

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE AT
CHENNAI**

Appeal Nos. 73 and 74 of 2021

Rajashree Sugars & Chemicals Limited, Rep. by its Depy. General Manager, Mr.M.Thangathirupathi, having office at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562	...Appellant
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-Vs-

M/s. GKN Food Products, A Partnership Firm, Rep. by its Managing Partner, Mr. Sivamurugeswara Pandian.N. S.F. No.892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District Pin 625 534 and 2 others	...Respondents
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**WRITTEN SUBMISSIONS FILED ON BEHALF OF THE 1ST
RESPONDENT**

1. It is submitted that application under Water and Air Act was submitted to the office of the 2nd Respondent seeking consent for establishment a unit for manufacture of Jaggery powder at the rate of 80 tons per month and Jaggery block at the rate of 40 tons per month. By the proceedings dated 29.01.2021, the 2nd Respondent rejected the applications on the ground that the Unit had not furnished any approved building plan/building permit obtained from the competent authority to establish the industry which is a non-planned area. Yet another ground for rejecting the applications was that the Unit's site is located adjacent

to three numbers of houses with a built up area of approximately 250-350 sq.ft each.

2. Aggrieved by the proceedings dated 29.01.2021, the 1st Respondent filed Appeal Nos.10 and 11 of 2021 before the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board. Pending the appeal, the Appellant filed applications in I.A.Nos.61 and 62 of 2021 seeking to implead itself as a party Respondent. The Appellant sought to implead itself on the ground that the taluks of Theni, Periyakulam, Andipatty, Bodinayakanur and Uthamapalayam of Theni District and a part of Usilampatty and Periyayur Taluks of Madurai Districts are declared as reserved area for its factory and that in the reserved area, no other person is permitted to manufacture gur (jaggery) or Khandasari sugar or sugar without a license from Central Government as per the provisions of the Sugarcane Control Order. In substance, the case of the Appellant was that the area where it is manufacturing sugar has been declared as a reserved area for the factory run by it and that the 1st Respondent has no legally valid right to establish the Unit.

3. It is submitted that the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board allowed the impleading applications. By the order dated 06.10.2021, **(Page No.156 of the Appellant's typed set)** the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board allowed Appeal Nos.10 and 11 of 2021 and directed the 2nd and 3rd Respondents to grant Consent for Establishment to this Respondent for establishing jaggery manufacturing unit in the area concerned.

4. Aggrieved by the order dated 06.10.2021, the present appeals were filed before this Hon'ble Tribunal.
5. It is the case of the Appellant that the Unit proposed to be established by the 1st Respondent squarely falls under the reserved area allotted to the Appellant by the Commissioner of Sugars under the provisions of Sugarcane Control Order, 1966. In exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955, the Central Government enacted Sugarcane (Control) Order, 1966 in order to fix the minimum price of sugarcane to be paid by the producers of sugar or their agents for the sugarcane purchased by them having regard to the cost of production of sugarcane and other factors.
6. As per Clause 7(b)(iii) of the Sugarcane (Control) Order, 1966, in a reserved area, no sugarcane or sugarcane juice shall be purchased for crushing or for manufacture of gul, shakkar, jaggery rab or khandsari sugar by a crusher not belonging to a grower or body of growers of sugarcane or by a khandsari unit in the area. Apart from Clause 7(b)(iii), clauses 2,6,7,8 and 9 of the Sugarcane (Control) Order, 1966 no sugarcane or sugarcane juice can be purchased for crushing or for manufacture of gul, shakkar, jaggery rab or khandsari sugar in a reserved area.
7. It is submitted that an amendment was introduced to Sugarcane (Control) Orders, 1966 with the promulgation of Sugarcane (Control)(Amendment) Order, 2007 with effect from 31.07.2007

(Page No.30 of Appellant's typed set) as per which the words “gur, gul, jaggery’ contained in the above clauses above said, more particularly, Clause 7(b)(ii) of the Sugarcane (Control) Orders, 1966 was ordered to be omitted, thus paving way for a crusher not belonging to a body of growers of sugarcane to purchase sugarcane or sugarcane juice in a reserved area. In view of issuance of the said amendment, the Appellant cannot have monopoly in the matter of purchase of sugarcane or sugarcane juice in a reserved area. In view of the coming into force of Sugarcane (Control) (Amendment) Order, 2007, amending Clause 7 of the Sugarcane (Control) Rules, 1966, the Appellant do not have locus standi to contend that the 1st Respondent is not entitled to set up its factory within its reserved area.

8. It is further submitted that the term “reserved area” in Clause 6 of the Sugarcane Control Order, 1961 was also omitted under the amendment dated 31.07.2007. In view of the same, the Appellant cannot he heard to contend that establishment of a jaggery manufacturing in a reserved area is barred and it cannot claim monopoly over the same.

9. It is contended by the Appellant that the 1st Respondent is proposing to manufacture Chakkar/Khandasari sugar under the guise of manufacturing jaggery and the same is wholly incorrect.

10. Reliance is also placed by the Appellant in the Government Order dated 04.05.2017 **(Page No.32 of Appellant's typed set)** to contend that establishment of the Unit in a non-planned area is not permissible. The Government Order dated 04.05.2017 states that re-classification

certificate is required only for converting the agricultural land to industrial area. In the instant case, the land in question is not classified as agricultural/wet land but is entered in the revenue records as tharissu/industrial building as would be evident from the communication dated 17.08.2021 sent by Joint Director, Agriculture Department to the Director of Town and Country Planning (**Page No.127 of Appellant's typed set**). The communication dated 17.08.2021 clearly states that the land is a tharissu/industrial building and the same is culled out from the revenue records. When the land is classified as a industrial building, there is no bar for establishment of a manufacturing unit in the land in question. In view of the same, it submitted that the Government Order dated 04.05.2017 is not applicable to the instant case and hence there is no necessity for obtaining necessary permission.

