



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 21ST DAY OF NOVEMBER, 2025
PRESENT
THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL
WRIT APPEAL NO. 100115 OF 2025 (GM-RES)

BETWEEN:

1. ASKINS BIOFUELS PRIVATE LIMITED
A COMPANY INCORPORATED
UNDER THE PROVISIONS OF
THE COMPANIES ACT, 2013
HAVING REGISTERED OFFICE AT 150/6
GOKAK ROAD, ALAGAVADI
HARUGERI, RAIBAG TALUK
BELAGAVI DISTRICT-591 317
REPRESENTED BY ITS
MANAGING DIRECTOR
MR. ASHOK J ASKI
2. M/S SHRI BRAHMANADASAGAR
JAGGERY INDUSTRIES
A PARTNERSHIP FIRM
REGISTERED UNDER THE
PROVISIONS OF THE
INDIAN PARTNERSHIP ACT, 1932
HAVING REGISTERED OFFICE AT 150/6
GOKAK ROAD, ALAGAVADI
HARUGERI, RAIBAG TALUK
BELAGAVI DISTRICT-591 317
REPRESENTED BY ITS





MANAGING DIRECTOR
MR. ASHOK J ASKI

... APPELLANTS

(BY SRI. ANIRUDHA R.R. NAYAK, ADVOCATE
SRI NEERAJ SASTRY, ADVOCATE AND
SRI SHIVARAJ C. BELLAKKI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
THROUGH THE COMMERCE AND
INDUSTRIES DEPARTMENT
VIDHAN SOUDHA,
BANGALORE-560 001
REPRESENTED BY ITS UNDER SECRETARY
2. THE COMMISSIONER FOR CANE DEVELOPMENT AND
DIRECTORATE OF SUGAR
GOVERNMENT OF KARNATAKA
HOUSING BOARD BUILDING,
CBAB COMPLEX, F-BLOCK,
V FLOOR, CAUVERY BHAVAN
K.G.ROAD, BENGALURU - 560 008
3. THE DEPUTY COMMISSIONER
D C COMPOUND,
BELAGAVI - 590 001
4. ALAGAWADI BIRESHWAR
SUGARS PRIVATE LIMITED
FACTORY AT: SY.NO.106,
VILLAGE ALAGAWADI TALUK
RAIBAG DISTRICT
BELAGAVI-577 001



OFFICE AT: NO. 198/137
REGULATED MARKET ROAD,
BAMBOO BAZAR
DAVANAGERE-577 001
REPRESENTED BY ITS DIRECTOR
GURUNATH N JOSHI

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S. KALASURMATH, AGA FOR R1 TO R3;
SRI PRASHANT G. GOUDAR, ADVOCATE,
SRI GOUTAM S. BHARADWAJ, ADVOCATE,
SRI ASHRITH S. PATIL, ADVOCATE AND
MISS. ADITI P. GOUDAR, ADVOCATE FOR R4)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA HIGH COURT ACT, 1961, R/W ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO A) CALL FOR RECORDS IN W.P. NOS. 107316/2024 AND 100295/2025; B) SET ASIDE THE IMPUGNED JUDGMENT DATED 07-02-2025 PASSED BY THE HON'BLE SINGLE BENCH, AND CONSEQUENTLY, ALLOW THE PETITION IN W.P. NO. 100295/2025 AND DISMISS W.P. NO. 107316/2024 AND ETC.

THIS WRIT APPEAL PERTAINS TO DHARWAD BENCH HAVING BEEN HEARD AND RESERVED ON 26.09.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THROUGH VIDEO CONFERENCING AT PRINCIPAL BENCH, BENGALURU THIS DAY, **S. SUNIL DUTT YADAV J.**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL



CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV)

BRIEF FACTS:-

The present Writ Appeal is filed calling in question the correctness of the order dated 07.02.2025 passed in W.P.No.107316/2024 c/w W.P.No.100295/2025. The appellant No.1 - M/s. Askins Biofuels Private Limited ['hereinafter referred to as 'M/s. Askins'] was petitioner No.1 in W.P.No.100295/2025 and respondent No.5 in W.P.No.107316/2024, while appellant No.2 M/s. Shri Brahmanandasagar Jaggery Industries [hereinafter referred to as 'M/s. Brahmanandasagar'] was petitioner No.2 in W.P.No.100295/2025.

