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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 04.08.2025.*  
*Judgment pronounced on: 27.08.2025.*

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**LPA 1220/2007****S.K.N. ASSOCIATES P. LTD. & ANR. ....Appellants**

Through: Mr. Anil Sapra, Senior Advocate with Mr. Sanjeet Singh, Mr. Akshay Sapra, Mr. Sarthak Katyal and Mr. Rakshit Das, Advocates.

versus

**UOI & ANR****.....Respondents**

Through: Ms. Monika Arora (CGSC) with Mr. Subhrodeep Saha and Ms. Anamika Thakur, Advocates.

Mr. B.K. Sood, Advocate for Respondent No. 2.

Mr. Avneesh Garg, Mr. Rohit Rishi, Mr. P. Sinha, Ms. Pavitra Singh and Ms. Iptisha, Advocates for Respondent No. 3.

Ms. Savita Rustogi, Mr. Ashu Tewathia and Ms. Ishita Gupta, Advocates for Respondent No. 6.

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**W.P.(C) 14682/2006****S.K.N. ASSOCIATES P. LTD. & ANR. ....Appellants**

Through: Mr. Anil Sapra, Senior Advocate with Mr. Sanjeet



2025 :DHC:7354-DB



Singh, Mr. Akshay Sapra, Mr.  
Sarthak Katyal and Mr. Rakshit  
Das, Advocates.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms. Monika Arora (CGSC)  
with Mr. Subhrodeep Saha and  
Ms. Anamika Thakur,  
Advocates.

Mr. Avneesh Garg, Mr. Rohit  
Rishi, Mr. P. Sinha, Ms. Pavitra  
Singh and Ms. Iptisha,  
Advocates for Respondent No.  
3.

Ms. Savita Rustogi, Mr. Ashu  
Tewathia and Ms. Ishita Gupta,  
Advocates for Respondent No.  
6.

Mr. B.K. Sood, Advocate for  
Respondent No. 7.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN  
SHANKAR**

### **J U D G M E N T**

**HARISH VAIDYANATHAN SHANKAR, J.**

1. The present petition, being *W.P.(C) No. 14682/2006*, has been filed, *inter alia*, challenging the **Order dated 26.04.2000<sup>1</sup>** issued by the **Ministry of Petroleum and Natural Gas<sup>2</sup>**, whereby the Respondents, by virtue of its powers under Section 3 of the **Essential**

<sup>1</sup> Impugned Order dated 26.04.2000

<sup>2</sup> Ministry



**Commodities Act, 1955**<sup>3</sup>, has sought to regulate petroleum and petroleum products by including therein certain items which are ancillary to and used in the supply and distribution of the restricted products.

2. Though the Petitioners have also sought certain other reliefs, in the nature of a writ of mandamus for registration of the Petitioner No.1 as one of their suppliers and to authorize them to supply regulators, as also a writ in the nature of mandamus seeking a direction for the non-interference with the manufacture and sale of pressure regulators, the said reliefs as are elaborated in Paras (b) and (c) of the Prayer have not been pressed.

3. Learned Senior Counsel for the Petitioner has only pressed into service the challenge to the Impugned Order passed by the Ministry. It is further submitted by the learned Senior Counsel that this challenge has a direct and consequential bearing on *LPA No. 1220/2007*, which has been preferred by the Petitioners against the *Judgment dated 05.09.2007*<sup>4</sup> passed by the learned Single Judge of this Court in *W.P. (C) No. 2753/2007*. By the said Judgment impugned in the LPA aforementioned, the learned Single Judge held that there was no cancellation of the license for pressure regulators, but merely a case of non-renewal of the license in respect of regulators with a collar diameter of 25.6 mm, as the same came to be deleted. Such variation was, in turn, a consequence of the Order impugned in the present writ petition.

4. In view of the same, by way of the present judgement, while dealing with the issues and challenges raised in *W.P.(C) No.*

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<sup>3</sup> Act

<sup>4</sup> Impugned Judgment dated 05.09.2007



**14682/2006**, we intend to dispose of both **W.P.(C) No. 14682/2006** and **LPA No. 1220/2007** by a common judgement.

5. Learned Senior Counsel for the Petitioner in **W.P.(C) No. 14682/2006** has raised a two-fold challenge to the Impugned Order dated 26.04.2000.

6. The first contention of the learned Senior Counsel is that the goods in question - i.e., the pressure regulators - do not qualify as '*Essential Commodities*', and resultantly, there arose no cause for the passage of the Impugned Order dated 26.04.2000. In support of this argument, reliance is placed on Section 2A(1) of the Act wherein '*essential commodity*' has been defined as a commodity which is specified in the Schedule appended to the Act and it is contended that by the use of word '*means*' the same excludes the possibility of there being an inclusive definition and the definition would have to be restricted only to such of those commodities as are set out in the Schedule appended to the Act. Section 2A (1) of the Act reads as follows: -

**“2A. Essential commodities declaration, etc.-** (1) For the purposes of this Act, essential commodity means a commodity specified in the Schedule.”

