



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 29<sup>TH</sup> DAY OF APRIL 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM**

**WRIT PETITION NO. 103671 OF 2021 (GM-KEB)**

**BETWEEN:**

1. SHRISHAIL IRAPPA KEMPWAD  
S/O. IRAPPA KEMPAWAD,  
AGED ABOUT 38 YEARS, SECRETARY,  
SHRI SHRIMANT (TATYA) PATIL,  
NEERU BALAKEDARAR SANGH,  
HAVING ITS REGISTERED OFFICE AT  
PARTHANHALLI (B), TQ: ATHANI,  
BELGAVI-591230.
2. TAMMANNA ANNAPPA PUJARI  
S/O. ANNAPPA PUJARI,  
AGED ABOUT 30 YEARS, SECRETARY,  
RAVALANATH YET NEERU,  
BALAKEDARAR SANGH,  
HAVING ITS REGISTERED OFFICE  
AT MADABHAVI, ATHANI TALUK,  
BELGAVI-591230.

...PETITIONERS

(BY SRI. SHRIDHAR PRABHU, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
DEPARTMENT OF ENERGY,  
VIKASA SOUDHA,  
DR. AMBEDKAR VEEDHI,  
BENGALURU-560001,  
(REPRESENTED BY ITS  
ADDITIONAL CHIEF SECRETARY).

Digitally signed  
by CHATHRA A  
Location: HIGH  
COURT OF  
KARNATAKA



2. KARNATAKA ELECTRICITY  
REGULATORY COMMISSION,  
A STATE ELECTRICITY  
REGULATORY COMMISSION  
CONSTITUTED UNDER  
THE PROVISIONS OF THE KARNATAKA  
ELECTRICITY REFORMS ACT, 1999,  
HAVING ITS OFFICE AT NO.16C-1,  
MILLER'S TANK BED AREA,  
VASANTH NAGAR, BENGALURU-560052,  
(REPRESENTED BY ITS CHAIRPERSON).
3. HUBLI ELECTRICITY SUPPLY  
COMPANY LIMITED,  
P.B.ROAD, NAVANAGAR,  
HUBBALLI-580025,  
(REPRESENTED BY  
THE MANAGING DIRECTOR).

..RESPONDENTS

(BY SRI. ASHOK T.KATTIMANI, AGA FOR R1;  
SRI. B.S.KAMATE, ADVOCATE FOR R2;  
SRI. SHIVARAJ P.MUDHOL, ADVOCATE FOR R3 AND R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227  
OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS  
FROM THE RESPONDENTS, TO QUASH THE DEMAND NOTICE  
BEARING NO.A/AKANIA(V)/SALE/K/HS/2020-21/7531-32 DATED  
16TH JANUARY, 2021 ISSUED BY THE 3RD RESPONDENT PRODUCED  
HEREIN AS ANNEXURE-A AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING  
IN 'B' GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

**ORAL ORDER**

The petitioners who are secretary of the respective Cooperative Societies have filed captioned writ petition seeking the following reliefs.

- A. Call for records from the Respondents;
- B. Writ of Certiorari or any other writ, order or direction to quash the demand notice bearing No.A/ AKANIA (V)/SALE/K/HS/2020-21/7531-32 dated 16th January, 2021 issued by the 3<sup>rd</sup> respondent produced herein as Annexure-A;
- C. Issue writ of Mandamus or in the nature of Mandamus or any other appropriate writ, order or direction thereby directing the 3<sup>rd</sup> respondent not to disconnect the Petitioners' installations bearing No.RR Nos. HT-104 and HT-106 (1<sup>st</sup> Petitioner and HT-38 and HT-40 (2<sup>nd</sup> Petitioner);
- D. Issue a Writ of Mandamus or any other Writ, Order or direction and declare that period 24<sup>th</sup> March, 2020 to 31<sup>st</sup> May, 2020 as the *Force Majeure Event* and consequently, direct the 3<sup>rd</sup> Respondent HESCOM Limited to withdraw the bills for the said period;
- E. Issue writ of *Mandamus* or in the nature of *Mandamus* or any other appropriate writ, order



or direction thereby declaring that exclusion of the Petitioners from the eligibility of receipt of subsidy as per Government Order Bearing No. EN 55 PSR 2008 dated 4<sup>th</sup> September, 2008 produced herein as **Annexure-B** results in hostile discrimination to the Petitioners;