2. W.P.No.100295/2025 was filed calling in question the correctness of the Government Order dated 04.01.2025 bearing No. ಸಿಐ 311 ಎಸ್‌ಜಿಎಫ್ 2024 issued by the Government of Karnataka, Department of Commerce and Industries, whereby, the Government had imposed a



prohibition on the production of lower grade sugar through 'Vacuum Pan Method' and further imposed restriction on production of any other product from sugarcane syrup. The same order further clarified that the production of jaggery from sugarcane syrup by 'M/s. Brahmanandasagar' would however not amount to violation of Sugarcane (Control) Order, 1966.

3. The further relief that was sought in the said writ petition was issuance of a direction or declaration holding that the petitioners were free to procure sugarcane to the extent of 5% from the cane allotted area of any Sugar Factory in terms of the practice followed by the State of Karnataka in earmarking 95% of the reserved area to a Sugar Factory.

4. W.P.No.107316/2024 was filed by M/s. Alagawadi Bireshwar Sugars Pvt. Ltd., [hereinafter referred to as 'M/s. Alagawadi'] wherein a direction was sought to the State Government, Commissioner for Cane



Development and Directorate of Sugar, and the Deputy Commissioner to implement the order dated 30.05.2023 whereby, the Commissioner for Cane Development and Directorate of Sugar had passed an order restraining 'M/s. Brahmanandasagar' from operating the Power Crusher and crushing of sugarcane at Alagawadi Village and further restraining 'M/s. Brahmanandasagar' from procuring and purchasing sugarcane for crushing in the reserved area.

5. Further direction was sought to the Deputy Commissioner, Belagavi to ensure implementation of the order, while W.P.No.100295/2025 stood dismissed and W.P.No. 107316/2024 was allowed.

6. The relevant facts are that on 20.06.2011, 'M/s. Brahmanandasagar' had obtained an 'Industrial Entrepreneurs Memorandum' (IEM) to establish a Unit for manufacture of jaggery and on 22.11.2021, the IEM was amended to include sugarcane syrup/juice, while, on 05.12.2019, 'M/s. Askins' was granted IEM to establish a



standalone distillery at Harugeri Road, Alagawadi Village, Raibagh Taluk, Belagavi District.

7. 'M/s. Alagawadi' had filed W.P.No.100915/2022 against 'M/s. Askins' and ' M/s. Brahmanandasagar' seeking for stopping of the Units. The said Writ Petition came to be disposed of on 15.03.2022, directing the Authorities to consider the representations of all the parties and to pass orders.

8. The Commissioner for Cane Development and Director of Sugar, vide order dated 30.04.2022 had restrained 'M/s.Askins' from procuring sugarcane fuels from 'M/s. Brahmanandasagar'. The said order came to be challenged in W.P.No.101807/2022, which order was set aside on 30.04.2022 and there was a direction to the Authority to hear the matter afresh.

9. Meanwhile, the Chief Director (Sugar), Ministry of Consumer Affairs had passed an order on 23.05.2022



directing the 'M/s. Askins' not to produce Ethanol from sugarcane juice purchased from any jaggery/khandasari Unit. The said order which was challenged in W.P.No.101968/2022 was set aside and the matter was remanded for fresh consideration.

10. Upon remand, identical orders were passed which upon challenge eventually culminated in passing of the order dated 31.03.2023 in W.A.No.100075/2023. The Division Bench had recorded a categorical finding that the Sugarcane (Control) Order is not applicable to ' M/s. Askins' which was a standalone distillery.

11. 'M/s. Alagawadi' challenged the order dated 31.03.2023 passed in W.A.No.100075/2023 before the Apex Court in S.L.P.(C) No.8046/2023.

12. The order of the Division Bench in W.A.No.100075/2023 has not been stayed before the Apex Court in the pending proceedings.



13. In the interregnum, there were various orders passed by the Authorities directing 'M/s. Askins' to stop procuring sugarcane from 'M/s. Brahmanandasagar' and such order came to be challenged before the Courts.

14. The Commissioner for Cane Development and Director of Sugar issued clarifications on 22.10.2024 (Annexure-'AJ'), 27.11.2024 (Annexure-'AK') and 29.11.2024 (Annexure-'AL') to the effect that the Sugarcane Order did not prohibit 'M/s. Brahmanandasagar' from crushing sugarcane not exceeding 5% of the total sugarcane grown in a year, nor was there any prohibition to produce any sugarcane juice/ syrup and jaggery in terms of the IEM and amendment made. These clarifications issued, it is contended, overruled the previous orders of the Commissioner for Cane Development and Director of Sugar dated 30.05.2023 (Annexure-'T') and 21.10.2023 (Annexure-'AD').



15. It is the case of 'M/s. Askins' and 'M/s. Brahmanandasagar' that in light of the clarifications dated 22.10.2024 (Annexure-'AJ'), 27.11.2024 (Annexure-'AK') and 29.11.2024 (Annexure-'AL'), the challenge in W.P.No.104198/2023 and W.P.No.106747/2023 were rendered infructuous and therefore the writ petitions filed challenging the adverse clarifications came to be withdrawn.