7. The Schedule appended to the Act, more specifically, at Item 5, specifies "**5. petroleum and petroleum products**". The learned Senior Counsel would, thus, contend that the definition being an exhaustive one, due to the use of the word '*means*', cannot '*include*' within its ambit pressure regulators. He would, thereafter, in support of his contentions, rely upon the judgment of the Bombay High Court in



*Agarwal Ayengar and Co., Ltd. v. State*<sup>5</sup>. The relevant paragraphs of the said judgment are as follows:

“1. The learned counsel, who appears on behalf of the appellants, contends, however, that s. 3 of the Essential Supplies (Temporary Powers) Act, 1946, even after the amendment of the Act, by which cotton and certain other commodities were added to the definition of ‘essential commodities’ in the Act, did not permit the Central Government to direct by an Order that there should be exercised by the Textile Commissioner control over the supply or the prices of lickerin wire. He says that the section merely permits the Central Government by a notified Order to regulate the production, distribution and supply of an essential commodity and trade and commerce therein. It does not permit directly control over the production, distribution and supply of commodities, which are not essential commodities, nor does it permit the regulation of the trade and commerce in such non-essential commodities. If we look at the section itself, it is obvious that the commodities, of which the production, distribution and supply is permitted to be regulated, are essential commodities; and similarly the commodities in which trade and commerce is permitted to be regulated are essential commodities. But even though that is what appears to be the prima facie meaning of the section, it is contended on behalf of the State that, for certain reasons, which it would be convenient to state a little later, if the Central Government found it necessary, in order to control supply and distribution of the essential commodities and trade and commerce therein, to control the production, distribution and supply of the commodities, which are not essential, and trade and commerce in such commodities, s. 3 will permit the Central Government so to provide by a proper Order. **The learned Government Pleader, who appears on behalf of the State, says that the words “regulating the production, distribution and supply of essential goods and trade and commerce therein” are very wide words, and in case they can be made to bear a wider interpretation, then, there is no reason why a narrower interpretation should be placed upon them.** Now, we quite understand that, in case we find that the words have got two meanings, one, a wider one, and one, a narrower one, and it would be carrying out the intention of the Legislature, that is, to accept the wider meaning would assist in the removal of the mischief which the Act was enacted in order to obviate, then, we should accept the wider meaning rather than the narrower meaning. But if we look at the words themselves, we do not think that it can be said that the words are capable of bearing the interpretation which the learned Government Pleader states that they are. **The words “regulating the production, distribution and supply of essential**

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<sup>5</sup> 1951 SCC OnLine Bom 32



**commodities and trade and commerce therein” seem to us to be plain enough, and by no stretch of imagination can it be said that, when the powers of the Central Government are to regulate the production, distribution and supply of essential commodities and trade and commerce therein, nevertheless because it would assist in the regulation of the objects which the Legislature have in view to control the production, distribution and supply of non-essential commodities also, it would be permissible to interpret the words to mean to control the production, distribution or supply or trade and commerce of non-essential commodities.** We think that the argument has

merely got to be stated in order to make out that it is plainly unmaintainable. The learned counsel, who appears on behalf of the appellants, points out as against this that, when it was thought necessary to give powers to the Central Government by an Order for regulating the production, distribution and supply of cotton and trade and commerce therein, it was thought necessary to amend the definition of essential commodity and add thereto cotton; and he says that it was further considered necessary to amend the Imperial Act, under the powers given by which the Essential Supplies (Temporary Powers) Act itself was enacted, by adding to the commodities, of which the production, distribution and supply could be regulated, and in which trade and commerce could be regulated, the commodity, cotton. There are other commodities which were also added to the commodities mentioned in the Imperial Act; but for the present argument it would suffice to mention cotton, and he says that, in case it was considered necessary to add cotton to the essential commodities which were defined in the Essential Supplies (Temporary Powers) Act, and to add the commodity ‘cotton’ to the commodities, with regard to the production, distribution and supply of which the Central Legislature was, during the stated period, empowered to enact, it cannot possibly be argued that, by the same words used in s. 3 of the Essential Supplies (Temporary Powers) Act, powers were intended to be given to the Central Government to control the production, distribution and supply of non-essential commodities and trade and commerce therein. Now, we called upon the learned Government Pleader to tell us why, if those words which find a place in s. 3 of the Essential Supplies (Temporary Powers) Act were of such import, it was considered necessary to amend the Imperial Act, under which powers were conferred upon the Central Legislature to legislate upon the production, distribution and supply of cotton and trade and commerce therein. He says that may possibly be due to the fact that, whereas in regard to small things like lickerin wire or hydro sulphite of soda there was not what he called an independent market, there is in regard to cotton an independent market, in which both transactions for ready delivery and for future delivery take place. Now, we have no doubt that was the reason which prompted the amendment of both the Essential



Supplies (Temporary Powers) Act as well as the Act of the Imperial Parliament. That explains why it was thought necessary to take any action at all; but it does not explain why, if action could have been taken with regard to the control of the production, distribution and supply of a raw material of the cotton textile industry under the powers conferred by the Central Act, it was considered necessary to amend the definition of essential commodities by adding to it the word 'cotton'. The only argument which can possibly be made in that case is that this was done by way of what may be called abundant caution. Undoubtedly, there is a large trade in cotton going on and it was perhaps thought that those who were interested in the cotton trade may not accept as *intra vires* any legislation upon the control over the production, distribution and supply of cotton, if it was embarked upon under the powers given by s. 3 of the Essential Supplies (Temporary Powers) Act. But even so when an inference is sought to be drawn from this, the possibility must remain that the amendments were made by way of abundant caution, and not on the ground that it was not intended that there could not be control of supply and the prices of things required for manufacture of cotton textiles under the powers given to the Central Government by s. 3.