- F. Issue writ of *Mandamus* or in the nature of *Mandamus* or any other appropriate writ, order or direction thereby directing the 1<sup>st</sup> Respondent to grant subsidy to the Petitioners' installations bearing No.RR Nos. HT-104 and HT-106 (1<sup>st</sup> Petitioner) and HT-38 and HT-40 (2<sup>nd</sup> Petitioner) serviced under HT-3A(II) as TA Tariff Category by suitably amending the Government Order Bearing No.EN 55 PSR 2008 dated 4<sup>th</sup> September, 2008 as per Annexure-B to include the Petitioners society as the eligible entity for receipt of subsidy from the 1<sup>st</sup> Respondent; and
- G. pass such other and incidental Orders as may be appropriate under the facts and circumstance of the case, including an order as to costs.

2. Brief facts of the case are as that, petitioner Nos.1 and 2-society are registered under the Karnataka Societies Registration Act, 1960, with 13 and 17 number of members respectively by respective authorized representatives as per Section 15 of the Karnataka



Societies Registration Act. These two societies assert that they are the registered consumers of respondent No.3-HESCOM. Petitioners assert that both the societies are assigned with respective meter numbers as serviced under HT-3A(II) as TA Tariff Category. Respondent No.3 accordingly sanctioned power supply to both the petitioner societies to an extent of 90HP + Additional 100 HP under HT 3(a)(ii) tariff, which is applicable to Lift Irrigation Scheme/Lift Irrigation Societies respectively.

3. Petitioners assert that they have constructed the lift irrigation project (scheme) on river Krishna for the benefit of 200 acres of land and 103 acres of land in Parthanahalli and Madhabhavi villages of Athani Taluk at approximate cost of Rs.5,79,65,417/-.

4. The petitioner citing Section 55 of the Electricity Act, 2003 would contend that there is statutory duty on respondent No.3 to supply power only through the metered installation. Petitioners allege that no distribution licensee in the State including respondent No.3 is following



the same for the reasons known to them. Despite these factual matrix, respondent No.2 has been permitting disbursement of subsidy by respondent No.1 to unmetered installations through its tariff order. Petitioners claim that in terms of annual report of respondent No.3 for the financial year 2019-20, the total number of installations under the HT-3(a) category were 307 and the revenue collected from such installation was Rs.54,15,48,345/-. Petitioners also assert that in said report, the total number of metered IP set belong 10 HP was 157232 only as against 8,00,606 number of unmetered IP sets. The petitioners specifically claim that respondent No.3- HESCOM has claimed subsidy of Rs.3995.18 crore from respondent No.1 and respondent No.1 has released a subsidy of Rs.5067.69 crores. Petitioners allege that respondent No.1-State has paid subsidy even for the electricity consumed by the unmetered installations also on the basis of estimated consumption, contrary to the mandate under the 2003 Act and the regulations made there under and also contrary to the Government Orders



issued by the State. Petitioners assert that total subsidy outlay for HT-3(a) category was Rs.54.2 crores as against the total IP set subsidy claim of Rs.3995.18 crores and disbursement of Rs.4067.69 crores.

5. The primary grievance of the petitioner-society in the captioned petition is that, though provisions of the Act were aimed to provide water to the farmers, it is constitutional responsibility of the State to ensure the same. Inaction of the State has compelled the farmers to make their own arrangements for their respective lands by securing lift irrigation scheme by becoming a members of the society. These marginal farmers who have formed a society are penalized and discriminated, though individual IP holders are availing beyond one IP set and are availing subsidy, the same is not extended to the farmers who have formed a society.

6. Petitioners allege that there is discriminating denial of agricultural power tariff subsidy to the societies formed by marginal farmers, despite the same being



available to the individual farmers and therefore, they contend that it violates Article 14 of the Constitution of India.

7. Learned counsel for the societies reiterating the grounds urged in the captioned petition has filed two sets of written arguments. The gist of the written arguments tendered by the petitioners counsel is that, respondents are denying power supply to the petitioners-society only on the ground that farmers have chosen to form a society while subsidy is extended only to individual farmers. Petitioner counsel therefore, vehemently argued and contended that this classification between the individual and collective use where per capita consumption remains the same or less is arbitrary and rational nexus to the object of subsidy.