16. 'M/s. Alagawadi' filed W.P.No.107316/2024 seeking to enforce the earlier orders of the Commissioner for Cane Development and Director of Sugar dated 30.05.2023 and 21.10.2023.

17. It is stated that S. Nijalingappa Sugar Institute, Belagavi, conducted an inspection of 'M/s. Brahmanandasagar' and subsequently the Government of Karnataka on 04.01.2025 prohibited the manufacture of 'low Grade Raw Sugar' by 'Vacuum Pan Process' or any other products by diverting sugarcane juice.



18. The said Government Order dated 04.01.2025 came to be challenged in W.P.No.100295/2025 by 'M/s.Askins', which writ petition was clubbed with the W.P.No.107316/2024 filed by 'Alagawadi' and, both the Writ Petitions were disposed of by a common order dated 07.02.2025, which is now challenged before this Court in this appeal.

19. The learned Single Judge notices the contention of 'M/s. Alagawadi' that 'M/s. Brahmanandasagar', in guise of setting up of Jaggery Unit allegedly had started production of 'Raw Sugar' by crushing sugarcane.

20. It was held that the complaint made by 'M/s.Alagawadi' was not considered in earlier proceedings between the same parties.

21. W.A.No.100075/2023 filed by 'M/s. Askins' and 'M/s. Brahmanandasagar' came to be disposed of with certain directions specifically holding that the Sugarcane



(Control) Order imposing certain restrictions as regards establishment of a second sugar factory within the radius of 15 kilometres were not applicable as regards standalone distilleries established pursuant to the notification of 08.03.2019 and 14.01.2021 issued by the Ministry of Consumer Affairs, Food and Public Distribution, (Department of Food and Public Distribution), Directorate of Sugar & Vegetable Oils on 13.01.2022 (Annexure-'F').

22. The learned Single Judge, however, observes that the observations made by the Division Bench at para-17 is to the effect that the complaint regarding violation of the Sugar (Control) Order by 'M/s. Brahmanandasagar' was kept open to be considered if the Competent Authority was approached.

23. The learned Single Judge noticed that the Cane Commissioner considering the complaints, passed the orders imposing restrictions on 'M/s. Brahmanandsagar' and 'M/s. Askins'.



24. The learned Single Judge has noticed the challenge made to such orders in W.P.No.104198/2023 and W.P.No.106747/2023 and certain interim orders which were stated to have been passed. During the course of the proceedings, inspection of factories was directed and on the basis of such inspection reports, modification of interim order was sought for. On rejection of interim order, W.A.No.100399/2024 came to be challenged before the Division Bench, which refused to interfere with the orders.

25. In the interregnum, W.P.No.104198/2023 and W.P.No.106747/2023 challenging the earlier orders of the Cane Commissioner came to be withdrawn which is noticed by the learned Single Judge.

26. The learned Single Judge further noticed fresh representations by 'M/s. Alagawadi'. The learned Single Judge observed that 'M/s. Askins' and 'M/s. Brahmanandasagar' having withdrawn the challenge to those orders imposing restriction on their activities were



estopped from challenging the orders made to implement the orders dated 30.05.2023 and 21.10.2023. Accordingly, W.P.No.100295/2025 came to be rejected, while W.P.No.107316/2024 came to be allowed.

CONTENTIONS OF 'M/S. ASKINS' & 'M/S. BRAHMANANDASAGAR':-

27. It is contended on behalf of 'M/s. Askins' and 'M/s. Brahmanandasagar' that the words "*gur, gul and jaggery*" have been deleted from the ambit of Sugarcane (Control) Order and accordingly, those Units dealing with the above mentioned items would not come within the administrative control and the jurisdiction of the Cane Commissioner. Accordingly, it is contended that 'M/s. Brahmanandasagar' would fall outside the jurisdiction of the Cane Commissioner. It is further contended that 'M/s. Askins' was a standalone distillery to which the restriction imposed by way of clarification on 13.01.2022 did not apply.



28. It is contended that the agreement between 'M/s. Askins' and 'M/s. Brahmanandasagar' for the supply of sugarcane juice and syrup was a permissible arrangement.

29. It was further contended that in W.A.No.100075/2023, a finding has been recorded that 'M/s. Askins' and 'M/s. Brahmanandasagar' together do not constitute an integrated Unit and that 'M/s. Askins' was a standalone distillery and not covered by the provisions of the Sugar (Control) Order. Though the aforesaid order was challenged in S.L.P.(C)No.8046/2023 which is pending adjudication before the Apex Court, the judgment in Writ Appeal has not been stayed nor the Special Leave Petition admitted and accordingly, neither the Cane Commissioner nor the Under Secretary could have passed orders contrary to the findings in the Writ Appeal.

