CNR: KAHC010734392026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

[M/S ASKINS BIOFUELS PRIVATE LIMITED AND ANOTHER VS. UNION OF INDIA AND OTHERS]

17.11.2026
(VIDEO CONFERENCING / PHYSICAL HEARING)

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

**ORAL ORDER**

The present writ petition is filed seeking for the following reliefs and interim relief:

> *"a. Issue a writ of certiorari quashing the communication bearing No.3(2)/SP dated 22.10.2026 in Annexure F & F1 issued by the 2nd Respondent.*
>
> *b. Issue a writ of mandamus directing the Respondents to honour their commitment by allowing the petitioner to continue the production of ethanol and supply it in accordance with law;*
>
> *c. Issue writ, order, direction to the Respondents to permit the petitioner to manufacture ethanol as permitted by the Hon'ble Division bench in its order dated 31.03.2023 and 21.11.2025 at Annexure D & E;*
>
> *d. Issue a writ, order, direction, directing the Respondents to restitute the Petitioners from any burdens of loans, losses, expenditures incurred due to the illegal and arbitrary absolute ban on production of ethanol in communication dated 22.10.2026 in Annexure F & F1; and;*
>
> *e. Issue such other writ/order/direction as it may deem fit in the facts and circumstances of the case including the costs.*

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***INTERIM PRAYER***

*a. Pending hearing and disposal of the above writ it is prayed that the Petitioners' be permitted to operate their respective industries without any let, hindrance or impediment by the Respondent authorities in terms of the orders of this Hon'ble High Court dated 23.03.2023 and 21.11.2025 at Annexure-D & E till the disposal of this writ petition;"*

2. The petitioners assail the order dated 22.10.2026 (Annexures F and F1 to the writ petition) whereunder Ethanol production has not been permitted in the ensuing Ethanol Supply Year[1] 2026-27 (01.11.2026 to 31.10.2027) and sugar mills/distilleries were not allowed to produce Ethanol from sugarcane juice and B-heavy molasses for the ensuing ESY 2026-27.

3. It is the case of the petitioners that petitioner No.1- M/s. Askins Biofuels Private Limited[2], has been set up as a standalone distillery for manufacturing and production of Ethanol. Petitioner No.2 M/s. Shri.Bhramanandasagar Jaggery Industries[3] is a jaggery and jaggery products manufacturer and proposes to supply sugarcane juice and sugarcane syrup

[1] Hereinafter referred to as 'ESY'
[2] Hereinafter referred to as 'Askins'
[3] Hereinafter referred to as 'Bhramanandasagar'

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to Askins. That Askins proposed to manufacture Ethanol by virtue of the IEM dated 05.12.2019 (Annexure B to the writ petition) and has entered into an MOU with Bhramanandasagar for procurement of sugarcane juice and syrup. That the process of setting up its plant was interdicted by an adjacent sugar factory, M/s. Alagawadi Bireshwar Sugars Private Limited[4], Alagawadi, which has resulted in various litigations between the said parties.

4. In this context, reference is made by the petitioners to the order dated 31.03.2023 passed in Writ Appeal No.100075/2023[5]. The said Writ Appeal was filed by the petitioners assailing the order dated 06.01.2023 passed in Writ Petition No.102856/2022 filed by the petitioners herein, wherein the order dated 25.07.2022 passed by the Cane Commissioner was assailed. A Division Bench of this Court vide the said order dated 31.03.2023 (Annexure-D to the writ petition) allowed the writ appeals filed by the petitioners. The said Division Bench had *inter alia* held that Askins (the petitioner No.1 herein) being a standalone distillery will not be

[4] Hereinafter referred to as 'Alagawadi'
[5] Hereinafter referred to as 'first writ appeal order'

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governed by the provisions of the Sugarcane (Control) Order, 1966[6].