8. Learned counsel for the petitioners while addressing his arguments on the scope of judicial review over a policy decision of the State has placed reliance on a judgment rendered by the Hon'ble Apex Court in the case





of ***Kerala Bar Hotels Association and Others vs State of Kerala and Others*** reported in ***(2015) 6 SCC 421***. He has also placed reliance on the judgment rendered by the Hon'ble Apex Court in the case of ***Yamuna Expressway Industrial Development Authority and Others vs Shakuntla Education and Welfare Society*** reported in ***2022 INSC 594***. Citing these two judgments he would point out that, if the policy decision is found to be palpably arbitrary, *mala fide*, irrational or violative of the statutory provisions, the Constitutional courts are bound to exercise the extraordinary jurisdiction and review the policy decision in the light of law laid down by the Hon'ble Apex Court. He has also placed reliance on the latest judgment rendered in the case of ***Khalsa University and Others vs The State of Punjab*** reported in ***AIR 2024 SC 4951***. Citing this judgment, he would seriously question the validity of the policy decision of extending subsidy only to the individual farmers while denying subsidy to the farmers who have chosen to form a society. He would point out that this policy is palpably arbitrary and the



policy intends only to subsidized power supply metered consumption. However, referring to the documents, he would point out that there are unmetered installations as well, which is evidenced at Annexure-K, and the annual report of the HESCOM that subsidy released by the State covers 824822 unmetered connections accounting for 5929.74 Million Units. He would vehemently argue and contend that subsidy is not only found to be discriminatory, but it clearly violates Section 55 of the Electricity Act, 2003, that mandates supply only through proper metering. He would point out that, policy as well states that only metered installations are entitled to subsidy.

9. Learned counsel has also placed reliance on the Electricity (Rights of the Consumer) Rules 2020 evidenced at Annexure-M, produced along with memo for additional documents. Citing this, he would point out that State as well as the other consumers receiving free supply are entitled to same hours of supply without any distinction.



Therefore, he would refute the contention of the HESCOM that, free supply consumers are receiving less number of hours of supply, while the petitioner-society being non-subsidized but paying actual bills are receiving higher hours of supply is totally baseless. Learned counsel for the petitioners contend that this stand taken by the HESCOM being the supply company cannot vary hour supply at its own who pays the bill.

10. While highlighting discriminatory action of the respondents in categorizing only marginal farmers who have maintained individual meters and availing subsidy, he would highlight that society is nothing but its member and per capita consumers being below 10 HP, denial of subsidy to the society which collectively uses power supply for agricultural purpose, is clearly discriminatory.

11. He would also question the impugned recovery orders and would contend that, on account of drought and covid, the petitioners collectively being marginal farmers are not in a position to pay arrears. Therefore, by



extending benefit of subsidy, a request is made to waive off the arrears of electricity bills.

12. Per contra, learned counsel appearing for the HESCOM has filed statement of objections, however, has denied the petitioners' claim that society has suffered loss on account of covid pandemic. At paragraph 9, the HESCOM contend that no restrictions insofar as agricultural operations are concerned were imposed during covid pandemic. Therefore, bills are raised proportionately with the consumption made by the petitioner society and since power supply was operational to the meters installed to the respective society, the allegations made in paragraph 7 of the writ petition is totally false. He would point out that bills raised by the HESCOM authorities as per the electricity power used by the petitioners' electricity charges, bills are raised and the petitioner-societies are bound to repay the arrears. He would also highlight from the fact that both societies have entered into an agreement with the HESCOM and they have agreed to the



tariffs in terms of the agreement. Therefore, government order vide Annexure-A is not applicable to the petitioners-societies. Since the order pertains to marginal farmers who are using 10 HP meter or below 10 HP. The petitioner-societies however, availing HT power supply and accordingly have entered into an agreement in 2016. Therefore, both societies are liable to pay tariffs charges in terms of the agreement entered into with the HESCOM.

13. HESCOM has also contended that despite the interim order granted by this court, the petitioner-societies who have the benefit of an interim order have not deposited the amount in compliance of interim order granted by this court. He would point out to the bills which are marked at Annexures-R5 and R6.

