

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 22ND DAY OF DECEMBER, 2021

BEFORE

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION No.20858 OF 2021 (GM-KEB)

BETWEEN:

M/S GEM SUGARS LTD
A COMPANY INCORPORATED UNDER
THE PROVISIONS OF COMPANIES ACT 1956,
HAVING ITS REGISTERED OFFICE AT
HOODI APARTMENT, 120
CUNNINGHAM ROAD
BENGALURU - 560 052
(REPRESENTED BY ITS AUTHORIZED SIGNATORY)
...PETITIONER
(BY SRI SHRIDHAR PRABHU, ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF ENERGY
VIKASA SOUDHA
DR AMBEDKAR VEEDHI
BENGALURU - 560 001.
2. BANGALORE ELECTRICITY SUPPLY
COMPANY LIMITED
K.R.CIRCLE
BENGALURU - 560 001
(REPRESENTED BY THE MANAGING DIRECTOR)
3. CHAMUNDESHWARI ELECTRICITY
SUPPLY COMPANY LIMITED
NO.29, KAVERI GRAMEENA BANK ROAD
VIJAYANAGARA 2ND STAGE,
HINKAL
MYSURU - 570 017
(REPRESENTED BY THE MANAGING DIRECTOR)
4. MANGALORE ELECTRICITY SUPPLY
COMPANY LIMITED
MESCOM BHAVAN, KAVOOR CROSS ROAD,

BEJAI, MANGALORE - 570 004
(REPRESENTED BY THE MANAGING DIRECTOR)

5. HUBLI ELECTRICITY SUPPLY
COMPANY LIMITED
P.B. ROAD, NAVANAGAR
HUBBALI - 580 025
(REPRESENTED BY THE MANAGING DIRECTOR)
6. GULBARGA ELECTRICITY SUPPLY
COMPANY LIMITED
STATION ROAD, KALABURGI - 585 101
(REPRESENTED BY THE MANAGING DIRECTOR)
7. KARNATAKA ELECTRICITY
REGULATORY COMMISSION
NO.16, C-1, MILLERS TANK BED AREA
VASANTHA NAGAR
BENGALURU - 560 052
(REPRESENTED BY THE SECRETARY)

...RESPONDENTS

(BY SRI RAMESH GOWDA A., AGA FOR R1
SMT SUMANA NARAGUND, ADVOCATE FOR R2 TO R6
SRI B.N.PRAKASH, ADVOCATE FOR R7)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE LETTER BEARING DATE 6TH MARCH, 2021 ISSUED BY THE 2ND RESPONDENT, LETTER DATED 25TH MARCH 2021, ISSUED BY THE 6TH RESPONDENT, LETTER DATE 30TH MARCH, 2021 ISSUED BY THE 3RD RESPONDENT DATED 30.03.2021 ISSUED BY R-4 WHICH ARE PRODUCED HEREIN AS ANNEXURE-A, ANNEXURE-B, ANNEXURE-C, ANNEXURE-D RESPECTIVELY AND CONSEQUENTLY AND ETC.

THIS W.P. COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

In this petition, petitioner has sought for the following reliefs:-

"A. Call for records;

B. Issue a Writ of Certiorari or any other Writ, Order or Direction to quash the letter bearing No.BESCOM/GM(Ele)/DGM (F&C)/PP/BC-39/2020-21/CYS/738 dated 6th March, 2021 issued by the 2nd respondent, letter bearing No.GESCOM/CEE(OP)/EE/PTC/AEE-2/2020-21/CYS-401 dated 25th March, 2021, issued by the 6th respondent, Letter bearing No.CESC/TL/COM/EBC/A/MTPP/2020-21/CYS-1836 dated 30th March 2021 issued by the 3rd respondent dated 30.03.2021 is by 4th respondent which are produced herein as Annexure-A, Annexure-B, Annexure-C, Annexure-D respectively; and consequently,

C. Issue a Writ of Mandamus or any other writ, order or direction to the Respondents to honour the terms of the PPA for a period of five years from 2nd January, 2017 and the tariff contained therein the tariff order dated 11th April, 2017 which is produced at Annexure-F and Annexure-G respectively;

D. Pass such other and incidental orders including the order as to costs, as are deemed appropriate under the facts and circumstances of the present case".

2. Heard the learned counsel for petitioner and learned counsel for the respondents and perused the material on record.

3. In addition to reiterating the various contentions urged in the petition and referring to the documents produced by the petitioner, learned counsel for the petitioner invites my attention to the decision of the co-ordinate Bench of this Court in the case of ***Shree Renuka Sugars Ltd. Vs State of Karnataka and others – W.P.No. 6043/2021 and connected matters Dated 20.07.2021*** in order to contend that the issues involved in the present petition is directly and squarely covered by the said decision and consequently, even this petition deserves to be disposed of in terms of the said decision.

4. Per contra, learned counsel for the respondents, while fairly admitting that the issues involved in the present petition are identical to the issues involved in ***Renuka Sugar's case (supra)***, submit that the respondents have preferred writ appeals in W.A.No.1156/2021 & connected matters; it is however submitted that there is no interim

orders in the aforesaid writ appeals, which are pending adjudication.

5. As rightly contended by the learned counsel for the petitioner and in the light of the aforesaid submissions made at the bar and the facts and circumstances of the case including the fact that there is no interim order in the writ appeals filed against the aforesaid decision of this Court in W.P.No.6043/2021 and connected matters dated 20.07.2021, I am of the considered opinion that even the present petition deserves to be disposed of in terms of the said decision.

6. In the result, I pass the following:-

ORDER

(i) Petition is hereby allowed in terms of the decision of this Court in ***Shree Renuka Sugars Ltd. Vs State of Karnataka and others – W.P.No.6043/2021 and connected matters Dated 20.07.2021;***

(ii) The impugned letters at Annexure-A dated 06.03.2021 issued by respondent No.2, Annexure-B dated 25.03.2021 issued by respondent No.6, Annexure-C dated

30.03.2021 issued by respondent No.3 and Annexure-D dated 30.03.2021 issued by respondent No.4 are hereby quashed.

(iii) Respondents are directed to honour the terms of the PPA for a period of five years from 02.01.2017 and the tariff contained in the Tariff order dated 11.04.2017 produced as Annexures – F and G respectively.

SD/-
JUDGE

SV/SRL