5. Reference is also made to the order dated 21.11.2025 passed in Writ Appeal No.100115/2025[7] filed by the petitioners. The said Writ Appeal was filed by the petitioners assailing the order dated 07.02.2025 passed in Writ Petition Nos. 100295/2025 connected with 107316/2024 which petitions were filed by the petitioners herein and Alagawadi respectively. The said writ petitions were with respect to orders dated 30.05.2023 and 21.10.2023 passed by the Cane Commissioner as well as the Government Order dated 04.01.2025 issued by the Department of Commerce & Industries, Government of Karnataka. The Division Bench of this Court vide the said order dated 21.11.2025 (Annexure E to the writ petition) which allowing the writ appeal reiterated the finding of the first writ appeal order that the petitioners are outside the purview of the SCC Order, 1966.

6. It is further contended on behalf of the petitioners that the source of sugar to the factory of the petitioners is from 5%

[6] Hereinafter referred to as 'SCC Order, 1966'
[7] Hereinafter referred to as 'second writ appeal order'

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of the cane allotted area that is left to the farmers to deal with as per their discretion. It is contented that the interim relief that is sought for insofar as the petitioners are concerned would not in any manner effect the 95% of the cane allotted area that is allotted to a sugar factory and the petitioners are not sourcing any sugarcane for the purpose of its activities from said 95% cane allotted area.

7. It is the further contention on behalf of the petitioners that the impugned orders dated 22.10.2026 would have the effect of bringing the production activities of the petitioners to a standstill and would have an adverse effect on the functioning of the petitioners and would result in irreparable financial loss to the petitioners as well as the workers who are employed at the unit of the petitioners.

8. Reference is also made by the learned counsel for the petitioners to the judgment of a Co-ordinate Bench of this Court in the case of ***Hermes Distilleries Pvt Ltd & Others v. Union of India and Others***[8] and other connected matters and

[8] In W.P. No.107496/2023 - 25.04.2024 - NC:2024;KHC-D:6912 - 25.04.2024

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the contentions put forth as well as the adjudication made by the Co-ordinate Bench in the said case.

9. Per contra, learned Additional Solicitor General appearing for the respondents vehemently opposing the case of the petitioners submits that the Sugar (Control) Order, 1966[9] as well as the SCC Order, 1966 are made by virtue of the power under Section 3 of the Essential Commodities Act, 1955[10] and the ban on the production of Ethanol by the impugned orders is necessary having regard to the fact that the there is scarcity in the sugar that is available. That the sugarcane that is to be utilized by the petitioners for the manufacture and production of Ethanol would affect the sugar that is to be made available in the market.

10. Reliance is also placed by the respondents on the judgment of the Co-ordinate Bench in the case of ***Hermes Distilleries***[8]. It is the contention of the respondents that all the contentions that are sought to be agitated by the petitioners on the merits of the matter have been adjudicated by this Court in the case of ***Hermes Distilleries***[8] and hence,

[9] Hereinafter referred to as 'SC Order, 1966'
[10] Hereinafter referred to as 'EC Act'

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the petitioners have not even made out a *prima facie* case for grant of interim relief.

11. The contention put forth on behalf of the petitioners that the case of the petitioners is not similar to the case of the other sugar factories/distilleries is also vehemently sought to be disputed by the respondents.

12. I.A. No.2/2026 is filed by Alagawadi to come on record as respondent No.5 in the present writ petition.

13. Learned counsel for the petitioners vehemently opposes consideration of I.A. No.2/2026 and contends that Alagawadi is neither a necessary nor a proper party in the present writ petition.

14. Learned counsel for the applicant - Alagawadi contends that the Division Bench judgments that have been relied upon by the petitioners have been assailed by Alagawadi before the Supreme Court in SLP (C) Nos.8043/2026 and other connected matters and that the Supreme Court vide its order dated 04.11.2026 had granted liberty to Alagawadi to file an

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impleading application in the present writ petition, consequent to which I.A.No.2/2026 is filed.