14. Learned Additional Advocate General while countering the petitioners contention regarding discriminatory action of the State, would point out that farmers who are members of these societies can very well avail the scheme in their individual capacity and there is



no bar. If they have voluntarily chosen to form a society, then the subsidy scheme which is only extended to the individual farmers cannot be availed by the farmers collectively and it is a policy decision and the requisite condition is that, farmers while using irrigation facility, can set up only a meter of 10 HP and not beyond that. He would also point out that petitioner-society approached this court only to overcome the recovery proceedings initiated by the HESCOM.

15. Having heard the counsels extensively, the following points would arise for consideration.

- 1) *Whether the basis for denial of subsidy to the petitioner-society on the ground that power subsidy is extended only to the individual farmers for agricultural usage and therefore, denial of power tariff subsidy to a society of farmers while granting to a individual farmer constitutes unreasonable classification and thereby violates Article 14 of the Constitution of India?"*
- 2) *Whether demand notice issued by respondent No.3 as per Annexure-A warrants interference and consequentially petitioners are entitled for relief of mandamus to direct respondents not to disconnect petitioners installations ?*



- 3) *Whether petitioners are entitled for a declaration that period of 24<sup>th</sup> March, 2020 to 31<sup>st</sup> May, 2020 as Force Majeure event and consequently respondents no.3 is liable to withdraw the bills for that period?*

**Findings on point no.1:**

16. The State provides agricultural power tariff subsidies to individual farmers to support their agricultural operations, particularly for irrigation purposes. This subsidy is primarily aimed at assisting marginal and small farmers by alleviating the financial burden of energy costs for irrigation. However, a discriminatory practice has emerged wherein registered societies or collectives of farmers are denied the same subsidy, based solely on the collective consumption of power exceeding a prescribed limit (such as 10 HP). While individual farmers, each using less than the prescribed 10 HP, continue to receive the subsidy, farmer societies that aggregate these consumptions face denial. This practice not only undermines the objectives of the subsidy scheme but also



discriminates against collectives that are formed with the purpose of improving efficiency and resource sharing.

17. The central issue arises from whether denying power tariff subsidies to societies of farmers while granting the subsidy to individual farmers constitutes an arbitrary classification and violates the principle of equality enshrined in Article 14 of the Constitution of India. This question brings to the fore whether such discriminatory treatment undermines the constitutional guarantee of equal protection under the law.

18. Article 14 of the Constitution guarantees equality before the law and ensures that every individual is entitled to equal protection under the law. The doctrine of equality mandates that any classification of individuals or entities under the law must be both reasonable and justifiable. It must fulfil two critical requirements, as laid down by the hon'ble Supreme Court in ***State of West Bengal v. Anwar Ali Sarkar***<sup>1</sup> :

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<sup>1</sup> (1952) SCR 284





- i. **Intelligible Differentia:** The classification must be based on an intelligible difference that distinguishes between the classes.
- ii. **Rational Nexus:** There must be a rational nexus between the differentia (the basis for classification) and the objective that the statute or policy seeks to achieve.

19. In this case, the intelligible differentia is the status of the applicant; whether they are an individual farmer or a collective (farmer society). The object of the subsidy is to assist marginal farmers by reducing the cost of irrigation and supporting agricultural productivity.

20. The current classification between individual farmers and farmer societies is arbitrary and lacks a rational nexus with the objective of the subsidy. The marginal farmers who form collectives are the same group of individuals who would be eligible for the subsidy if applying individually. The denial of the subsidy to the collectives, based solely on their collective consumption



exceeding the 10 HP limit, is discriminatory and irrational because it defeats the purpose of supporting small and marginal farmers.

21. The power subsidy is intended to Support marginal and small farmers by making irrigation more affordable, ensure equitable access to water resources, encourage sustainable farming practices and the efficient use of energy.

22. However, by denying the subsidy to farmer societies, the government's action undermines these objectives. Farmers who organize themselves into societies to share irrigation resources and reduce costs should be incentivized, not penalized. The denial of the subsidy for collective consumption contradicts the purpose of the subsidy, which is to support the farming community, regardless of whether they act individually or collectively.

