IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

BEFORE:
The Hon'ble Justice Ravi Krishan Kapur

WPA No. 15487 of 2024
CAN 1 of 2025

West Bengal State Electricity Distribution Company Limited & Anr.
Vs.
Union of India & Anr.

For the petitioners	:	Mr. Kishore Dutta, Learned Advocate General. Mr. Chayan Gupta, Advocate Mr. Debayan Sen, Advocate Mr. Niket Ojha, Advocate
For Union of India	:	Mr. Asok Kumar Chakraborty, Learned Additional Solicitor General of India, Mr. Sukumar Bhattacharya, Advocate Mr. Sukanta Ghosh, Advocate Mr. Arijit Majumdar, Advocate Ms. Shreyashi Sarkar, Advocate
For the intervenor in CAN 2 of 2026	:	Mr. Pratik Dhar, Senior Advocate Mr. Ambuj Dixit, Advocate Md. Dilwar Khan, Advocate
For the intervenor in CAN 3 of 2026	:	Mr. Subhrajyoti Dey, Advocate Mr. Arya Banerjee, Advocate Mr. Ankur Sood, Advocate Ms. Romila Mondal, Advocate
Heard on	:	07.04.2026
Judgment on	:	07.04.2026

Ravi Krishan Kapur, J.:

1. This is an application seeking interim reliefs in a pending writ petition.

2. The writ petition as originally framed was *inter alia* for a declaration that the Notifications dated 12 March 2007 and 20 October 2023 as amended from time to time were contrary to section 14 sub-clause (e), (n) and (x) of the Energy Conservation Act 2001 (the Act) and for consequential reliefs.

3. Subsequently, this application was filed seeking restraint orders from any compliance under the Act in respect of Renewable Consumption Obligations (RCO) and Renewable Purchase Obligations (RPO) on the basis of the above Notifications. Upon the filing of this application, a Coordinate Bench had by an order dated 24 September 2025 granted an order in terms of the prayer (c) of the application which for convenience is set out below:

> *(c) "An order of injunction restraining the respondents from publishing any new notification on Renewable Consumption Obligation on the basis of the proposed draft Gazette notification on Renewable Consumption Obligation dated 5th August, 2025 or publish any other notification on Renewable Consumption Obligation pending disposal of the present writ petition."*

4. Thereafter, the parties were directed to exchange affidavits. Upon exchange of affidavits the matter was taken up for hearing.

5. A notable subsequent event which had transpired during the pendency of the writ petition and after the filing of this application was the issuance of a Notification dated 27 September 2025. By such Notification, the Government of India had in supersession of a prior Notification dated 20 October 2023 specified the minimum share of electrical energy consumption from renewable energy for designated consumers who were

electricity distribution licensees, open access consumers and captive users. For convenience, clauses 8, 11, 12, 16 of the 2025 Notification are set out below:

> *8. For designated consumers who are distribution licensees, the Renewable Consumption Obligation shall be calculated based on the electrical energy supplied to consumers within the periphery of the distribution licensee. This supply shall not include the consumption of open access users from the sources other than the distribution licensee and the electricity generated and self- consumed by captive users.*
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> *11. The Bureau shall monitor compliance of this notification and submit periodic report to the Central Government with a copy to the respective State Electricity Regulatory Commissions. For compliance monitoring, all the designated consumers shall furnish the required information in the format provided in the Annexure-II attached to this notification, duly certified by the State Load Dispatch Center for distribution licensees, and by a Bureau empanelled accredited energy auditing firm for all other designated consumers.*
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> *12. Designated consumers shall submit their duly certified energy accounts for the year 2024-2025 by 31st October, 2025, and by 31st July for each subsequent year. They shall submit compliance report after meeting the shortfalls in Renewable Consumption Obligations through purchase of Renewable Energy Certificates or payment of buyout price, if any, by 31st March 2026 for the year 2024-2025, and by 31st December for each subsequent year.*
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> *16. For all designated consumers under the Act, no additional Renewable Purchase Obligation shall apply under the Electricity Act, 2003 (36 of 2003), and the State-level Renewable Purchase Obligation targets shall be subsumed within the Renewable Consumption Obligation targets specified in this notification.*

6. Pursuant to the above Notification, the petitioner had also sought an amendment to the writ petition to incorporate a specific challenge to the Notification dated 27 September 2025. By an order dated 11 February

2026, the application for amendment was allowed and the petitioner has since incorporated such amendments to the writ petition.