15. Learned counsel for the applicant - Alagawadi also seeks to rely upon various proceedings between Alagawadi on one side and Askins as well as Bhramanandasagar on the other, whereunder Alagawadi seeks to contend that Askins and Bhramanandasagar are situated in one place and they are not two separate entities. Hence, the contention of Askins that it is a standalone distillery is sought to be disputed. Reference is sought to be made to various orders passed by the concerned authorities as well as this Court in support of the said contention.

16. Learned counsel for the petitioners seeks to point out that although Alagawadi has filed SLP (C) No.8043/2026 assailing the orders passed by the Division Benches of this Court, no stay has been granted by the Supreme Court of the orders passed by the Division Benches and hence, the petitioners are entitled to the benefit of the orders passed by this Court.

17. The submissions made by the learned counsels have been considered and the material on record have been perused.

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18. The respondents justify the impugned orders/communications dated 22.10.2026 (Annexure-F and F1 to the writ petition) as empowered under Section 3 of the EC Act. Section 3(1) of the EC Act reads as under:

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

19. The SCC Order, 1966 has been issued on 16.07.1966 in exercise of the powers conferred under Section 3 of the EC Act. Various amendments have also been made to the SCC Order, 1966.

20. The SC Order, 1966 has been issued on 10.06.1966 under Section 3 of the EC Act. Various amendments have also been made/passed to the SC Order, 1966. Specific reference is made by the respondents to the amendment made vide the SC Order, 2025, which has been published in the Gazette on

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01.05.2025, which is issued in supersession of the SC Order, 1966 as well as the Sugar Price (Control) Order, 2018. Sub-clauses (a),(d),(h)(q)(t) and (u) of Clause 2 of the SC Order, 2025 read under:

> *"(a) "Act" means the Essential Commodities Act, 1955 (10 of 1955);*
>
> *xxx*
>
> *d) "by-products" means any form of product, which has been produced during production of sugar namely, cane bagasse, cane molasses, press mud cake or any other alternative product affecting sugar production from sugarcane;*
>
> *xxx*
>
> *(h) "ethanol" produced from sugar-based feed stocks, means ethanol produced from sugar cane juice, sugar syrup, cane molasses and sugar;*
>
> *xxx*
>
> *(q) "producer" means an entity or person carrying the business of manufacturing sugar or any product using sugarcane juice or sugar or cane molasses where sucrose or sugar is utilised and the resultant product is not meant for direct human or animal consumption;*
>
> *xxx*
>
> *t) "sugar" means, –*
>
> *(i) any form of sugar containing more than 90 per cent. of sucrose (polarisation), including raw, plantation white, refined sugar and sugar candy; or*
>
> *(ii) khandsari sugar or bura sugar or crushed sugar or any sugar in crystalline or powdered or liquid form;*
>
> *xxx*
>
> *u) "sugar factory or sugar mill" means any premises including the precincts thereof wherein twenty or more*

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*workers are working and in any part of which any manufacturing process connected with the production of sugar by means of vacuum pan process or production of ethanol either directly from sugarcane juice or syrup or sugar or khandsari sugar syrup is being carried on or is ordinarily carried on with the aid of mechanical power."*

21. Clauses 4, 5, 7 and 15 of the SC Order, 2025 read under:

*"4. Cane molasses. - Cane molasses shall be the mother liquor generated during the production of sugar in sugar factory or khandsari factory, which is having following sub-types, namely: -*

*(i) A-Heavy molasses: A-Heavy molasses is an-intermediate by-product produced during production of sugar having purity of 66 per cent. and above;*

*(ii) B-Heavy molasses: B-Heavy Molasses is an-intermediate by-product produced during production of sugar having purity equal to or greater than 48 per cent. and less than 66 per cent.; and*

*(iii) C-Heavy molasses: C-Heavy molasses is a final by-product produced during production of sugar having purity of molasses less than 48 per cent.*

*5. Power to regulate production and diversion of sugar. – (1) The Central Government or the State Government with approval of the Central Government, direct that no sugar and its by-products shall be manufactured from sugarcane or sugar beet except under and in accordance with the conditions specified in the Industrial Entrepreneur Memorandum issued in this behalf.*