11. It is submitted that information was sought from the Public Information Officer of the office of Commissioner of Sugars under the Right to Information Act, 2005 . Amongst other, information was also sought as to whether prior permission of required from the office of Commissioner of Sugars for manufacturing jaggery. On 02.09.2021, (**Page 14 of 1st Respondent's typed set**) reply was received from the authority concerned to the effect that no permission is required from the office of Commissioner of Sugars for manufacture of jaggery from Sugarcane. It is submitted that consequent upon the amendment, the manufacture of jaggery do not come under the purview of Sugarcane (Control) Order, 1966.

12. It is submitted that the description of the land as “non-planned area” is not sustainable. It is further submitted that there is no ban for establishing industries in a non-planned area. That apart, no guidelines has been issued by the Tamil Nadu Pollution Control Board in the form of Board proceedings banning industrial activities in non-planned area. Therefore, no reliance can be placed by the Appellant in that behalf.
13. It is submitted that while allowing the Appeals filed by the 1st Respondent, the Hon’ble Appellate Authority took into consideration the notification dated 31.07.2007 and also the reply sent by the Public Information Officer of the Commissioner of Sugars under the Right to Information Act, 2005. It is stated that by the communication dated 24.08.2021 (**Page No.12 of Appellant’s typed set**), the Commissioner of Sugars, acting on the representation sent by the Appellant, informed the District Collector, Theni District as to the amendment introduced in the year 2007 and was requested to take note of the latest provision of law.
14. It is submitted that the issue as regards the land classification and obtaining licence from the Commissioner of Sugars or from the Central Government is within the realm of the competent authority and the Appellant has no locus with regard to the same. It is submitted that that licence from the competent authority is required where the unit is to be established in a reserved area and not otherwise.
15. It is submitted that initially the Appellant was allotted the entire area of Uthamapalayam, Periyakulam and Andipatti Taluks for carrying on their sugar manufacturing business by purchasing sugarcane from the

growers of that area. The Appellant had obtained order of reserved area in respect of Uthamapalayam and Periyakulam Taluks in the year 1987. After bifurcation of Periyakulam Taluk as Periyakulam and Andipatti Taluks, the Appellant obtained order of reserved area for Andipatti Taluk vide proceedings dated 17.05.1988 (**Page No.26 of Appellant's typed set**) During the year 1997, Uthamapalayam Taluk was bifurcated and Bodinaickanur and Theni Taluks came into existence. After the said bifurcation, the Appellant has not obtained any revised order for allotment of Bodinaickanur and Theni Taluks which were erstwhile Uthamapalayam taluk as reserved area for their factory for sugarcane drawal. When the Appellant had obtained revised order in the year 1987 consequent upon the bifurcation of Periyakulam Taluk, as a natural corollary, it should have obtained revised order after the bifurcation of Uthamapalayam Taluk as well. As In this regard, it is contended by the Appellant that obtaining a separate order for bifurcation of Taluk is a non-essential condition. The said contention is far fetched and is self serving. The unit where the 1st Respondent proposes to establish the Unit is at Bodinaickanur in respect of which the Appellant has not obtained revised order. The non-obtaining of revised order goes to the root of the matter and the same disentitles the Appellant to claim monopoly in the matter of purchase of sugarcane or sugarcane juice in Bodinaickanur Taluk. Assuming without admitting that obtaining a separate order of bifurcation is a non-essential condition, the Appellant is non-suited consequent upon the promulgation of Sugarcane (Control) Amendment Order, 2007 with effect from 2007.

16. It is submitted that state that suppressing the amendments as referred to above, the Appellant had addressed letter to the Commissioner of Sugars on 25.06.2020, **(Page No.54 of Appellant's typed set)** 17.12.2020 **(Page No.74 of Appellant's typed set)** and 26.03.2021 **(Page No.88 of Appellant's typed set)** to issue instructions to the concerned officials to stop the 1st Respondent from establishing the Unit. The said letters had been addressed by the Appellant to the Commissioner of Sugars with an vindictive motive and mislead the authority concerned. It is submitted that on 28.06.2021, the 1st Respondent addressed a detailed letter to the Commissioner of Sugars bringing to its notice as to the amendment made to the Sugarcane Control Orders. It was also brought to the notice of the authority concerned that the Appellant had obtained orders on reserved area only for Uthamapalayam, Periyakulam and Andipatti Taluks. Request was made to the authority to take action against the Appellant for willful suppression of facts and for making false allegations against the this Respondent.

17. It is submitted that eventhough, the Government Order dated 04.05.2017 is not applicable to the facts of the case, the 1st Respondent submitted application on 05.02.2021 to the Deputy Director of Town and Country Planning, Theni District in terms of the Government Order dated 04.05.2017. The Office of the Assistant Director of Town and Country Planning, Theni after taking into consideration the application submitted by the 1st Respondent, by the communication dated 04.08.2021 **(Page No.7 of 1st Respondent's typed set)** requested the Joint Director,

Agriculture Department Theni to issue No Objection Certificate to the Appellant for developing the industry. Pursuant thereto, the office of the Joint Director, Agriculture Department conducted inspection on 16.08.2021 and in that behalf, the issuance of No Objection Certificate is awaited from the said authority

It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the Appeals and thus render justice.

Dated at Madras this the 18th day of December 2021



Counsel for 1st Respondent

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GREEN TRIBUNAL,
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WRITTEN SUBMISSIONS

**M/s. RITA CHANDRASEKAR
COUNSELFOR 1ST RESPONDENT**