7. On behalf of the petitioner it is submitted that, the interim order dated 25 September 2025 should be confirmed and the writ petition be heard on merits. There is a serious questions of jurisdiction which arises for consideration inasmuch as the petitioner cannot be treated as a 'designated consumer' under the Act. There is also a question of impossibility and impracticability in complying with the Renewable Consumption Obligations (RCO) as stipulated under the Act. The peculiar factors pertaining to the State of West Bengal have not been taken into consideration while fixing such targets. There are no renewable resources available whereby the petitioner can possibly fulfill its requirements as stipulated in the impugned communication.

8. On behalf respondent Union of India, it is submitted that the order dated 25 September 2025 is causing immense hardship and inconvenience and has paralyzed the working of the Act. In any event, in view of the fact that the 2023 Notification stood superseded, this application has been rendered futile and purely academic. Any examination of whether the petitioner company falls within the scope and ambit of the Act can only be tested in the light of the extant 2025 Notification and not the 2023 Notification. Moreover, the provisions under section 14 of the Act are wide enough and there has been no jurisdictional error in issuing any of the impugned Notifications. It is further contended that Articles 14 and 21 of the

Constitution of India include preservation and maintenance of a clean environment and any interference with the functioning of the Act would bring the same to a stalemate.

9. On behalf of the intervenors it is submitted that the interim order is founded on a Notification which no longer exists and the same is liable to be vacated on that ground alone. There is no challenge to the Act itself which contemplates 'distribution licensees' as designated consumers. In any event both on the grounds of balance of convenience and in public interest the interim order is liable to be vacated and the application be dismissed. In support of such contentions, the intervenors rely on *Skill Lotto Solutions (P) Ltd. V. Union of India and Ors. (2021) 15 SCC 667, Dulari Devi & Ors. vs. State of Rajasthan & Ors. (2015) SCC OnLine Raj 2175, Haryana Pharmaceuticals Manufacturers Association (Regd.) Vs. Union of India & Ors. (2014) SCC OnLine P&H 14586, Indofer Society & Ors. vs. Director General of Foreign Trade (2001) SCC OnLine Cal 26, M.K. Ranjitsinh & Ors. vs. Union of India & Ors. (2024) 19 SCC 139, Akshay N. Patel vs. Reserve Bank of India and another (2022) 3 SCC 649* and *Gujrat Urja Vikas Nigam Limited vs. Amit Gupta and others. (2021) 7 SCC 209.*

10. Before adverting to the facts of the case, it is pertinent to mention that the Act was enacted to provide for efficient use of energy and its conservation and for matters connected therewith and incidental thereto. The objective of the Act is aimed towards promotion of energy efficiency and conservation across industries, reduce energy intensity, support and strengthen India's

climate commitments to include carbon markets and border energy efficiency mechanisms. Over a period of time, the demand for electricity and fossil fuel has substantially increased and energy efficient measures have been conceived of to reduce energy consumption. It is in this background, that there was a need for statutory measures. In 2002, there was a significant amendment (which came into force on 1 January, 2023) whereby radical changes like (a) Carbon credit trading, (b) Obligation to use non-fossil sources of energy, (c) Energy conservation Code for building, (d) Standards for vehicles and vessels and (e) Penalty provisions were introduced. It is pertinent to mention that such changes were introduced with the aim of *inter-alia* helping fulfil India's COP-26 Commitments (Conference of Parties-26 at Glasgow 2021), with special focus on promotion of new and renewable energy in view of the National Green Hydrogen Mission.