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3. It is necessary, besides, to point out that, when originally the Essential Supplies (Temporary Powers) Act was enacted, there was conferred, in the first instance, upon the Central Government a general power to regulate the production, distribution and supply of essential commodities and trade and commerce therein. But s. 3 had also got another sub-section. That is sub-s. (2) which, without prejudice to the general powers conferred by sub-s. (1), specifically granted certain powers to the Central Government. They were to provide by an Order among other things control of the price at which the essential goods themselves were to be sold. The Legislature obviously, therefore, seems to have thought it necessary to enact certain cases in which, may be in order to avoid a doubt, the specific powers of the Central Government should be enumerated, and if there was an intention that the power to regulate the production, distribution and supply of, and trade and commerce in, the essential commodities should include powers to control the prices of the raw materials, the machinery or parts of the machinery required for cotton manufacture, we should have thought that the Legislature would have mentioned them among the specific powers which it was conferring the Central Government under sub-s. (2). It did not do so at the outset; but it did not do so even when subsequently a question arose as to whether cotton would have to be added as an essential commodity to the commodities defined as essential commodities by the Essential Supplies (Temporary Powers) Act, 1946. This is a strong argument against the State.

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9. **Chainani, J.**—I wish to add a few words in regard to the question whether the Cotton Textiles (Control) Order, 1948, issued by the Central Government on August 2, 1948, and the earlier Order issued on the same subject on February 19, 1948, are *intra vires*, in so far as they relate to lickerin wire and whether the Cotton Textiles (Raw Materials and Stores) Order, 1946, issued on September 28, 1946, continued to remain in force after the Defence of India Rules came to an end on September 30, 1946, in so far as it related to lickerin wire. Under the Government of India Act, 1935, the Central Legislature could not legislate with regard to production, supply and distribution of goods and trade and commerce within the Province. The legislation with regard to these subjects could only be enacted by the Provincial Legislatures. See entries Nos. 27 and 29 in list II in the 7th Schedule to the Government of India Act. When the Defence of India Rules were about to come to an end, it was considered necessary to empower the Central Legislature to legislate with regard to the production, supply and distribution of certain commodities and trade and commerce therein. The Government of India Act was, therefore, amended in March 1946 by the India (Central Government and Legislature) Act, 1946. Section 2 of this Act provided *inter alia* that notwithstanding anything in the Government of India Act, 1935, the Indian Legislature shall have power to make laws with respect to trade and commerce (whether or not within a province) in and the production, supply and distribution of, cotton and woollen textiles, paper, foodstuffs petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron and steel and mica. In exercise of the powers conferred on the Central Legislature, the Essential Supplies (Temporary Powers) Ordinance No. XVIII of 1946 was issued on September 25, 1946. This came into force on October 1, 1946, when the Defence of India Rules expired. Section 3 of the Ordinance empowered the Central Government to provide by notified Order for regulating or prohibiting the production, supply and distribution of certain commodities, which were specified as essential commodities in s. 2 of the Ordinance, and trade and commerce in these commodities. The Ordinance also continued certain Orders which were previously in force and which were issued under the Defence of India Rules. The commodities specified as essential commodities in the Ordinance were food-stuffs, cotton and woollen textiles, paper, petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron and steel and mica, i.e., the same commodities in respect of which the Central Legislature was authorised to make laws by the India (Central Government and Legislature) Act, 1946. The Ordinance was replaced by the Essential Supplies (Temporary Powers) Act, 1946, on November 19, 1946. Thereafter it appears that it was considered necessary to empower the Central Government to issue orders with regard to cotton and certain other commodities. The Government of India



Act, 1935, was, therefore, amended by the Constituent Assembly by the India (Central Government and Legislature) Amendment Act, 1949, on June 4, 1949. By this Act, the Central Legislature was empowered to pass laws with regard to raw cotton, cotton seed, coke and other derivatives of coal. In exercise of the powers conferred on the Central Legislature by the Act passed by the Constituent Assembly, the Essential Supplies (Temporary Powers) Ordinance No. XIV of 1949 was issued on June 27, 1949. This amended the preamble of the Essential Supplies (Temporary Powers) Act, 1946, and also added the following commodities in the list of essential commodities in s. 2 of that Act, raw cotton, cotton seed and coke and other derivatives of coal. This Ordinance was replaced by the Essential Supplies (Temporary Powers Second Amendment) Act, 1949. It will, therefore, be seen that cotton textiles was one of the essential commodities mentioned in the Essential Supplies (Temporary Powers) Act, 1946, in regard to which the Central Government was authorised to issue orders under s. 3 of the Act. Cotton is an essential raw material necessary for manufacturing cotton textiles. In 1949, both the Government of India Act and subsequently the Essential Supplies (Temporary Powers) Act, 1946, were amended in order to enable the Central Legislature to legislate, and the Central Government to issue orders, with regard to cotton. It has, therefore, been contended by Mr. Purushottam, and there is undoubtedly considerable force in this argument, that the fact that the Legislature amended the Essential Supplies (Temporary Powers) Act, 1946, in order to enable the Central Government to control cotton shows that the Legislature's intention clearly was that the powers of the Central Government should be confined to the commodities specified as essential commodities in s. 2 of the Act and should not extend to other articles, which it might be considered desirable or necessary to control, in order to better achieve the object of the Act, viz. to control the production, supply and distribution of and trade and commerce in the commodities specified as essential commodities. This contention finds support in the provisions of s. 3. Sub-section (1) of this section runs as follows:

“The Central Government, so far as it appears to it to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may by notified order provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.”