30. It is contended that the order dated 30.05.2023 at Annexure-'T' holding that, 'M/s. Brahmanandasagar' is a Power Crusher passed by the Commissioner for Cane



Development is contrary to the order passed in Writ Appeal. It is further contended that the order of 30.05.2023 is contrary to the later clarifications dated 22.10.2024, 27.11.2024 and 29.11.2024, which have clarified that the definition of 'Power Crusher' would not be applicable to 'M/s. Brahmanandasagar'.

31. It is further asserted that the order of the Commissioner for Cane Development and Director of Sugar dated 21.10.2023 that the appellants constitute an integrated Unit and directing closure of the Units is also contrary to the judgement in the Writ Appeal as also contrary to the later clarifications of the Cane Commissioner dated 22.10.2024, 27.11.2024 and 29.11.2024.

32. It is stated that the order dated 30.05.2023 of the Cane Commissioner holding that 'M/s. Brahmanandasagar' was a Power Crusher and directing seizure of the Unit though was challenged by filing W.P.No.104198/2023, in light of the clarification of the



Cane Commissioner dated 22.10.2024, 27.11.2024 and 29.11.2024, the challenge to the order dated 30.05.2023 came to be withdrawn (i.e., W.P.Nos.104198/2023 and 106747/2023 were withdrawn on 02.12.2024).

33. Insofar as the contention that the Cane Commissioner had no power to issue clarification or pass order on procurement of sugarcane, it is specifically asserted that such power was delegated by the Central Government to the State Government which was further delegated to the Cane Commissioner. It is specifically asserted that all parties having accepted orders of the Court in Writ Petitions, wherein directions were issued for reconsideration by the Cane Commissioner, it was too late in the day by the State or the Cane Commissioner to contend that the Cane Commissioner acted in excess of power conferred.

34. Insofar as the order at Annexure-'AN' dated 04.01.2025 passed by the State Government whittling down



the clarifications, it is specifically contended that the State Government did not retain any such power to pass the order at Annexure-'AN' once the Cane Commissioner was constituted and power conferred.

35. Even otherwise, it is contended that no power is conferred on the State Government to order for closure and seizure of the Units by virtue of Clauses - 6, 7 and 8 of the Sugarcane (Control) Order.

36. It is further contended at the time of arguments that the order of 04.01.2025 being an executive action by the State Government cannot abridge rights under Article 19(1)(g) of the Constitution of India.

37. It is also contended that 'M/s. Alagawadi' had no *locus standi* to interfere in the present proceedings, as there was no vested right of procurement of sugarcane and even otherwise could have no legal right to object for grant of procurement right as regards 5% of sugarcane grown, as,



by practice in vogue, an extent of 5% was kept open for the farmer to sell to any person or entity.

38. It was further contended that the order at Annexure-'AN' dated 04.01.2025 which runs contrary to the clarifications issued earlier could not have been passed without affording an opportunity of hearing.

CONTENTIONS RAISED BY 'M/S. ALAGAWADI'

39. The order dated 30.05.2023 holding that 'M/s. Brahmanandasagar' is Power Crusher and the order dated 21.10.2023 recording a finding that 'M/s. Brahmanandasagar' and 'M/s. Askins' formed an integrated Unit, both such orders had attained finality by virtue of withdrawal of W.P.Nos.106747/2023 and 104198/2023. By virtue of such legal consequence, 'M/s. Alagawadi' was merely seeking implementation of the orders of 21.10.2023 and 30.05.2023 by filing W.P.No.107316/2024.



40. It is contended that reliance by the petitioners on the clarifications dated 22.10.2024, 27.11.2024 and 29.11.2024 was impermissible, as the said clarifications were contrary to the earlier orders of the Cane Commissioner dated 30.05.2023 and 21.10.2023. It was contended that the Cane Commissioner had no power to review, modify or amend the earlier orders.

41. It is specifically contended that allotment of 'Cane Area' falls within the exclusive realm of the State Government and accordingly, the Cane Commissioner could not allot 5% of the 'Reserved Cane Area' without any statutory Authority.

42. The Cane Commissioner had failed to consider the report dated 12.02.2024 submitted pursuant to court orders which clearly established that the appellants' assertions that 'M/s. Askins' and 'M/s. Brahmanandasagar' were distinct entities, was found not to be true.