23. The Apex Court has re-iterated the concept that equality is a dynamic concept and that it cannot be



confined and restricted to narrow definitions. The Hon'ble Supreme Court in ***EP Royappa v. State of Tamil Nadu***<sup>2</sup> has also stated that arbitrary actions violate the Constitutional right guaranteed under Section 14 of the Indian Constitution.

24. The Hon'ble Supreme Court in ***Maneka Gandhi v. Union of India***<sup>3</sup> has also re-emphasised that arbitrariness is incompatible with equality and that it is a ground for invalidating a legislative or executive action. The Hon'ble Apex Court in ***DS Nakara v. Union of India***<sup>4</sup>, struck down the government's arbitrary classification of pensioners, ruling that when a uniform group is treated differently without rational basis, the action is unconstitutional.

25. Similarly, in ***K.T. Plantation v. State of Karnataka***<sup>5</sup>, the Hon'ble Apex Court emphasized that state policies must not defeat the purpose they are meant

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<sup>2</sup> (1974) 4 SCC 3

<sup>3</sup> (1978) 1 SCC 248

<sup>4</sup> (1983) 1 SCC 305

<sup>5</sup> (2011) 9 SCC 1



to serve, and the same principle applies to agricultural subsidies.

26. This classification between individual and collective use of power, where the per capita consumption remains the same or less, is arbitrary and unconstitutional.

27. The government has consistently supported cooperative and collective farming practices. Various government schemes, such as Farmer Producer Organizations (FPOs) and Water User Associations (WUAs), have been encouraged as tools for reducing costs, improving resource use efficiency, and empowering small farmers. These initiatives aim to foster collaboration and provide access to resources that would otherwise be difficult for individual farmers to obtain.

28. By denying subsidies to societies that form for collective action, the government contradicts its own policy objectives and fails to support sustainable agricultural practices. Penalizing farmers who organize into collectives



discourages cooperative farming, which is a critical aspect of ensuring long-term sustainability in Indian agriculture.

29. When farmers form a collective society to pool their resources such as water pumps or irrigation equipment, they often save on costs and increase efficiency. For instance, a group of five farmers, each of whom individually qualifies for the subsidy (say, for 2 HP each), may collectively need a 10 HP motor for their irrigation needs. Under the current policy, they would be denied the subsidy as the collective consumption exceeds the limit, even though the per capita consumption remains below the threshold. This practice creates inefficiencies. It incentivizes farmers to operate individually, which leads to greater resource consumption, more infrastructure requirements, and higher monitoring costs. It discourages cooperation, thus undermining government policies that promote collective action. This outcome is not only irrational but also detrimental to both the farmers and the environment.



30. The petitioners, citing Section 55 of the Electricity Act, 2003, contend that there exists a statutory obligation on respondent No. 3 (the distribution licensee) to supply electricity only through metered installations. However, it is alleged that no distribution licensee in the State, including respondent No. 3, is adhering to this statutory duty, and the reasons for this non-compliance remain known only to the concerned authorities. Despite this clear breach of statutory duty, respondent No. 2 (the Commission) has been permitting the disbursement of subsidies by respondent No. 1 (the State Government) for unmetered installations through its tariff order. This action not only flouts the clear requirements of the Electricity Act, 2003, but it also seems to undermine the intended purpose of ensuring efficient and transparent electricity consumption and subsidy distribution.

31. In the annual report of respondent No. 3 for the financial year 2019-20, the petitioners bring to light an important discrepancy within the power subsidy



distribution system. Specifically, they point out that a total of 307 installations fell under the HT-3(a) category, generating a revenue collection of Rs. 54,15,48,345. This revenue collection pertains to installations that are metered and categorized under HT-3(a). However, a notable concern arises when comparing this category with the broader IP set category, where the report reveals a staggering number of 8,00,606 unmetered IP sets, compared to just 157,232 metered IP sets. The petitioners have succeeded in highlighting that respondent No. 3 (HESCOM) has claimed a subsidy amount of Rs. 3995.18 crore from respondent No. 1, the State Government, which subsequently disbursed Rs. 5067.69 crore in subsidies.