The words, “thereof” and “therein” have obviously reference to the words ‘essential commodity’ used in the earlier part of the sub-section. Sub-section (2) provides *inter alia* as follows:



“Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide:

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity,

(c) for controlling the prices at which any essential commodity may be bought or sold,

(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity,

(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale,

(f) for requiring any person holding stock of an essential commodity to sell the whole or a specified part of the stock at such prices and to such persons or class of persons or in such circumstances, as may be specified in the order.”

These provisions, therefore, empower the Central Government to issue orders with regard to essential commodities only and not with regard to any other articles. Mr. Purushottam has, therefore, urged that as lickerin wire is not specified as an essential commodity in the Act, the Central Government was not competent to issue any order with regard to it and that consequently the various orders issued by it, in so far as they relate to lickerin wire, are ultra vires.

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12. The words used in both the sub-ss. (1) and (2) of s. 3 are also clear and unambiguous and empower the Central Government to issue orders only with regard to the commodities specified as essential commodities in the Act. The inference that the Legislature intended to confine the powers of the Central Government to essential commodities only and did not intend to authorize it to issue orders with regard to other commodities is also borne out by the fact that the Act was amended in 1949 in order to empower the Central Government to issue orders with regard to cotton. I am, therefore, of the opinion that the Central Government was not competent to issue any order in regard to lickerin wire either under the Essential Supplies (Temporary Powers) Ordinance, 1946, or under the Essential Supplies (Temporary Powers) Act, 1946. These enactments continued in force only those orders issued under the Defence of India Rules which could be issued in exercise of the powers conferred by these enactments. As in exercise of these powers the Central Government could not make any order in regard to lickerin wire, the Cotton Textiles (Raw Materials and Stores) Order, 1946, issued under the Defence of India Rules did



not continue in force after September 30, 1946, in so far as it related to lickerin wire.”

*(emphasis supplied)*

8. In support of this contention that the powers of the Central Government are limited only to the Essential Commodities as specified in the schedule and cannot extend to the regulators, he would thereafter rely upon the judgment of the Kerala High Court in *Ahamed Koya v. Murugesu Mudaliar Son & Co.*<sup>6</sup>, and in particular paragraph nos. 17 and 22 thereof, in further support of the said provision. Relevant paragraphs of the said judgment are as follows:

“17. Clause 5 gave power to the Central Government by notification to exclude any contract or class of contracts from the provisions of that order. There is also no dispute that no such exclusion has been granted by the Central Government regarding oilcakes with which we are concerned. The schedule specified two main articles to which that Order applied. Item (1) was vegetable oils and that item had 8 sub-items dealing with 8 different types of oil. Item (2) dealt with oilcakes and that item also had 8 sub-items dealing with different types of cakes. Therefore, it is quite clear that oilcakes were brought within the prohibitions mentioned in the Order of 1944.

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22. Section 3 of the Ordinance gave power to the Central Government by Notified Order for providing, regulating or prohibiting, etc., regarding any Essential commodity. Clause 2 of Section 3 dealt with several provisions that could be made under the Order issued under section 3(1). Section 3(2) deals with several matters and it is not necessary to go into them in any great detail. Section 5 provided for continuing in force of certain Orders. It runs as follows:

“Continuance in force of existing Orders — Until other provisions are made under this Ordinance, any order, whether notified or not, made by whatever authority under rule 80-B or sub-rule (2) or sub-rule (3) of rule 81 of the Defence of India Rules, in respect of any matter specified in section 3 which was in force immediately before the commencement of this Ordinance shall, notwithstanding the expiration of the said rules, continue in force so far as consistent with the Ordinance and be deemed to be an order made under Section 3, and all appointments, made, licences or permits granted and directions issued under

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<sup>6</sup> 1957 SCC OnLine Ker 23



any such order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Ordinance.”

9. He would also refer to the judgment of the Hon’ble Supreme Court in *S. Samuel, M.D., Harrison’s Malayalam v. Union of India*<sup>7</sup>, and paragraphs 10, 11 and 28 thereof, and also the judgment rendered in *Girdharmal Kapur Chand v. Dev Raj Madan Gopal*<sup>8</sup>, more particularly paragraph 10 thereof.

