



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 22615 OF 2016 (GM-BWSSB)

BETWEEN

JAIN INTERNATIONAL RESIDENTIAL SCHOOL
THE JGI GROUP
JAN GLOBAL CAMPUS
JAKKASANDRA POST
KANAKAPURA TALUK
RAMANAGARA DISTRICT-56212
REPRESENTED HEREIN BY ITS
DIRECTOR PROJECTS & FACILITIES

... PETITIONER

(BY SRI. S.SRIRANGA., SR. ADVOCATE FOR
SMT. SUMANA NAGANAND., ADVOCATE)

AND

1. STATE OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT
VIKASA SOUDHA, BANGALORE-560001
REPRESENTED HEREIN BY ITS
PRINCIPAL SECRETARY
2. BANGALORE WATER SUPPLY AND SEWERAGE BOARD
CAUVERY BHAVAN, BANGALORE-560009
REP. HEREIN BY ITS CHIEF ENGINEER(M)
3. ASSISTANT EXECUTIVE ENGINEER
NO.2, CAUVERY HEAD WORKS SUB DIVISIN
BWSSB, HAROHALLI-562112
KANAKAPURA TALUK

.... RESPONDENTS

(BY SRI. MAHANTESH SHETTAR., AGA A/W
SRI. BOPPANNA BELLİYAPPA., AGA FOR R1;
SRI. RAVI B. NAIK., SR. ADVOCATE FOR
SMT. SUMANGALA GACHCHINAMATH., ADVOCATE FOR R2 & R3)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF WRIT OF MANDAMUS OR ANY OTHER APPROPRIAE WRIT, ORDER OR DIRECTION DECLARING THAT THE PETITIONER IS NOT LIABLE TO PAY 'PRO-RATE' CHARGES AS DEMANDED BY THE RESPONDENTS AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 28.01.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner is before the Court seeking for the following reliefs:

- 1) *Declare that the Petitioner is not liable to pay 'pro-rata' charges as demanded by the Respondents;*
- 2) *Quash the communication dated 18.02.2016 bearing No. BWSSB/EIC/CE(M)-III/DCE(M)-I/TA(M)-III 14483/15-16 (Annexure P);*
- 3) *Quash the communication dated 2.4.2016 bearing No. BWSSB/EIC/CE(M)/ACE(M)-III/DCE(M)-1/TA(M)-10/83/2015-16 (Annexure Q):*
- 4) *Direct the Respondents to refund to the Petitioner Rs 1,01,91,510/-, being the excess tariff collected:*
- 5) *Pass such other orders as this Hon'ble Court may deem fit in the interests of justice and equity.*

2. The Petitioner is an educational institution established by the Sri. Bhagavan Mahaveer Jain



Educational and Cultural Trust, which runs various Educational and Charitable Institutions. The said trust has established and runs various educational institutions in different parts of the country and has established five institutions in Kanakapura Taluk viz.,

- i. Jain Vidyanikethan, which is a State Board School;
 - ii. Jain Public School which imparts CBSE syllabus;
 - iii. Jain College which is a Pre-University and Degree College;
 - iv. Jain University Global Campus; and
 - v. Jain International Residential School.
3. It is claimed that there are 3000 local students pursuing studies in these institutions, and the remaining have come from various parts of the country, as well as from diverse backgrounds. It is further claimed that the said campus provides employment for more than 2500 local residents.
4. The Petitioner, Jain International Residential School, was established in the year 1999. At the time of establishment, it was utilising water from underground borewells to meet the needs of the



school. Since the said water was not fit for human consumption, causing severe skin problems, allergies etc., a representation has been made to respondent No.2 on 19.05.2003, requesting for 9 lakh litres of water to be supplied to the school at a concessional rate from Harohalli Pumping Station in Kanakapura Taluk, and a feasibility report has already been submitted.