11. The Regulatory mechanism under the Act is implemented by the Bureau of Energy Efficiency (BEE) (sections 3 to 11). The focus of the Act primarily is to be found in areas which include energy efficiency standard for industries and appliances, regulations for designated consumer i.e. using energy. The Act stipulates for energy audits and energy managers, energy conservation building code and carbon credit trading schemes introduced by the 2022 amendment (section 13). The Central Government is empowered to specify any user or class of users of energy as a 'designated consumer' [section 14(e)]. The enforcement mechanism under the Act is to be found by way of

statutory compliances monitored by BEE and designated agencies (sections 15 to 18 of the Act). The penalties for failure to meet efficiency targets are to be found in sections 26 to 29 of the Act. There is also an Adjudicating Officer and an Appellate Tribunal as provided for under Chapter IX of the Act. The Schedule to the Act expressly classifies transmission and distribution companies as energy intensive industries.

12. A perusal of the impugned communication dated 14 August 2025 indicates that the same has been issued to DISCOM's all over India. The respondent authorities had through prior letters dated 20 November 2023, 1 February 2024 and 26 September 2024 respectively repeatedly called upon the petitioner company to comply with their obligations to ensure timely fulfillment of the Renewable Purchase Obligations (RPO) and Renewable Consumption Obligations (RCO). There has been no challenge to any of these letters. In this background, the petitioners were again reminded by the impugned communication to comply with their RPO and RCO compliances for the current and forthcoming financial years.

13. The entire basis of this application and the interim order dated 25 September 2025 was founded on the 2023 Notification. This Notification has been superseded. *Prima facie,* any examination of whether the petitioner is a designated consumer under the Act has to now be examined *inter alia* on the touchstone of the Act read with the different notifications. The 2025 Notification has not been challenged (even by way of amendment) in this application. The Notification dated 27 September 2025 treats

distribution licensees as designated consumers. The supersession of the 2023 Notification in 2025, clearly obliterates the same and in effect, destroys the very basis of this application. Any examination of whether the petitioner company as a distribution licensee falls within the scope and ambit of a "designated consumer" or not would now have to be also examined in the light of the 2025 Notification against which there is no challenge in this application. In effect, any order in this application would be on the basis of a superseded Notification which is legally untenable. [*Skill Lotto Solutions (P) Ltd. vs. Union of India & Ors. (2021) 15 SCC 667*, *Dulari Devi & Ors. vs. State of Rajasthan & Ors. (2015) SCC OnLIne Raj 2175 (DB), Haryana Pharmaceuticals Manufacturers Association (Regd.) vs. Union of India & Ors. (2014) SCC OnLine P&H 14586 (DB)* and *Indofer Society & Ors. vs. Director General of Foreign Trade (2001) SCC OnLine Cal 26*].

14. It also appears from the Act itself that the definition of a designated consumer under section 2(g) and the powers under Section 14 empower the Central Government to specify any user or class of users as designated consumers has been expressly provided for. Section 2(s) of the Act defines Schedule as the Schedule appended to the Act. Serial No. 14 to the Schedule expressly includes *'Thermal power stations, hydel power station, electricity transmission company and the distribution company'* within the ambit of the Act. In such circumstances, on a reading of the Act and the extant Notifications it is clear that WBSEDCL is *prima facie* a designated consumer. There is nothing manifestly unjust or glaringly unconstitutional

which warrants interference at this interim stage. It is now well settled that there is always a presumption in favour of the constitutional validity of any legislation unless the same is found to be unconstitutional. The system of check and balances has to be utilized in a balanced manner which does not render legislation ineffective.

