IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 9TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE R.NATARAJ

WRIT PETITION NO.203033 OF 2024 (GM-POLICE)

BETWEEN:

M/S SHREE RENUKA SUGARS LIMITED,
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 1956,
HAVING ITS ADMINISTRATIVE OFFICE
AT NO.7 (OLD NO.24), 1ST AND 2ND FLOORS,
'SUNANJAYA', 1ST CROSS, KUMARA KOT ROAD,
BEHIND HOTEL JANARDHAN,
RACE COURSE ROAD, BENGALURU-560 001
REPRESENTED BY ITS
AUTHORIZED REPRESENTATIVE/ LEGAL OFFICER
SRI MOHAN PATIL.

...PETITIONER

Digitally signed by RENUKA
Location: High Court Of Karnataka

(BY SRI. MANMOHAN P. N., ADVOCATE FOR
SRI. SUDARSHAN M, ADVOCATE)

AND:

KARNATAKA STATE POLLUTION CONTROL BOARD,
REGIONAL OFFICE, MANSAFDAR LAYOUT,
SANTRASWADI, KALABURGI- 585101.
REPRESENTED BY ITS ENVIRONMENTAL OFFICER.

...RESPONDENT

(BY SRI. MAHESH CHOUDARY, ADVOCATE AND
SRI. YASHAS S.DIKSHIT, ADVOCATES)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF MANDAMUS RESTRAINING THE RESPONDENT FROM TAKING ANY COERCIVE ACTION INCLUDING WITHDRAWAL OF CONSENT TO OPERATE FORCIBLY SHUTTING DOWN THE PETITIONERS FACTORY AND TAKING ANY COERCIVE ACTION WITHOUT FOLLOWING THE DUE PROCESS OF LAW.

THIS PETITION, COMING ON FOR ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE R.NATARAJ

ORAL ORDER

The petitioner is before this Court seeking for writ in the nature of mandamus to direct the respondent not to take any coercive action against it including withdrawal of consent to operate and forcibly shutdown the petitioner's factory without following the due process of law.

2. The petitioner contends that it is operating five factories at Athani, Munnoli, Raibagh, Havalaga and Gokak. Insofar as the factory at Havalaga, the respondent had issued a consent for operation under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (for short, Water act, 1974) and Air (Prevention and Control of Pollution) Act 1981 (for short, Air Act, 1981) which is valid

till 30.06.2026. The petitioner contends that the plant is running successfully and is providing direct and indirect employment to many people in the locality. The petitioner contends that since new sugar factories have come into existence, the management of a few inimically ill disposed units have lodged complaints to various authorities including with the respondent. The petitioner contends that the respondent constituted a Committee to investigate the complaint regarding supply of contaminated water to Kalaburagi City and the said Committee inspected the factory on 02.11.2022 and made certain observations. The Committee then made recommendation for improvement of the operations at the unit. On 04.02.2023, the respondent issued a show cause notice to the petitioner and the same was replied by it. Subsequently, on 21.08.2023 in order to verify the status of compliance, the industry was inspected by the District Environmental Officer, Kalaburagi who reported that the petitioner was yet to comply certain recommendations made by the Committee. Later, a technical hearing was

held on 28.09.2023 before respondent and to verify whether directions issued to the petitioner on 26.09.2023 were complied or not. The industry was again inspected on 02.02.2024 by the District Environmental Officer, Kalaburagi who made certain observations. On 11.02.2024 the respondent caused a notice for alleged non-compliance and directed the petitioner to appear for a personal hearing so that further action could be initiated under Section 33(A) of the Water Act, 1974 and Section 31(A) of the Air Act, 1981.

3. The petitioner contends that on 08.02.2024 the Taluk President of Ambedkar Seva Samithi lodged a complaint against the petitioner alleging that agricultural activities were affected due to discharge of effluents from the factory of the petitioner onto land and into Bhima River. In that connection the respondent had issued a notice of personal hearing on 18.04.2024 stating that the District Environmental Officer, Kalaburagi had inspected the unit of the petitioner on 15.04.2024 and had made

certain observations. The respondent directed the petitioner to file an affidavit in terms of the communication dated 29.05.2024 and directed the petitioner to undertake the compliance within a time bound manner. The petitioner submits that it had taken positive steps and had also undertaken necessary improvements. On 29.06.2024 at the personal hearing, the petitioner had filed its affidavit and submitted the date, month and year wise compliance of the observations made by the respondent and also provided a specific time bound action plan with the budgetary estimate. As per the affidavit, the petitioner had initiated compliance work and accordingly completed certain work in a time bound manner. When things stood thus, on 20.07.2024 the respondent issued a notice for non-compliance of the provisions of Water Act, 1974 and Air Act 1981. It also indicated that the request of the petitioner for time till the year 2027 to comply the directions cannot be accepted and therefore called upon the petitioner to submit a revised time bound action plan within 15 days. In compliance, the petitioner addressed a

communication dated 14.08.2024 submitting a revised time bound action plan and budgetary estimate. The petitioner contends that on 28.10.2024 the Chairman of the respondent inspected the unit of the petitioner and recorded his observations. Thereafter, the respondent took certain water samples, without intimating the reason for securing the samples and also did not share a collected sample with the petitioner for independent testing. Though the petitioner requested for a sample of the water so collected by the respondent, it failed to provide the same to the petitioner. The petitioner therefore submitted a request on 29.10.2024 to provide a sample of the water already collected. The petitioner contends that the respondent has not replied to the same and on the contrary, the petitioner received oral communication from the respondent on 05.11.2024 that the factory would be closed. The petitioner submits that he has not received any orders for closure nor has the respondent passed any order of closure of unit. It contends that since the sugar crushing season is due to commence in 7 to 10 days time

and if the respondent forcibly closes the factory, the petitioner would suffer irreparable loss and injury. Therefore, the petitioner has sought for the aforementioned reliefs.

4. Learned counsel for the petitioner reiterated the above submission and submitted that the respondent is determined to close down the unit without following due process of law. He submits that since the sugar crushing season has already commenced, any precipitative action by the respondent would result in untold hardship and injury apart from enormous monetary loss to the petitioner. Therefore, he submits that the respondent be restrained from taking any action during the crushing season to close the factory of the petitioner.

5. *Per contra*, learned counsel for the respondent submits that the respondent would take action against the petitioner only in accordance with law. He submits that the petitioner has approached this Court prematurely and has obtained an interim order to restrain the respondent from

entering the factory premises of the petitioner. He therefore submits that any action that may be initiated by the respondent shall be in accordance with law.

6. The contents of the writ petition and the assertions made by the learned counsel for the petitioner point to a certain fact that the respondent has conducted certain inspections and has also recorded certain observations for compliance by the petitioner. If the petitioner had undertaken to comply with the observations recorded by the respondent, there is no escape for the petitioner, than to comply with the observations made by the respondent.

7. Therefore, the petitioner cannot restrain the respondent from taking action in accordance with law and cannot certainly restrain the respondent from entering the factory premises of the petitioner. Therefore, without going into the question whether the petitioner has complied with the undertaking or the observations recorded by the respondent or not, this writ petition

deserves to be disposed off directing the respondent to take action only in accordance with law and by following the due process of law. It is made clear that before the respondent issues any order of closure, the respondent shall ensure that each and every provision of law as prescribed under the Water Act, 1974 and Air Act 1981 and the rules made thereunder are strictly followed.

Accordingly, petition is disposed off.

In view of disposal of main petition, any pending interlocutory applications do not survive for consideration.

Sd/-
(R.NATARAJ)
JUDGE

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List No.: 1 Sl No.: 29
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