5. On 12.06.2003, the Petitioner addressed yet another letter to respondent No.2, bringing to its notice that over a thousand children and staff are on the campus, requiring potable water, as the PPM levels in the water from the borewells were alarmingly high. On 21.02.2004, the Government of Karnataka was pleased to issue a Government Order sanctioning the supply of 9 lakh litres of water per day at an estimated cost of Rs.93 lakhs to be deposited for carrying out the works. The Petitioner, having received a request from the Executive Engineer, Cauvery Head Works Division, to remit the aforesaid sum, remitted the same on 19.02.2004.
6. On 06.05.2004, an agreement came to be executed between the petitioner and respondent No.2, as per which respondent No.2 was to provide water supply



facility to the Petitioner by developing the infrastructure for the same in furtherance of the aforesaid payment. In terms of the said agreement, respondent No.2 was to supply 9 lakh litres of water per day. The water being supplied, the Petitioner has also been making payment of the due amounts as regards the water supply.

7. In the month of January 2013, a water bill was received by the Petitioner at the rate of Rs.60/Kilo Litre instead of Rs.36/Kilo Litre, hence the Petitioner addressed a letter on 08.02.2013 informing the respondent of the error. In furtherance of which, the Petitioner had received a communication dated 12.02.2013 addressed by respondent No.3 to EECH, T.K.Hally requesting it to revise the tariff for water supplied. On 18.02.2013, the Petitioner once again wrote a letter to the respondent seeking reconsideration of the rate. However, no action was taken. The contention of the Petitioner is that instead of reconsidering the request, a letter dated 28.01.2014 was issued calling upon the Petitioner to pay pro-rata charges on water supplied to the Petitioner, and in that background, a request was made to allow the staff of the BWSSB to take appropriate measurements of the campus.



8. The Petitioner on 05.02.2014 requested reconsideration of the rates and also exemption from payment of pro-rata charges. In the meanwhile, a notification came to be issued on 01.11.2014 revising the water and sanitary tariff applicable with effect from 02.11.2014 as per which the Petitioner was to pay Rs.60/KL from 02.11.2014 and, hence, it is the contention of the Petitioner that any charges paid by the Petitioner prior to 02.11.2014 were not authorised, and these amounts were liable for refund, amounting to Rs.1,01,91,510/-.

9. A letter was issued on 02.02.2015 by the Assistant Executive Engineer informing the Petitioner that there is a rule in the BWSSB Rule under Section of the BWSS Act, 1964 to levy pro-rata charges on each connection of water supply from BWSSB. Accordingly, instructions have been received from the higher authority to levy pro-rata charges on water supply to the Petitioner, and the Petitioner was called upon to provide drawings, a sale deed, building photos, and a rainwater harvesting system on which basis actual pro-rata charges would be informed.



10. On 27.02.2015, the Petitioner wrote to the respondent No.2 seeking enhancement of the sanction of water from 9 lakh litres per day to 15 lakh litres per day and again sought exemption from the levy of pro-rata charges. Respondent No.3 thereafter addressed a communication on 22.12.2015, again, calling upon the Petitioner to submit the documents. The Petitioner once again, on 26.12.2015, sought an exemption. In that view of the matter, the respondent proceeded to issue an order dated 18.02.2016, calling upon the Petitioner to pay pro-rata charges of Rs.4,32,64,474/- within 30 days on the ground that, when the water connection had been issued to the Petitioner, pro-rata charges were not collected.
11. Apart from that, in terms of Regulation 5.3 and Section 16 of the BWSS Act, Additional pro-rata charges for the past period amounting to Rs.8,64,27,448/- were directed to be paid, failing which it was indicated that supply of water would be stopped.
12. The Petitioner, relying on the customer charter web hosted on BWSSB's website, sought to contend that the levy of pro-rata charges was at the commercial



rate, when, in fact, there is a separate classification for educational purposes, and it is at that rate that it ought to have been levied.

13. The Petitioner further informed the respondents that it is only the water connection which had been provided to the Petitioner, there being no sanitary connection provided, the levy of pro-rata charges for both water and sanitary connection is impermissible. This request not having been accepted, the Petitioner has approached this Court by filing the above writ petition seeking the aforesaid reliefs.