CONTENTIONS OF GOVERNMENT:-

43. The Cane Commissioner could not have clarified nor passed any order regarding allocation of 5% of sugarcane grown by the farmers, as the same was within the sole prerogative of the State Government which power could not have been usurped by the Cane Commissioner.

44. That the power delegated by the Central Government under the Sugarcane (Control) Order was to the State Government and the Cane Commissioner had no power or jurisdiction to pass orders and clarifications which were relied upon by the appellants and accordingly, the order at Annexure-'AN' dated 04.01.2025 was in accordance with law.

45. As regards the relief sought for in W.P.107316/2024 the petitioner 'M/s. Alagawadi' had sought for implementation of the order passed by the Cane Commissioner dated 30.05.2023 as well as the order dated 21.10.2023 as per Annexure-'C' and Annexure-'D'. In terms



of the order dated 30.05.2023, the Cane Commissioner, in exercise of power conferred under Clauses-6, 7 and 8 of the Sugarcane (Control) Order had directed 'M/s. Brahmanandasagar' to stop operating the Power Crusher and crushing sugarcane as well and was directed to stop procuring and purchasing the sugarcane for crushing in the reserve area.

The Deputy Commissioner was also directed to seize the premises.

46. The order dated 21.10.2023 was passed in exercise of power under Clauses - 6, 7, 8, and 11 of the Sugarcane (Control) Order, 1966, Clause 6-A of the Sugarcane (Control) (Amendment) Order, 2006 whereby, 'M/s. Askins' and 'M/s. Brahmanandasagar' were directed to stop operation of Sugar Factory, crushing of sugarcane and were directed to stop procuring sugarcane for crushing.



ANALYSIS:-

47. It is relevant to note that the implementation of the orders of the Cane Commissioner referred to above were dated subsequent to the order passed in W.A. No.100075/2023 dated 31.03.2023. In terms of the order passed, the Division Bench had declared that the amended provision of the Sugarcane (Control) Order dated 31.05.2021 was not applicable to standalone distillery i.e., 'M/s. Askins'. The amendment brought to the Sugarcane (Control) Order on 31.05.2021 was interpreted by the Cane Commissioner to be applicable to a standalone distillery proposing to produce Ethanol from sugarcane juice and the further mandate of prohibition of operation of a Sugar Mill within 15 Kilometers was held to be applicable.

48. The relevant observations of the order of the Division Bench at paras-13 and 16 read as follows:

"13. We have gone through the notification dated 31.05.2021 and we do not find the 'scope or object' for such amendment. Therefore, we are constrained to say that a plain reading of the amended provision does not suggest inclusion of



standalone distilleries within the defined meaning of 'factory or sugar factory'.

16. In the light of the above, we are of the considered opinion that the amended provision vide notification dated 31.05.2021 brought to the Sugarcane Control Order, 1966, will not bring within its sweep the standalone distilleries established consequent to the notification dated 08.03.2019 and 14.01.2021 issued by the Ministry of Consumer Affairs, Food & Public Distribution. We, therefore proceed to declare that the standalone distilleries such as appellant no.1 herein established in terms of the notification dated 08.03.2019 and 14.01.2021 for manufacturing ethanol are not governed by the provisions of the Sugarcane Control Order, 1966."

49. It is pertinent to note that insofar as 'M/s. Brahmanandasagar' is concerned, the IEM granted on 20.06.2011 permitted certain activities like production of jaggery and by virtue of amendment of Sugarcane (Control) Order on 31.07.2007 by deletion of the words "Gur, Gul and Jaggery" from the Sugarcane (Control) Order with effect from 31.07.2007, 'M/s. Brahmanandasagar' fell outside the purview of Sugarcane (Control) Order. There has been affirmation regarding the same by the Office of the Deputy Commissioner on 04.03.2011 at Annexure-'E1' as well as



Annexure-'E2' dated 05.03.2011 issued by the Cane Development Commissioner and Director of Sugar, accordingly, both, 'M/s. Askins' and 'M/s. Brahmanandasagar' technically fall outside the purview of the Sugarcane (Control) Order.

50. If that were to be so, in the absence of any restriction or prohibition with the backing of law traceable to Article 19(6) of the Constitution of India, no restriction can be imposed on the right under Article 19(1)(g) of the Constitution of India. Such conclusion is inevitable while noticing that 'M/s.Brahmanandasagar's activities fall outside the purview of the Sugarcane (Control) Order.

51. It is necessary to notice that even if there was violation of the Sugarcane (Control) Order, the question would still remain as to whether the Cane Commissioner had the power to order closure of the Units of 'M/s. Brahmanandasagar' and 'M/s. Askins'.