10. He would conclude by referring to the judgment of the Hon’ble Supreme Court in *State of U.P. v. Chhabra Bricks & Tiles Mfg. Co.*<sup>9</sup>. Relevant paragraphs of the said judgement are reproduced herein below: -

“3. The U.P. Coal Control Order (“the said Order”) was issued in exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955. It defined “bricks” to mean bricks or tiles produced with the aid of slack coal but did not include firebricks or refractory bricks and tiles. A “brick kiln” meant any kiln in which bricks were manufactured with the aid of coal and the premises appurtenant thereto. Para 4 of the said Order dealt with licensing thereunder; it said that no person could import coal or carry on business as a coal agent or coal-depot holder or run a brick kiln with coal except under and in accordance with the terms and conditions of a licence issued under the said Order. Para 5 dealt with the issue of licences and sub-para (b) thereof said that every licence granted or renewed under the said Order, inter alia, in Form D for running a brick kiln with slack coal would be subject to the conditions specified therein and such other conditions as the State Coal Controller or District Magistrate might prescribe from time to time. Para 8 of the said Order dealt with directions regarding import, purchase, sale, storage and distribution; it required the licensee of a brick kiln under the said Order to comply with any direction that might be issued to him from time to time by the State Coal Controller or the District Magistrate, inter alia, in respect of the sale and distribution of bricks. Sub-para (iv) of para 8 and the Note thereunder read thus:

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<sup>7</sup> (2004) 1 SCC 256

<sup>8</sup> 1963 SCC OnLine SC 213

<sup>9</sup> (2000) 2 SCC 111



“(iv) A licensee in Form ‘D’ or a person running a brick kiln with coal—

(a) shall not utilise or cause to be utilised coal allotted to him or in stock with him for a purpose other than burning bricks and shall not divert or transfer any such coal to any other person or any other brick kiln, even though owned by him, except under a written authority from the District Magistrate;

(b) shall sell the whole or a specified part of his stock of bricks produced with the aid of slack coal to a person as may be specified in a permit issued in that behalf of the District Magistrate and addressed to him;

(c) shall manufacture with the aid of slack coal bricks of such sizes as may be fixed by the District Magistrate and shall further sell them at such prices as may be fixed by the District Magistrate for different sizes and classes of bricks.

*Note.*—For the purpose of this sub-clause, the District Magistrate may, subject to any direction of the State Government by general or special order fix—

(a) the sizes of which bricks with the aid of slack coal are to be manufactured; and

(b) the maximum price at which different classes of such bricks may be sold to the public in general and in bulk to construction agencies in the public section particularly by any person, such price, being based on the estimated cost of manufacture of such bricks plus reasonable margin of profit thereon:

Provided that different prices may be fixed in respect of different classes and sizes of such bricks for different localities in the district having regard to different circumstances pertaining thereto.”

Para 12 of the said Order dealt with the export of coal and bricks and stated that no person could export, cause to be exported or offer for export coal or bricks produced with the aid of slack coal from within the State without obtaining the prior written permission of the State Coal Controller. Form *D* in the said Order prescribed the form of the licence for running a brick kiln. Clause (4) of the conditions thereof required the licensee to comply with general or special directions issued by the State Coal Controller or the licensing authority from time to time with regard to, inter alia, the disposal and sale of any stock of bricks.

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7. Coal being an essential commodity, the State Government is certainly entitled to regulate its use. To that extent it is entitled to



regulate its use in brick kilns and require those who run brick kilns using coal to obtain licences under the said Order. The earlier order of this Court in the case of *Janta In. Udyog* [1991 Supp (2) SCC 506 : 1991 SCC (Cri) 1073] does not, therefore, lay down the law correctly. That power, however, does not extend to the control in any manner of the bricks so produced. All that is requisite for the purposes of control of coal is that there should be no misuse of coal in the production of bricks. The bricks themselves can be freely disposed of.

8. With this in mind, it is necessary to identify and strike down those provisions of the said Order which control not the coal but the bricks. In regard to para 5(b) and in para 8(i)(B), it is necessary to make it clear that no condition may be specified or direction issued that relates to the sale and distribution of bricks. Sub-para (iv) of para 8 and the Note thereto, which we have extracted above, deals, except in clause (a) thereof, entirely with bricks and to that extent, para 8 must be quashed. Para 12, insofar as it applies to the export of bricks, must also be quashed. Insofar as the licence in Form D is concerned, the condition that requires a licensee to comply with general or special directions issued in regard to the disposal or sale of any stock of bricks is quashed.”

11. In sum, the crux of the learned Senior Counsel’s argument is, as already mentioned earlier, centered around the interpretation of the usage of the word ‘means’ in Section 2A of the Act, read with the Schedule, which only provides for petroleum and petroleum products as the commodities.

12. To bolster the argument, the learned Senior Counsel would also, *albeit* not very strenuously, seek to canvas that as of today, the rigors as had been sought to be imposed in 2007 may not really be applicable since now **Liquefied Petroleum Gas**<sup>10</sup> is available by way of direct piping to households and the rigors of such restriction are of considerably lesser import as of now.

13. The second limb of the learned Senior Counsel’s argument is that the Impugned Order dated 26.04.2000 violates the Petitioners’ Fundamental Right under Article 19(1)(g) of the **Constitution of**

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<sup>10</sup> LPG



**India**<sup>11</sup>, insofar as the Petitioners are a manufacturer of pressure regulators and are duly certified by the Bureau of Indian Standards. He would also contend that, in fact, such a restriction on trade is impracticable and would not achieve the objective that is espoused. He would, in support of the same, argue that when the cylinders are freely available, it does not stand to reason that regulators should not be permitted to be made available by the Petitioners.