*(2) The Central Government or the State Government with approval of the Central Government may, issue orders to regulate diversion of sugar for production of ethanol from sugar-based feedstock or any other product, which involves diversion of sugar.*

*xxxx*

*7. Power to issue directions to producers and dealers. – The Central Government may, from time to time, by general or special order, issue to any producer or dealer or any class of producers or dealers, such directions*

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> *regarding the production, maintenance of stocks, storage, sale, grading, packaging, marking, weighment, disposal, delivery minimum price of sugar for sale, distribution or processing of any kind of sugar and its by-products, as it may deem fit.*
>
> *xxx*
>
> *15. Compliance of orders. – Every producer or dealer or other person to whom any order or direction is issued under any powers conferred by or under this order, shall comply with such order or direction."*

22. It is the contention on behalf of the respondents that the impugned orders dated 22.10.2026 having been issued consequent to the SC Order, 2025 in exercise of the powers under Section 3 of the EC Act, the same is applicable to the petitioners as well.

23. The learned counsel for the petitioner submits that the powers under Section 3 of EC Act as well as under Rules 5 and 6 of the SC Order, 2025 do not entitle the respondents from passing the impugned orders dated 22.10.2026 inasmuch as the production of Ethanol is sought to be prohibited. However, it is pertinent to note here that the impugned orders dated 22.10.2026 merely prohibits the production of Ethanol from sugarcane juice and B-Heavy Molasses as clarified by the respondents the production of Ethanol from C-Heavy Molasses

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is not prohibited in any manner. In view of the same, it cannot be stated that the respondents are not empowered to pass the impugned orders dated 22.10.2026 under Section 3 of the EC Act and the provisions of the SC Order, 2025.

24. With regard to the reliance placed by the petitioners on the Division Bench judgments of this Court, it is contended on behalf of the respondents that the findings recorded by this Court are with regard to the scope and interpretation of the SCC Order, 1966 and not the SC Order, 1966 or the SC Order, 2025.

25. It is further submitted, that in the case of ***Hermes Distilleries***[8]***,*** a Co-ordinate Bench of this Court was considering the orders passed under the SC Order, 1966, which was for the ESY 2024-25. That the order passed under the SC Order,1966 for the ESY of the year 2024-25 was withdrawn on 29.08.2024.

26. The petitioners seek to contend that they are a standalone distillery and the production of Ethanol is to be produced by the petitioners from 5% of the sugarcane that is to be supplied at the discretion of the farmers and which does not

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come within the ambit of 95% of the cane controlled area, that is allotted to a sugar factory. It is further contended that the petitioner No.2 which is a jaggery unit, source the sugarcane from 5% of the cane allotted area which does not get into the production process carried out by Sugar Factory/Distillery. It is also specifically contended that in the case of ***Hermes Distilleries***[8], at the first instance this Court had granted the interim relief and while passing the final orders this Court had directed that various aspects as to the effect of the ban on the workers as well as the aspect of moratorium was to be considered. That this Court had recognised the principles of promissory estoppel and legitimate expectation as also the doctrine of proportionality while adjudicating the contentions in the case of ***Hermes Distilleries***[8]. Hence, it is contended that the petitioners would use only 5% of the sugarcane, which in any event is not utilised by the sugar factories in the production/manufacture of sugar, which aspect has adequately been noticed by the two Division Bench judgments of this Court.

27. It is vehemently contented on behalf of the petitioners that if the interim relief is not granted the same would

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practically be a death knell for the petitioners inasmuch as their production of the sugar factory which has been permitted to commence consequent to the orders passed by the Division Bench judgments of this Court would come to a standstill, which would commercially ruin the petitioners.

28. The respondents in justification of the impugned orders contend that the government, after noticing the estimated requirement of sugar for the year 2026-2027 against the net production and has imposed various measures apart from the impugned orders dated 22.10.2026 including imposing of stock holding limits on dealers, restrictions on bulk consumers, restriction on mills from retaining feedstock and permitting duty free import of raw sugar. The said measures are as an interim arrangement until the further estimates as to the cane production for the year 2026-2027 are available and have been made consequent to a decision taken by the Ministry concerned.