52. An examination of powers conferred on the Authorities under the Sugarcane (Control) Order for action to be taken in the event of violation of the provisions does not confer power to order closure of the Unit. Clause - 9 of the Sugarcane (Control) Order would empower the Authority concerned to call for information, records and also to issue certain directions regarding supply, etc., while Clause - 9A confers power of entry, search and seizure as regards Books, Registers or other documents when the concerned Authority has reasons to believe that there is contravention of the Sugarcane (Control) Order. The powers under the Criminal Procedure Code relating to searches and seizure are also conferred on the Authority.

53. There is also a mandate under Clause-10 that the factory to whom any order or direction is issued is required to comply with the order or direction.

However, none of the above conferred powers would extend to passing an order to shut down a Unit.



54. Admittedly, any power to impose a restriction as available Article 19(6) on the right under Article 19(1)(g) of the Constitution of India would require the law as contemplated under Article 19(6) to provide for such restriction. The Sugarcane (Control) Order does not contain any provision that would empower closing down a Unit for violation of provisions of the Sugarcane (Control) Order.

55. If that were to be so, the order at 'Annexure-AD' ordering stopping of operations which, in effect, amounts to closure of the Units, is without the authority of law. Such aspect was not appreciated by the learned Single Judge.

56. The learned Single has upheld the order at Annexure-'AN', which approves the order at Annexure-'AD' ordering stopping of operations. In effect, the learned Single Judge has upheld the order of closure, which action of the respondents is without the authority of law.



57. It is also necessary to observe that the Courts are required to be aware of the economic impacts of their judgments which would be a relevant factor to be taken note of. No doubt, such economic aspect is only one of the circumstances which may weigh in the mind of the Court where other things being equal, the Court may have a choice of two courses of action.

58. In the present case, while upholding the order at Annexure-'AN' which had the effect of closure of the Units, the learned Single Judge being aware of the consequences of upholding the order at Annexure-'AN', which in effect, has upheld the order of the Cane Commissioner at Annexure-'AD' resulting in closure of the Units, which we have held to be without authority of law, ought to have taken note of the economic implication of such order¹.

¹The observations of the Apex Court in Shivashakti Sugars Limited v. Shree Renuka Sugar Limited and Others¹ in paras-42 to 46 emphasises the need to take note of the economic consequences of Court orders.



59. One of the other contentions raised by the appellants is that the order at Annexure-'AN' dated 04.01.2025 was passed without hearing the appellants. It is stated that the appellants had the benefit of clarifications dated 22.10.2024, 27.11.2024 and 29.11.2024 which in effect, had whittled down the restrictions imposed by the Cane Commissioner vide orders dated 30.05.2023 and 21.10.2023. If that were to be so, before the Government decided in effect to nullify the clarifications dated 22.10.2024, 27.11.2024 and 29.11.2024, which conferred rights on the appellants, the appellants were entitled to an opportunity of hearing.

60. Irrespective of the nature of power exercised in the clarifications of 22.10.2024, 27.11.2024 and 29.11.2024, when the State embarks upon a course of action which impinges upon a benefit conferred even by an Administrative Authority, the least of the legal rights conferred on the appellants was one of legitimate



expectation which would mandate any action taking away any benefit to be preceded by affording an opportunity of hearing.

61. Further, Clause-11(2) of the Sugarcane (Control) Order would provide that any order revoking a licence or permit issued cannot be made without giving such person an opportunity to make the representation.

62. If that were to be so, the order at Annexure-'AD' dated 21.10.2023 as upheld by the order at Annexure-'AN' dated 04.01.2025, which has the effect of closure of the Unit would in effect be an order equated to an order of revocation of licence/permit. Accordingly, the opportunity of hearing under Proviso to Clause 11(2) not having been extended to the appellants herein is also an action that is arbitrary and violative of Article 14 of the Constitution of India insofar as there has been violation of principles of natural justice. The assertion that the appellants were not heard is an admitted factual position.



63. It is relevant to note that the order in W.A.No.100075/2023 though has been taken up before the Apex Court in S.L.P.(C).No.8046/2023, till date, there is no stay of the order of the Division Bench.

64. After the order of Division Bench on 31.03.2023 in W.A.No.100075/2023, there were clarifications issued on 22.10.2024 to the effect that the jaggery industries were permitted to crush sugarcane and produce sugarcane juice and syrup for sale to standalone distilleries, as there was no limitation in any State or Central Law to the contrary. It was however clarified that such activity was permitted subject to the Unit not procuring sugarcane in excess of 5% in the area earmarked for the sugar factory. Such clarification was reiterated by the Cane Commissioner on 27.11.2024 by way of communication to the Secretary to Department of Commerce and Industries.