14. *Per Contra*, learned counsel for Respondent No. 1, being Union of India, would refer to the written submissions handed over across the Bar and refer to Clauses 4 and 7 of the Impugned Order dated 26.04.2000, which reads as follows: -

“4. Restriction on storage and transport of liquefied petroleum gas

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(1) No person shall -

(a) fill any cylinder with liquefied petroleum gas or transfer liquefied petroleum gas from one cylinder to another cylinder or from one container to another container unless authorised by the Chief Controller of Explosives;

(b) transport or store a cylinder filled with liquefied petroleum gas except in an upright position;

(c) store or use or cause to be stored or used a cylinder filled with the liquefied petroleum gas except in a cool, dry, well-ventilated and accessible place under cover, away from boilers, open flames, steam pipes or any potential source of heat;

(d) remove the seal prior to use of the cylinder:

Provided that the distributor or his authorised representative or the delivery person may remove such seal in the presence of the consumer either for testing, checking or installation of the cylinder;

(e) use cylinder, pressure regulator and gas cylinder valve other than those specified in Schedules II and III.

(2) No transporter or delivery person shall deliver or cause to deliver liquefied petroleum gas either in cylinder or in bulk to any person other than the consumer or distributor.

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<sup>11</sup> Constitution



7. Possession, supply or sale of liquefied petroleum gas equipments. -

(1) No person shall -

(a) supply or sell filled or empty cylinder, gas cylinder valve and pressure regulator to any person other than a Government Oil Company or a parallel marketeer;

(b) unless authorised by a Government Oil company or a parallel marketeer, supply or sell filled or empty cylinder, gas cylinder valve and pressure regulator to any person other than a consumer;

(c) possess filled or empty cylinder, gas cylinder valve or pressure regulator, unless he is a distributor or a consumer.

(2) Every manufacturer of cylinder, gas cylinder valve and pressure regulator shall destroy by crushing those cylinders, cylinder valves and pressure regulators which do not conform to the Indian Standards.”

15. Learned counsel would also refer to the definitions, more specifically Clause 2(m), which reads as under:

“2. **Definitions** - In this Order, unless the context otherwise requires, -

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(m) “**Pressure regulator**” means the equipment used for regulating the flow and pressure of liquefied petroleum gas from a cylinder to a gas stove:”

16. Learned counsel for the Union of India would contend that the Impugned Order dated 26.04.2000 has been passed in exercise of the Government’s power to regulate LPG and its products. It is the contention of the learned counsel for the Union of India that the attempt on the part of the Petitioner to segregate the pressure regulator from the composite product, which is the LPG cylinder with its regulator, is completely misconceived. It is the case of the Union of India that the regulator and the cylinder are intrinsically linked to each other, and either one would be of no use without the other.

17. It is the further case of the Union of India that since this regulator has no functional use or requirement other than for use with the cylinder, especially since it ensures proper pressure regulation and



safe usage, permitting its independent sale would not be in consonance with the very objective of the Government to regulate petroleum products.

18. Learned counsel for the Union of India would thereafter contend that the regulation of the manner in which petroleum products are to be sold is necessary and in the public interest and is resultantly saved by operation of Article 19(6) of the Constitution. Article 19(6) of the Constitution reads as follows: -

**“19. Protection of certain rights regarding freedom of speech, etc.-**

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(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, [nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.”

19. It is thus the contention of the learned counsel for the Union of India that the Impugned Order is a reasonable restriction which has been imposed by the Government in the interest of the general public, in exercise of its powers. In support of such reasonable restrictions being permissible, learned counsel for the Union of India would first refer to the judgment of the Hon’ble Supreme Court in *Khoday Distilleries Ltd. v. State of Karnataka*<sup>12</sup>, and in particular paragraph nos. 12 and 17, which read as under: -

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<sup>12</sup> (1995) 1 SCC 574



“12. Article 19(1)(g) provides that all citizens shall have the right to practise any profession or to carry on any occupation, trade or business. This right conferred by the aforesaid provision is circumscribed by the provisions of clause (6) of the very article which reads as follows: -

“(6). Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law insofar as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law insofar as it relates to, or prevent the State from making any law relating to,—  
(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or  
(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.”

Thus Article 19(1)(g) read with Article 19(6) spells out a fundamental right of the citizens to practise any profession or to carry on any occupation, trade or business so long as it is not prohibited or is within the framework of the regulation, if any, if such prohibition or regulation has been imposed by the State by enacting a law in the interests of the general public. It cannot be disputed that certain professions, occupations, trades or businesses which are not in the interests of the general public may be completely prohibited while others may be permitted with reasonable restrictions on them. For the same purpose, viz., to subserve the interests of general public, the reasonable restrictions on the carrying on of any profession, occupation, trade, etc., may provide that such trade, business etc., may be carried on exclusively by the State or by a Corporation owned or controlled by it. The right conferred upon the citizens under Article 19(1)(g) is thus subject to the complete or partial prohibition or to regulation, by the State. However, under the provisions of Article 19(6) the prohibition, partial or complete, or the regulation, has to be in the interests of the general public.

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17. Apart from the restrictions placed on the right under Article 301, by the provisions of Articles 19(6), 47, 302 and 303, the provisions of Article 304 also place such restrictions on the said right. So do the provisions of Article 305, so far as they protect existing laws and laws creating State monopolies. The provisions of the aforesaid articles, so far as they are relevant for our purpose, read together, therefore, make the position clear that the right



conferred by Article 19(1)(g) is not absolute. It is subject to restrictions imposed by the other provisions of the Constitution. Those provisions are contained in Articles 19(6), 47, 302, 303, 304 and 305.”