29. The respondents specifically assail the contention of the petitioners that the petitioners are a one-of-a-kind unit and the

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petitioners are entitled to an exemption in the operation of the impugned orders 22.10.2026.

30. It is the specific contention on behalf of the respondents that certain petitioners in the batch of petitions adjudicated by this Court in the case of ***Hermes Distilleries***[8] were also standalone distilleries and the contentions with regard to standalone distilleries have also been adjudicated by this Court while deciding the case of ***Hermes Distilleries***[8]. It is the further contention on behalf of the respondents that the observations made by this Court are only with regard to the benefit of workers and other measures and the same does not entitle the petitioners to carry out its business operation. That the embargo vide the impugned orders dated 22.10.2026 are only with regard to B-Heavy Molasses and there is no restriction in the production of Ethanol by using C-Heavy Molasses.

31. It is also specifically contended on behalf of the respondents that all the contentions raised by the petitioners in the present petition are a verbatim repetition of the contentions made in the case of ***Hermes Distilleries***[8] which have been

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adjudicated by this Court. That as on the date of the adjudication by this Court in the case of ***Hermes Distilleries***[8], the SC Order, 2025 was not issued and having regard to the power of the Central Government under the EC Act and SC Order, 1966 the respondents are empowered to issue the impugned orders dated 22.10.2026.

32. It is forthcoming from the contentions put forth that the Division Bench judgments of this Court which have been relied upon by the petitioners were with respect to the closure orders issued by the State Government under the provisions of the SCC Order, 1966. The Division Bench judgments did not in any manner adjudicate upon the power of the Central Government to issue orders under the SC Order, 1966.

33. Further, although both the parties placed reliance on the Co-ordinate Bench judgment of this Court in the case of ***Hermes Distilleries***[8], it is undisputed that the case of ***Hermes Distilleries***[8] was with regard to the orders passed for the ESY 2024-25.

34. Although, it is the vehement contention of the learned counsel for the petitioners that this Court in the case of

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***Hermes Distilleries***[8] at the first instance granted the interim relief and only subsequently vide the final order, after considering various contentions, dismissed the main writ petition, it is pertinent to note that the impugned orders having been passed consequent to the SC Order, 2025. Admittedly, while adjudicating the case of ***Hermes Distilleries***[8], the SC Order, 2025 was not in force.

35. In this context, it is also pertinent to note that although it is the vehement contention on behalf of the petitioners that there is no stay granted by the Supreme Court in the proceedings where the Division Bench judgments of this Court which have been relied upon by the petitioners have been assailed by Alagawadi, it is pertinent to note that the impleading applicant has placed on record the copies of various orders passed by this Court as well as by the concerned authorities wherein the status of the petitioners as a standalone distillery is sought to be contested by Alagawadi. It is clear from the same that the contention of the petitioners that it is a standalone distillery is a contested position.

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36. In view of the contention on behalf of the respondents that the impugned orders dated 22.10.2026 have been passed having regard to the current situation whereunder there is a shortage of sugar, keeping in mind the estimates of the cane production for the year 2026-2027, the question of interdicting the impugned orders dated 22.10.2026 in any manner does not arise. The commercial activity of the petitioners cannot prevail over the impugned orders which have been issued due to the prevailing situation as noticed above.

37. Accordingly the interim relief sought for by the petitioners is hereby rejected.

38. However, liberty is reserved to the petitioners to make a representation to the respondent authorities for any permission/relaxation as is permissible under law.

39. Liberty is reserved to both the parties to seek for modification/variation of this order after bringing on record any subsequent events/changes.

40. Objections of the petitioners to IA No.2/2026 to be filed within three weeks.

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41. Statement of objections on behalf of the respondents to the writ petition be filed within three weeks.

42. Re-list on 07.01.2027.

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**(C.M. POONACHA)**
**JUDGE**

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