15. The underlying element of public interest cannot also be undermined. Article 51-A(g) of the Constitution of India also enshrines a fundamental duty on citizens to protect and improve the natural environment. *Prima facie*, there is nothing in the impugned Act or the Notifications issued pursuant thereto which can said to be restrictive or violative of the fundamental rights conferred on the petitioner either under Article 14 or 19(1)(g) of the Constitution of India. The provisions of a statute cannot be made ineffective by passing interim orders which virtually bring to a standstill the entire working of an Act. (*Hindustan Zinc Limited vs. Rajasthan Electricity Regulatory Commission (2015) 12 SCC 611*, *Bhavesh D. Parish And Others vs. Union Of India And Another (2000) 5 SCC 471* and *Health For Millions vs. Union Of India And Others (2014) 14 SCC 496).*

16. *Prima facie,* the jurisdiction exercised by the respondent authorities is in consonance and conformity with the Act and the powers contained therein. There is no challenge to the definition of designated consumer [section 2(g)], 2(s)], powers of the Central Government to specify any user or class of users as designated consumers [section 14(e)] or the Schedule (serial no.14)

which includes transmission and distribution companies. DISCOM's have long been held to be within the meaning of the designated consumer under the Act. In such circumstances, the petitioners have been unable to disclose any *prima facie* case warranting inference with the impugned communication dated 14 February 2025.

17. Even on the grounds of balance of convenience, irreparable injury and conduct the petitioners are not entitled to any relief. The impugned communication has an all India impact on DISCOMs. In such circumstances, any interim order would have a drastic impact with the working of the Act inasmuch as the compliance monitoring would be paralyzed, penalty jurisdiction frustrated, and implementation Guidelines impeded.

18. There has also been no attempt to raise an objection of whether the petitioner can be treated as a 'designated consumer' or whether it is "impossible" to achieve the obligations as stipulated under the Act before the 'Designated Authority' under the Act. Ordinarily, such matters (save and except the question of vires) require specialized, technical, scientific and commercial considerations and are best left to the statutory authorities. [*Akshay N. Patel vs. Reserve Bank of India (2022)3 SCC 694 @* para 62].

19. There is also inordinate delay in the petitioners approaching this Court. The impugned communication dated 14 August 2025 refers to correspondence

which had been exchanged as far back as on 28 November 2023, 1 February, 2024 and 26 September 2024 respectively. The petitioner has been treated as a designated consumer for a considerable period of time and has done nothing about it. Initially, by a Notification dated 29 December 2015, all distribution licensees were classified as designated consumers. The petitioners have been sleeping over their rights. The question of being suddenly impacted by a huge monetary liability cannot be the guiding factor in such matters moreso keeping in view the objectives of the Act [*M.K. Ranjitsinh & Ors. vs. Union of India & Ors. (2024) 19 SCC 139*].

20. The impugned Notifications cannot even *prima facie* be held to be *ultra vires*, unconstitutional or beyond the legislative competence. There is no violation of any fundamental right guaranteed under the Constitution which can be said to have been infringed. Similarly, there is nothing in the impugned notifications which even *prima facie* can be held to be *ultra vires* or beyond the powers of the enabling any Act under which they have been framed. In any event, in the absence of any notice served under Order XXVII A of the Code of Civil Procedure 1908 there is a serious issue of maintainability of the writ petition.

21. In view of the fact that the application is now being finally heard after completion of affidavits, reference to the *ad interim* order dated 25 September 2005 is of little assistance. The controversial submissions made on behalf of the Union of India at the time when the interim order was passed are equally irrelevant and need not be gone into. Insofar as an issue

has been raised as to the Coordinate Bench having determination or not, there appears to be concurrent determination and hence, there is no need to dilate on the same.

22. In the above circumstances, the petitioners have been unable to disclose any *prima facie* case warranting reliefs. The balance of convenience and irreparable injury is also against any orders being passed at this stage. CAN 1 of 2025 stands dismissed. The interim order stands vacated.

(Ravi Krishan Kapur,J.)