20. Learned counsel for the Union of India would also refer to the judgment of the High Court of Madras in *A.K. Subbaraja v. Union of India*<sup>13</sup>, and in particular paragraphs 13 and 17 and 18, which read as under:

“13. I have carefully considered and analysed the arguments of both the learned Senior Counsel and I am of the view that the case put forward by the respondent merits acceptance, since, I am of the view, that the impugned order has been issued for the good of the public and in the over-all interest of the country. Therefore, I hold that the impugned order is legally valid. I am also of the view that the Central Government is competent to issue the impugned order under Ss. 2 and 3 of the Essential Commodities Act to prohibit the production and sale of inefficient wick stoves to conserve kerosene in the over-all interest of the country. As stated supra, the Essential Commodities Act empowers the Government to take steps for regulation of production, trade and commerce in essential commodities for the common good. Section 3 of the Act provides for regulating and prohibiting production, supply and distribution of any essential commodity to achieve the objectives enshrined in the Act. The impugned order is, therefore, fully enforceable and legally valid under the Essential Commodities Act and its objectives are in conformity with the objectives of the Act. I am also of the view that the petitioners fundamental rights are not in any manner infringed. The petitioners are free to carry on their trade or business and no restriction is imposed on them and the only restriction is that they have to manufacture and sell or distribute any non-pressure kerosene stove which conforms to the specifications under the Control Order and that it would be with ISI Certification Mark. This, in my opinion, is a reasonable condition and requirement. This is the view I have taken in the decision reported in *Danya Electric Company v. The State of Tamil Nadu*, 1992 Writ LR 429.

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17. Applying the above test to the case on hand, I am of the view, that the impugned order is reasonable and also in public interest. The object of the impugned order is to secure the common good of the people and it clearly fulfils the directives of the Constitution of India. The restrictions imposed under the impugned order are not arbitrary or excessive in nature and that they are only in the interest

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<sup>13</sup> 1993 SCC OnLine Mad 207



of the general public. There is a direct and proximate nexus and reasonable connection between the restriction imposed and the object sought to be achieved. In order words, the Court has to see whether by virtue of the restriction imposed on the right of the citizen, the object of the statute is really fulfilled or frustrated. I am of the view that the restrictions imposed on the petitioners will not in any way frustrate the object of the statute.

18. Let me now consider the decision cited by Mr. R. Krishnamurthi, learned Senior Counsel for the petitioners, reported in *The Hamdard Dawakhana (Wakf), Delhi v. The Union of India*, AIR 1965 SC 1167, which deals with the provisions of the Essential Commodities Act and the Fruit Products Order. The Act was passed in the year 1955 for the purpose of controlling the production, supply and distribution of, and trade and commerce in certain commodities in the interests of the general public. The commodities which were intended to be brought within the purview of the Act were essential commodities as defined by S. 2(a) of the Act. Amongst them are included foodstuffs including edible oil seeds and of commodity for the purpose of this Act covered by S. 2(a)(xi) and any other class of commodity which the Central Government may, by notified order, declare to be an essential commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of Entry 33 in List III in the Seventh Schedule to the Constitution.”

21. Learned counsel for the Union of India would also rely upon the judgment of the Hon’ble Supreme Court in *M/s Baspa Organics Ltd. v. United India Insurance Co. Ltd.*<sup>14</sup>, and in particular paragraph nos. 25, 26 and 28, which are reproduced herein below:

“25. A glance at the Notification dated 21-11-2001, amending the 2000 Order, as well as the said order itself, reveals that both were issued in exercise of the powers of the Central Government under Section 3(1) of the Essential Commodities Act. This statute, as is evident from its Statement of Objects and Reasons, was enacted to provide for the control of the production, supply and distribution of and trade and commerce in certain commodities, in the interest of the general public. Further, Section 3 empowers the Central Government to pass orders providing for the regulation or prohibition of the production, supply and distribution of any essential commodity, and trade and commerce therein, under certain conditions. Section 3(1), in particular, reads as follows:

**“3. Powers to control production, supply, distribution, etc. of essential commodities.—(1) If the Central**

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<sup>14</sup> (2020) 12 SCC 153



Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices or for securing any essential commodity for the defence of India or the efficient conduct of military operations, it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.”

26. Clearly, orders under Section 3(1) may pertain to the following objectives:

26.1. Maintaining or increasing supplies of any essential commodity.

26.2. Securing the equitable distribution and availability at fair prices of such commodity.

26.3. Securing any essential commodity for the defence of India or the efficient conduct of military operations.

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28. Thus, it is clear that the Central Government has the power to pass orders under the Essential Commodities Act to provide for licensing regimes governing the storage of an essential commodity, in pursuance of the three objectives set out in Section 3(1). The 2000 Order, in our considered view, is one such order, providing for a licensing regime regulating the acquisition, sale, storage and prevention of use in automobiles of solvents, raffinates and slops, particularly for the purposes of the Essential Commodities Act. There is nothing in the said Order to suggest that it intends to replace or modify any other existing licensing regime under any other law in force, including the Petroleum Act and the Rules formulated thereunder.”