32. What is particularly troubling is that the subsidy amount disbursed to unmetered installations was calculated based on estimated consumption rather than actual readings, which is explicitly in violation of the legal framework established by the Electricity Act, 2003, and its



associated regulations. Under the Act, there is a clear mandate that electricity distribution should only occur through metered installations, ensuring that consumption is accurately recorded and the subsidy paid is proportionate to actual use. The practice of estimating consumption for unmetered installations is not only legally problematic, but also undermines the intended purpose of the subsidy system, which is to incentivize efficient and responsible energy use.

33. The petitioners have demonstrated that this subsidy distribution mechanism is inconsistent with the statutory requirements of the Electricity Act, 2003, which calls for the use of meters for the proper measurement of electricity consumption. Records clearly reveal that this process of disbursing subsidies based on estimated consumption for unmetered installations constitutes a clear violation of both statutory and regulatory norms. The action also directly contradicts the Government Orders issued by the State, which require the application





of accurate measurement and accountability in subsidy disbursement.

34. The figures presented further illustrate the discrepancy in the subsidy allocation process. While the total subsidy outlay for the HT-3(a) category was Rs. 54.2 crore, the total subsidy claim for the IP sets amounted to a significantly higher sum, Rs. 3995.18 crore, with a total disbursement of Rs. 4067.69 crore. This reveals a serious gap between the subsidy claim and the actual amount disbursed, raising serious questions about the legitimacy of the subsidy distribution process.

35. In stark contrast to this practice, the denial of power subsidies to farmer societies, which are formed by marginal farmers for the purpose of pooling resources and improving efficiency, defies logic and fairness. The government, which encourages cooperative farming and resource-sharing among small and marginal farmers, denies the subsidy to these societies solely because their collective power consumption exceeds a prescribed limit,



even when the per capita consumption of each individual farmer may be lower than the prescribed threshold for individual subsidy eligibility.

36. The discriminatory denial of subsidy to these farmer societies, while simultaneously disbursing subsidies for unmetered installations often based on estimates rather than actual consumption highlights a fundamental inconsistency in the implementation of government policies. The failure to grant subsidies to farmer societies, which are organized for more efficient and sustainable agricultural practices, directly contradicts the government's own policy goals.

37. This discriminatory treatment undermines the core purpose of the subsidy system which is to provide support to marginal farmers by treating them unfairly based on an arbitrary classification between individual farmers and societies. The law requires equal treatment under similar circumstances, and the arbitrary distinction made between individuals and societies formed by farmers



amounts to a violation of Article 14 of the Constitution of India, which guarantees equality before the law and prohibits arbitrary state action.

38. In conclusion, the current practice of allowing subsidies for unmetered installations based on estimated consumption, while denying subsidies to farmer societies despite their per capita consumption being within the eligibility limits, constitutes a clear violation of both statutory and constitutional mandates. This action is not only legally flawed but also defeats the very purpose of agricultural subsidies, discourages cooperative farming, and promotes inefficiency and wastefulness in electricity consumption. The petitioners, therefore, seek an immediate review of the current policy to align it with the legal framework, ensuring that subsidies are distributed fairly and in a manner that supports the interests of marginal and small farmers.

39. In light of the foregoing, The current policy of denying power tariff subsidies to farmer societies, based



solely on the aggregate power consumption, should be reviewed and amended. The eligibility criteria for the subsidy should be based on per capita consumption, this would ensure that farmer societies, even with a higher aggregate consumption, do not face discrimination if their per capita usage is within the prescribed limit. Alternatively, eligibility could be based on the total landholding of the members of the society, reflecting their true agricultural needs. Another option could be to allow subsidies based on the total collective capacity of the society, provided it does not exceed the sum of what the individual members would have received. The government must align its subsidy policy with the constitutional principles of Article 14 to ensure equality before the law, national and state policies that promote farmer collectivization, environmental sustainability and efficient resource use. Accordingly, point No.1 is answered in the ***affirmative.***

