improve the liquidity of mills thereby



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enabling them to clear cane price dues of farmers, Central Government, it appears, has taken number of steps, such as increasing the import duty from 50% to 100%, withdrawal of custom duty on export of sugar, imposition of stock holding limits. The Government has also extended financial assistance to sugar mills to offset cost of cane at the rate of Rs.5.50 per quintals of cane crushed during 2017-2018 sugar season to be directly credited into farmers' account to clear their cane price arrears. The expected outflow on this account would be about Rs.1540 crores. It has been further stated that, even after taking such measures, the price of sugar continued to fall and reached at Rs. 24/- per Kg. in Maharashtra during May 2018. In view of the above, it was decided to evolve further strategies to overcome the crisis. The Government conducted a review and evolved a comprehensive package to maintain that price level remunerative enough to enable the sugar mills to generate funds from sale of sugar in the domestic market and liquidate the accumulated cane price due to the tune of Rs.23232 crores. The said



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comprehensive package of additional measures was duly approved by the Cabinet Committee on Economics Affairs. The following decision, it appears has been taken.

"A. To create and maintain buffer stock of 30 LMT of sugar for one year. Mills will be reimbursed expenditure on carrying cost to maintain the allocated buffer stock. On this account, Government would incur total expenditure of Rs.1175 crore, which would be directly credited into farmer's account on behalf of mills against their cane price dues and subsequent balance, it any, would be credited to mill's account.

B. To notify the Sugar Price (Control) Order, 2018 under [Essential Commodities Act, 1955](#) to fix minimum selling price of white sugar at the mill gate below which no white sugar can be sold and delivered by a sugar mill in the domestic market and to initially fix the minimum selling price of white sugar at Rs. 29/- Kg. It was also decided that presently, this would be done along with imposition of stock holding limits on sugar mills. Initially, stock limit on mills will be



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imposed for the current sugar season (up to September 2018), which may be extended or withdrawn by the Department of Food and Public Distribution at any time based on market price, availability of sugar, etc."

11. The decision taken for fixing minimum selling price of sugar along with imposition of stock holding limits on mills was due to extraordinary circumstances. Day by day sugar prices were sliding down and accumulation of cane price arrears of farmers were also increasing. The Government had to step in to protect the interest of farmers and to save the industry. The object of the current policy as has been demonstrated is to improve liquidity position of mills. The liquidity position of mills can be improved if sugar prices stabilize at reasonable level. Further stock limit on sugar mills has been imposed in a manner that release of sugar from the mills is restricted to the extent of consumption requirement of the country for stabilizing the sugar price at reasonable level. One of the reason given for enforcing stock holding limits on mills is to ensure that a level playing field is provided to



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all mills. It is stated by respondents that since the current sugar price is depressed on implementation of the minimum price of Rs.29/- per Kg., the mills having large economies of scale of operation producing better quality of sugar and having good access to market, will always be in a better position to continue to dispose of their stocks to avail benefits. But due to limited market demand, mills with weaker credentials and remotely placed may not be able to compete and sell at minimum price of Rs.29/- per Kg. Imposition of stock holding limits on sugar mills will remove disparities and maintain uniform market for all mills across the sector. In absence of stock holding limits, all the mills across the country cannot sell more quantity of sugar as they wish since the market is limited to the extent of domestic consumption. Only few aggressive mills will be gainers at the cost of weaker mills. It is further stated because of the steps taken by the Government prescribing minimum price of Rs.29/- per Kg. along with imposition of stock holding limits on the sugar mills from the month of June 2018 has brought the desired results. The ex-mill



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prices of sugar in the domestic sale has been improved to Rs.34.00 per Kg. Because of the consequential improvement in prices, the sugar industries are in a position to liquidate the sugar cane price dues to the farmers. The result of the Government policy is evident on the face of the record as the accumulated cane price arrears of farmers have come down from the peaked level of Rs. 23232 crores in the month of May 2018 to Rs.3981 crores as on 17.12.2018.

12. It also appears that imposition of stock holding limit is temporary measure resorted to by the Government to provide weaker sugar mills in the initial phase of stabilizing sugar price level playing field and so also to enable the sugar mills to clear cane price dues of farmers.

13. The respondents have on affidavit stated that once sugar price is stabilized, the Central Government may review the policy and may take decision for withdrawal or continuation of the stock holding limit. The same is not a permanent scenario, however, depending upon the market conditions prevailing in the country. The policy decision taken by the Government is



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applicable unanimously to all sugar mills and is for the benefit of entire sugar industry. It is not that the petitioner sugar factory is discriminated.

14. The petitioner is not in a position to demonstrate that the policy of the Government is not in larger interest of the public. The principle Salus populi suprema lex would apply. The Central Government is the best judge to decide about market scenario and to take effective steps. It is assisted by the experts and after due deliberation the policy is evolved. The said policy is also temporary and review of the policy would be taken as is submitted by the respondents on affidavit.

15. The petitioner certainly may face some difficulties, however, the individual interest has to yield to larger benefit of the society. The contention of the petitioner is that, the petitioner is required to pay F.R.P. and as entire sugar is not allowed to be sold, it would not be in a position to pay the F.R.P. The petitioner may take steps with regard to the payment of F.R.P., however, for the individual interest, the policy as



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is evolved and beneficial for the society and all the mills cannot be struck down.

16. The respondents would certainly review the policy after the stabilization of the prices as is contended in the affidavit filed.

17. In the result no benefit can be granted to the petitioner.

18. In the light of the above, the writ petition stands disposed of, however, with no order as to costs.”

11. In the instant writ petitions similar grounds raised before the Aurangabad Bench had been raised. The Division Bench has considered all those issues and held that the arms of judicial review under Article 226 of the Constitution of India, cannot be expanded for the purpose of interfering with the policy decisions of the Central Government, when such exercise is made well within the provisions of the Act and the controlling order.

12. In the present cases, certain difficulties faced by some Sugar Factories cannot be a ground to injunct the Central Government from



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issuing monthly release orders by taking into consideration the market situation and other factors. Therefore, the relief as such sought for in the present writ petitions are beyond the scope of the powers of judicial review and more-so certain business difficulties raised by the petitioners cannot be redressed by the High Court in the present writ petitions.

13. In view of the reasons discussed in the aforementioned paragraphs, all the writ petitions fail and consequently dismissed. However, there shall be no order as to costs. The connected miscellaneous petitions are also dismissed.

22-01-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

1.The Chief Director,
Union of India,
Directorate of Sugar,
Ministry of Consumer Affairs, Food and Public
Distribution,
Department of Food and Public Distribution,
Krishi Bhavan,
New Delhi-110 001.

2.The Commissioner of Sugar,
No.690, 2nd Floor,
Aavin Building,
No.2, Muthuramalingam Salai,
Nandanam,
Chennai-600 035.



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S.M.SUBRAMANIAM, J.

Svn

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