22. Learned counsel for the Bureau of Indian Standards/ Respondent No. 7 would submit that the premise of the Petitioner’s challenge is incorrect insofar as the cylinders regularly available in the market are of a different specification, particularly with respect to the pressure regulator that is employed in them. He would submit that the particular pressure regulator that is in question in the present case has a collar diameter of 25.6 mm, which is manufactured only by the public sector oil corporations. He would thus submit that the foundational premise of the learned Senior Counsel for the Petitioner



that there is a violation of Article 19(1)(g) of the Constitution is incorrect and misplaced.

23. We have heard the learned Senior Counsel for the Petitioner and the learned counsels for Respondent Nos. 1 and 7.

24. At the outset, this Court is of the considered view that the term '*petroleum products*' as set out in the Schedule cannot be interpreted in the narrow manner sought to be canvassed by the learned Senior Counsel for the Petitioner. It is a matter of common knowledge that, in the absence of a pressure regulator, an LPG cylinder would effectively become unusable for the general public.

25. Upon a careful examination of the record, we find no infirmity in the Impugned Order dated 26.04.2000. We find merit in the submission advanced by the learned counsel for the Union of India that a pressure regulator cannot be treated as an independent or standalone device; rather, it constitutes an integral and inseparable component of the LPG cylinder system. Having regard to the inherent nature of the commodity and the broader regulatory objective of the Government, *namely*, to ensure safety, control, and equitable distribution in the use of petroleum and petroleum products, the regulator must necessarily be understood as forming part of a composite whole.

26. The comparison sought to be drawn by learned Senior Counsel for the Petitioner, by citing the example of piped gas supply to households, does not advance the Petitioner's case. While piped gas distribution is indeed prevalent in India, its reach in practice remains confined predominantly to a few metropolitan and major urban centers.



27. In contrast, the overwhelming majority of households and consumers across the country continue to depend almost entirely upon traditional LPG cylinders along with their regulators for meeting their domestic fuel requirements and other essential purposes.

28. It cannot be overlooked that a vast section of the population in this country is directly dependent upon LPG cylinders for fulfilling its day-to-day domestic needs, particularly for cooking and other indispensable household activities. Given such widespread reliance, it becomes imperative that the availability, distribution, and pricing of LPG be strictly regulated in order to safeguard the interests of the general public. Any lapse in such regulation would inevitably open avenues for hoarding, profiteering, and black-marketing, thereby depriving ordinary citizens of access to this vital commodity.

29. In this context, regulation of the LPG regulator itself, having a collar diameter of 25.6 mm, assumes particular importance. The requirement of uniformity in the regulator serves a critical purpose; as it prevents misuse by restricting the possibility of households simultaneously connecting and consuming multiple cylinders at will, which would otherwise exacerbate scarcity and undermine equitable distribution. In the absence of such checks, the system would lend itself to unfair usage, defeating the very objective of ensuring fair and reasonable access to all sections of society.

30. We are also in agreement with the submission advanced by the learned counsel for the Union of India that Article 19(1)(g) of the Constitution does not confer an unfettered or absolute right. As consistently held by the Hon'ble Supreme Court, including in *Khoday Distilleries Ltd. (supra)*, the freedom to carry on trade or business is subject to reasonable restrictions in the interests of the general public.



31. It is further pertinent to note that different types of LPG cylinders are available in the market, manufactured with specifications that differ from the cylinder presently under consideration, particularly in relation to the design and compatibility of the pressure regulator used. The regulator in question, having a collar diameter of 25.6 mm, is manufactured exclusively by public sector oil corporations. However, there is no prohibition on the manufacture of regulators with collar diameters other than 25.6 mm. The Petitioner is, therefore, fully at liberty to design, manufacture, and market regulators of alternative specifications, subject of course to compliance with applicable statutory norms and safety standards. What is specifically reserved and regulated is only the 25.6 mm collar diameter regulator, owing to its direct and integral linkage with the public distribution system for LPG, while all other categories of regulators remain open for unrestricted manufacture.

32. In view of the above, we hold that the restriction in question cannot be said to be violative of the Fundamental Rights guaranteed under Article 19(1)(g), inasmuch as the same is protected by the permissible limitations embodied in Article 19(6). The restriction is both reasonable and justified, having regard to the nature of the commodity involved. In any event, the regulator under challenge, being integrally connected with LPG cylinders, falls squarely within the ambit of an *Essential Commodity* as defined under Section 2A read with Item 5 of the Schedule appended to the Act thereof.

33. In light of the foregoing facts, circumstances, and the settled position of law discussed above, we are of the considered view that the present challenge is devoid of merit and cannot be sustained.



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34. Resultantly, both *W.P.(C) No. 14682/2006* and *LPA No. 1220/2007*, the fate of which, as fairly conceded by learned Senior Counsel for the Petitioner, is directly dependent on the Writ Petition, stand dismissed.

35. The Writ Petition and LPA, along with any pending applications, stand disposed of in the above terms.

36. No order as to costs.

**ANIL KSHETARPAL**  
**(JUDGE)**

**HARISH VAIDYANATHAN SHANKAR**  
**(JUDGE)**

**AUGUST 27, 2025/nd/sm/va**