

W.P. No. 67/1997

Dr. J.C. Almeida

V/s

State of Goa; M/s. Reliance Salgaonkar Power Ltd.

and

The Goa Foundation (Intervener)

(Norma Alvares requested by the Court to appear for petitioner as well)

Issue: A letter petition from Dr. J.C. Almeida was converted into a writ petition and Goa Foundation was permitted to intervene. The Government of Goa had signed a power purchase agreement with M/s. Reliance Salgaonkar Power Ltd. who was constructing a mini power plant at Sancoale using naphtha as fuel. The petitioner alleged that naphtha, being an expensive and imported fuel, would cause the costs of power from this plant to heavily burden the Goan consumer. Additionally, the plant required a huge volume of water, a scarce commodity in the State and the power produced could not be synchronized to Govt's power grid.

Although Goa was allotted 380 MW of power, it only draws between 210 MW to 240 MW of power at a rate of Rs. 0.94/unit. Also, Goa was allotted an additional 49 MW of power from Kakrapar and Gandhar which it did not use because the rate was Rs. 2.20/unit. The cost of power from the Reliance power plant would be Rs. 2.69/unit. Hence, it appeared that the purpose of the agreement with Reliance was not in public interest. Instead the petitioner urged that improvement in transmission & distribution instead would adequately serve the State's needs.

The writ petition was eventually dismissed because the Court held that it will not evaluate the merit of policy decisions of the Government except if the record shows that extraneous considerations have crept in. The Company assured the Court that new technology made it possible for the power generated by its power plant to be synchronized to Goa's grid and that islanding the power would be the exception to the rule. It also claimed that most of the water would be reused, and the consumer would not be burdened with increase in cost of electricity, which was the main concern of the petitioner.

Judgment: 12/2/1998

In public interest litigation, also in adversarial litigation, it is well established that a matter of policy is not to be examined by the Court.

The challenge largely based on the apprehension of great increase in the price of electricity supply to domestic consumers has no basis and the apprehension is totally unfounded.

Although the experts of Crisil stated in their report that it would be difficult to synchronize the two sources of power, the Reliance company and the Govt have both assured the Court that synchronization is going to be the rule and the provision for cutting it off from the grid and islanding it has been made for safety of the plant only.

The requirement of water (4 MLD per day) by any yardstick is an enormous quantity. However, the State having decided to go in for generation of power through a private party and that party opting for a thermal plant, use of water will be consequential and thus directly flowing from a policy decision. The Court will therefore not interfere with the same.

We do not find any reason to interfere with the arrangement arrived at between the Government and the Reliance company. Accordingly, the writ petition is dismissed.