**Finding on Point Nos.2 and 3**

40. In response to the objections raised by HESCOM, it is essential to note that the petitioners cannot evade their obligation to settle the arrears of electricity bills by solely relying on the claim of subsidy benefits. While the petitioners argue that they should be entitled to subsidy benefits, especially given the alleged hardships faced due to the COVID-19 pandemic, the factual position remains that the electricity supply to the petitioner societies continued uninterrupted during the relevant period. HESCOM has raised bills based on actual consumption, and the petitioners, having entered into an agreement with HESCOM in 2016 for HT power supply, are bound by the terms of that agreement, including the agreed tariffs. Therefore, irrespective of the ongoing dispute over the subsidy, the petitioner societies must first fulfil their financial obligations by paying the arrears as per the bills raised by HESCOM. The interim order granted by the court provides a temporary relief but does not absolve



the petitioners from the duty to pay the outstanding amounts. Once the arrears are cleared, the petitioners may proceed with their detailed representation seeking subsidy benefits in accordance with the applicable rules and government orders. The legal and contractual obligations of the petitioners under the agreement with HESCOM take precedence, and failure to settle the arrears will delay or prejudice their ability to claim subsidy benefits.

41. The petitioners are availing the facilities of electricity in pursuant to a contract signed between the petitioners and HESCOM which details out the rights and obligations of both parties. Unless there is a change in the terms of the contract or the HESCOM agrees to provide the benefit of the subsidy to the petitioners, they are not entitled to the subsidised rate. The contract signed by both the parties details out the rate agreed upon by both and that cannot be unilaterally changed by the petitioner merely because other farmers are enjoying the benefit of



the subsidised rate. The petitioners will only be entitled for the subsidy provided that HESCOM approves the same.

42. The petitioners having admittedly availed and consumed electricity during the relevant period, and having entered into a binding agreement with respondent No.3 accepting the applicable tariffs, cannot evade their contractual obligations under the guise of Force Majeure. Mere existence of Covid-19 restrictions, without evidence of actual interruption of electricity supply or specific government direction exempting payment of charges for electricity consumed, cannot absolve the petitioners of their liability to pay for the energy used. Accordingly, point Nos.2 and 3 are answered in the ***negative***.

### **CONCLUSIONS:**

43. The denial of power subsidy to registered farmer societies, solely on the ground that their collective consumption exceeds a prescribed limit, is hereby declared unconstitutional and arbitrary. This practice is



discriminatory and fails to align with the core objectives of agricultural subsidies, which are intended to support small and marginal farmers, promote equitable access to resources, and encourage sustainable farming practices.

44. The practice of differentiating between individual farmers and societies, based purely on collective consumption, is found to be inconsistent with the constitutional mandate of equality before the law under Article 14 of the Constitution of India. It is based on an irrational classification that arbitrarily penalizes farmers for forming societies aimed at improving efficiency and sustainability.

45. The Government and the concerned authorities are directed to review and amend the current policy to extend power subsidies to registered farmer societies, with criteria based on per capita consumption, landholding, or aggregate power consumption per member, rather than penalizing the society as a whole for exceeding a prescribed power consumption limit.





46. The authorities are also directed to ensure that the objectives of agricultural subsidies including supporting marginal farmers, promoting cooperative farming, and ensuring equitable access to resources are upheld, and that no policy or regulation is allowed to inadvertently discourage collective action or undermine the potential benefits of cooperative farming.

47. The Government is further directed to issue necessary guidelines to ensure that farmer societies that operate with legally established agreements and intended to promote collective agricultural practices are treated equitably, in line with both the statutory framework and the broader goal of agricultural sustainability.

48. The petitioners are entitled to submit their detailed representation seeking subsidy benefits in accordance with the revised policy, after settling any pending arrears as per the existing agreements, and HESCOM is directed to process these applications expeditiously once the arrears have been cleared.



49. Writ of Mandamus is hereby issued, declaring that the exclusion of the petitioners registered farmer societies from the eligibility for receipt of agricultural power subsidy under the Government Order Bearing No. EN 55 PSR 2008 dated 4th September 2008 (produced as Annexure-B) is arbitrary, discriminatory, and violative of Article 14 of the Constitution of India.

50. It is held that the practice of differentiating between individual farmers and collective societies, solely on the basis of aggregate consumption exceeding a prescribed limit, constitutes an irrational and unreasonable classification. Such classification penalizes collective and cooperative efforts among marginal and small farmers and defeats the very purpose of the agricultural subsidy, namely, to promote access to irrigation, enhance agricultural productivity, and encourage sustainable and efficient farming practices.