65. In light of such clarifications indicating that there was no prohibition on 'M/s. Brahmanandasagar' to crush



sugarcane and produce jaggery from sugarcane juice and syrup and sell the same, the challenge to the earlier orders of the Cane Commissioner imposing restrictions dated 30.05.2023 and 21.10.2023 was by way of W.P.No.104198/2023 and W.P.No.106747/2023 respectively, came to be withdrawn.

66. The withdrawal of the aforesaid Writ Petitions, in light of the clarifications of the Cane Commissioner issued on 22.10.2024, 27.11.2024 and 29.11.2024 which had the effect of diluting the restrictions imposed on 30.05.2023 and 21.10.2023, cannot be found fault with.

67. The finding of the learned Single Judge that the withdrawal of the Writ Petitions, viz., W.P.Nos.104198/2023 and 106747/2023 had the effect of rendering final orders of the Cane Commissioner dated 30.05.2023 and 21.10.2023 is erroneous. The memo for withdrawal has been detailed as follows:-

- "1. *That the Petitioner in W.P.No.104198 of 2023 was aggrieved by order dated 30-05-2023 passed by the*



Cane Commissioner and in W.P.No.106747 of 2023 petitioners' were aggrieved by order dated 21-10-2023 of the Cane Commissioner and had sought for quashing of the same.

2. *However, in the light of subsequent developments, the petitioner is no longer desirous of pursuing these petitions' and therefore seeks leave of this Hon'ble Court to withdraw these petitions keeping all issues open.*

Hence, this memo."

68. Clearly, the memo for withdrawal was in the light of 'subsequent development' and the petitioner had sought leave to withdraw keeping all the issues open, if such was the language in the memo for withdrawal, there was no intention to abandon the contention raised as regards the restriction imposed by the Cane Commissioner vide orders dated 30.05.2023 and 21.10.2023.

69. The 'subsequent events' obviously refers to the clarifications dated 22.10.2024, 27.11.2024, and 29.11.2024 even though memo does not detail such clarifications. 'M/s. Askins' and 'M/s. Brahmanandasagar' could not have been compelled to continue the litigation in



light of the subsequent clarifications. Accordingly, the finding of the learned Single Judge that the orders of the Cane Commissioner dated 30.05.2023 and 21.10.2023 had attained finality in light of withdrawal of Writ Petitions was clearly erroneous.

70. In fact, in W.P.No.100295/2025 filed by 'M/s. Askins', the petitioners therein had placed before the Court the clarifications of the Cane Commissioner dated 22.10.2024, 27.11.2024 and 29.11.2024, and the learned Single Judge without taking note of such clarifications has proceeded to rely on the earlier orders of the Cane Commissioner dated 30.05.2023 and 21.10.2023.

71. It must be noticed that the clarifications referred to dated 22.10.2024, 27.11.2024 and 29.11.2024 not having been challenged by 'M/s. Alagawadi', could not have been ignored.



72. Insofar as the challenge by 'M/s. Askins' to the Government Order dated 04.01.2025, it is to be noticed that the said order passed by the Government in exercise of power under Clauses - 6, 7 and 8 of the Sugarcane (Control) Order as well as Clause-6A, a prohibition has been imposed on 'M/s. Brahmanandasagar' as well as 'M/s. Askins' on manufacturing certain derivative products exempting manufacturing of low grade sugar from 'Vacuum Pan Process'. This order is in direct contradiction to the orders passed by the Cane Commissioner on 22.10.2024, 27.11.2024 and 29.11.2024 which had clarified that there were no limitations on the entities by Sugarcane (Control) Order, 1966. If, the benefit granted under the clarifications was sought to be curtailed in terms of the Government Order of 04.01.2025, needless to state that 'M/s. Askins' and 'M/s. Brahmanandasagar' were required to be heard, as the said entities were now going to be affected adversely by imposing restrictions on producing certain derivative products.



73. In terms of the Government Order dated 11.01.2007 'M/s. Alagawadi' had the benefit of the order that every grower of sugarcane in the area specified in Schedule-I were to supply 95% of the sugarcane grown to the factory. In terms of Clause-5 of the said order, the grower is required to enter into an agreement with the factory.

74. Clearly, the orders of the Cane Commissioner dated 22.10.2024 would indicate that the right of procurement of 95% of sugarcane produced as has been reserved in favour of 'M/s. Alagawadi' remains undisturbed.

75. If that were to be so, did 'M/s. Askins' have any right to challenge or object to the orders of the Cane Commissioner permitting 'M/s. Brahmanandasagar' to procure 5% of sugarcane produced, requires consideration.