51. The impugned Government Order, in so far as it excludes societies formed by farmers from subsidy



benefits merely on account of their collective horsepower (HP) consumption, fails to satisfy the twin tests laid down under Article 14 , namely, (i) intelligible differentia, and (ii) rational nexus with the object sought to be achieved. The classification is based on irrelevant considerations and leads to hostile discrimination against farmers exercising their constitutional right to associate and operate collectively.

52. Consequently, it is declared that the impugned Government Order No. EN 55 PSR 2008 dated 4th September 2008 (Annexure-B) is unconstitutional, in so far as it denies the benefit of power tariff subsidy to farmer societies purely on the ground of collective consumption exceeding the specified horsepower limit.

53. The State Government and the concerned distribution companies (including HESCOM) are directed to review, reconsider, and amend the existing policy framework governing agricultural power subsidies, ensuring that farmer societies are treated at par with



individual farmers. The eligibility for subsidy shall be determined based on per member consumption, total landholding served, or aggregate HP entitlements of the member farmers, rather than by the arbitrary threshold of total connected load.

54. It is further directed that the authorities must frame and notify appropriate guidelines within a reasonable period (preferably within six months) to extend power tariff subsidies to registered farmer societies, in a manner that aligns with the principles of equality, promotes cooperative farming, and advances the broader goals of sustainable agricultural development.

55. The petitioners are permitted to submit detailed representations seeking the benefit of power tariff subsidy under the revised framework, and the competent authorities are directed to consider and dispose of such representations expeditiously, in accordance with law.



56. Insofar as the prayers seeking (i) issuance of a writ of Certiorari to quash the demand notice dated 16th January 2021 (Annexure-A), (ii) issuance of a writ of Mandamus directing respondent No.3 not to disconnect the petitioners' installations bearing RR Nos. HT-104, HT-106, HT-38, and HT-40, and (iii) declaration that the period from 24th March 2020 to 31st May 2020 constitutes a Force Majeure event thereby requiring withdrawal of bills for the said period, are concerned, this Court finds no merit in the same. The petitioners having admittedly availed and consumed electricity during the relevant period, and having entered into a binding agreement with respondent No.3 accepting the applicable tariffs, cannot evade their contractual obligations under the guise of Force Majeure. Mere existence of Covid-19 restrictions, without evidence of actual interruption of electricity supply or specific government direction exempting payment of charges for electricity consumed, cannot absolve the petitioners of their liability to pay for the energy used. Furthermore, there being no illegality or procedural



infirmary in the issuance of the demand notice, the prayer for quashing the same is also untenable. Consequently, these prayers are hereby rejected.

57. It is further directed that the authorities must frame and notify appropriate guidelines within a reasonable period.

58. The writ petition stands allowed in the above terms.

### **ORDER**

- i) Writ petition is ***allowed in part.***
- ii) Petitioners are hereby directed to pay the pending arrears to respondent No.3.
- iii) Consequently, it is declared that the impugned Government Order No. EN 55 PSR 2008 dated 4<sup>th</sup> September 2008 (Annexure-B) is unconstitutional, in so far as it denies the benefit of power tariff subsidy to farmer societies purely on the



ground of collective consumption exceeding the specified horsepower limit.

- iv) Consequently, the State Government and the concerned distribution companies (including HESCOM) are directed to review, reconsider, and amend the existing policy framework governing agricultural power subsidies, ensuring that farmer societies are treated at par with individual farmers.
- v) It is further directed that the authorities must frame and notify appropriate guidelines within a reasonable period (preferably within six months) to extend power tariff subsidies to registered farmer societies, in a manner that aligns with the principles of equality, promotes cooperative farming, and advances the broader goals of sustainable agricultural development.



- vi) Respondent No.3 is hereby directed to consider the petitioners' application seeking subsidy benefits in accordance with law once the arrears are paid.
- vii) The petitioners are reserved with liberty to submit detailed representations seeking the benefit of power tariff subsidy under the revised framework.
- viii) Prayers in regard to setting aside the demand notice and declaration of the specified period as Force Majeure are hereby rejected.

**SD/-**  
**(SACHIN SHANKAR MAGADUM)**  
**JUDGE**