76. While it is the contention of the State Government that the orders of the Cane Commissioner



which are referred to as clarifications which have the effect of reserving 5% of sugarcane grown are without jurisdiction, as power to reserve right of procurement is with the State Government, the orders of the Cane Commissioner cannot be treated to be the orders of reservation. The orders merely refer to right of procurement out of 5% of sugarcane produced. If 95% of sugarcane produced has to be sold by the farmers to 'M/s. Alagawadi', the reference to remaining 5% could not be treated to be a reservation.

77. The locus to challenge orders making reference to 'M/s. Brahmanandasagar' procuring out of 5% sugarcane grown in an area has been objected to by 'M/s. Alagawadi'.

78. As rightly pointed out by 'M/s. Brahmanandasagar', the right of reservation of 'Cane Area' under the Sugarcane (Control) Order is not a vested right and could be altered in terms of Clause-6 of aforesaid order.



79. The Co-ordinate Bench in W.A.No.200021/2023 and connected matters - **KPR Sugar and Apparels Ltd., v. Commissioner for Cane Development and Director of Sugar and Others** has opined at para-27 that there is no vested right over supply of sugarcane which could be altered. The observations made at paras-27.23 and 27.24 read as hereunder:-

"27.23 The State Government, because of the exigencies brought by the aforesaid circumstances, should have revisited the reservation of the cane area for M/s SSKN [now represented by M/s NSL] and re-determined the quantity of sugarcane required by M/s NSL for crushing and fixed the quantity of the sugarcane grown by the farmers in the region [or the percentage of Sugarcane grown] that will have to be supplied to M/s NSL. If necessary exercises were undertaken, a contingent right would have inured to M/s NSL, and if there were directions for conclusion of the agreement resulting in an agreement, M/s NSL could have asserted a vested right. Conversely, if notwithstanding the circumstances, the necessary exercises are not undertaken, M/s NSL cannot assert a vested right leading to contemplated consequences if there is breach.

27.24 If the Scheme under Clause-6 of the Sugarcane Control Order 1966 does not envisage a right to a factory notwithstanding the



*circumstances; and if the State Government, which should have considered the changed circumstances and decided on re-examining and re-assessing the reservation of the cane area based on the varying crushing capacity and the availability of sugarcane has not, this Court is of the considered view that M/s NSL cannot assert a vested right to procure sugarcane from the Subject Cane Area. It is settled that a right is vested when an immediate right or a present right for future enjoyment is conferred without any dependence on some event which may or may not happen or ought to be performed. Therefore, the reliance upon the decision of the Hon'ble Supreme Court in **MGB Gramin Bank v. Chakrawarti Singh** is justified wherein, it is held that a vested right is a right independent of any contingency. M/s NSL also cannot seek invocation of the equitable principle of promissory estoppel or assert legitimate expectation."*

80. Where the reservation of area where sugarcane is grown itself not being a vested right, any reference made to 5% of sugarcane grown being available for procurement by 'M/s. Brahmanandasagar' cannot give rise to a legal grievance to 'M/s. Alagawadi' .

81. W.P.No.107316/2024 was filed on 04.12.2024 and the orders of the Cane Commissioner dated 22.10.2024



and 27.11.2024 had in effect declared absence of any limitation on their activity and had in effect, rendered nugatory the orders of 30.05.2023 and 21.10.2023. If that were to be so, the writ petition for issuance of mandamus could not have been entertained.

82. In W.A.No.100075/2023, the Court while declaring that standalone distilleries like 'M/s. Askins' were outside the purview of the Sugarcane (Control) Order 1966, the order had kept open the grievance of 'M/s. Alagawadi' vis-à-vis 'M/s. Brahmanandasagar', if there was any violation of the Sugarcane (Control) Order. However, such liberty granted cannot be construed to be a door wide open for re-visiting the conclusion in the W.A.No.100075/2023.

83. Accordingly, the appeal is **allowed**. The order of the learned Single Judge dated 07.02.2025 insofar as it dismisses W.P.No.100295/2025 is set aside and the said Writ Petition is **allowed**. The order at Annexure-'AN' dated 04.01.2025 is set aside and the clarifications of Cane



Commissioner dated 22.10.2024, 27.11.2024 and 29.11.2024 stand affirmed.

84. The order of learned Single Judge insofar as it allows Writ Petition No.107316/2024 is set aside and the said Writ Petition is ***dismissed*** in light of the discussion made above.

**Sd/-
(S.SUNIL DUTT YADAV)
JUDGE**

**Sd/-
(VIJAYKUMAR A.PATIL)
JUDGE**

VGR