14. Sri.S.Sriranga, learned Senior counsel appearing for the Petitioner, would submit that;

14.1.The BWSS Act and Regulations do not apply to the supply of water to the Petitioner's institution. The BWSS Act applies only to the provision of Water supply, sewerage and Sewage Disposal in the Bangalore Metropolitan Area. He refers to Regulation 54 of the Bangalore Water Supply Regulations, 1965 (for brevity referred to as the "**Regulations**") which is reproduced hereunder for easy reference;

54. Water supply outside city limits.-In cases in which water supply is made to houses, premises,



industrial concerns, etc., outside the limits of Bangalore City, these regulations shall apply mutatis mutandis except where such supply is controlled by a separate agreement with the Board.

- 14.2. By referring to Regulation 54, his submission is that though water supply is made to houses, premises, and industrial concerns outside the limits of the Bangalore city, they would be governed by the Regulations. However, if there is a separate agreement, it is a separate agreement that should be applicable.
- 14.3. On that basis, he submits that the Petitioner's education institution located in Jakkasandra Post, Kanakpura Taluk, Ramnagara District is outside the limits of respondent No.2 and it is in that background that respondent No.2 sought permission from respondent No.1-State for the supply of water, which was so accorded, on which basis an agreement came to be entered into. Thus, it is the agreement between the petitioner and respondent No.2, which should govern the relationship between them and not the regulations.
- 14.4. He further submits that this is also the case, since the Petitioner is situated outside the jurisdiction of BWSSB and, as such, the



agreement between the parties, which does not mention any pro-rata charges, requires none to be paid by the Petitioner.

- 14.5. His submission is that normally, for providing any water or sewerage connection, the capital cost of laying a pipe, etc., is incurred by the BWSSB. In the present case, the Petitioner has incurred a cost of Rs. 93 lakhs for the laying of pipes up to the educational institution. Thus, no expenses have been borne by the respondent for the connection, all the expenses have been borne by the Petitioner. A further pro-rata charge could not be levied on the Petitioner. In this regard, he relies on Section 2 (17) (a) of the BWSS Act, which is reproduced hereunder for easy reference.

2(17)(a) "Pro rata charges" means proportionate charges towards cost of improvement of water supply and sewerage systems levied by the Board from time to time payable by owner or occupier or developer of any building

- 14.6. By relying on Section 2(17)(a), he submits that pro-rata charges would mean proportionate charges towards the cost of improvement of the water supply and sewerage system levied by the Board from time to time.



- 14.7. His submission is that there is no improvement of water supply or sewerage system made, inasmuch as the cost of the entire pipeline has been paid by the Petitioner, and thereafter there is no improvement. The levy of pro-rata charges is also not proper inasmuch as the levy was made as per charges toward multi-storied buildings and commercial buildings, and not for education purposes. Thereafter, by order dated 23.04.1990, increased the pro-rata charges and a further increase was made on 30.07.1992 as per Commercial buildings.
- 14.8. By order dated 22.07.1995, the pro-rata charges were revised from Rs.6 to Rs.80 in respect of commercial buildings, from Rs.80 to Rs.120 for commercial buildings on 31.12.1999 and further to Rs.300/- for commercial building by order dated 13.02.2008.
- 14.9. His submission is that pro-rata charges would be liable to be paid only at the time of connection being made available, not thereafter. The pro-rata charges cannot be levied from time to time at incremental levels, since there is a one-time capital cost involved.



14.10. It is only in the year 2013 that by notification dated 23.05.2013, an amendment was caused to the BWSS Act and regulations by inserting Regulation 5.3. The said Regulation 5.3 is reproduced hereunder for easy reference;

5.3 . The owner, lessee or occupier, who desires to have a water supply connection shall pay to the Board, the pro rata charges, as per Section 16 of the Act, at the rates specified in the table below subject to other conditions specified in this clause.-

TABLE

<i>SI. No.</i>	<i>Nature of Buildings</i>	<i>Rate of pro-rate charges on total built-up area.</i>
<i>1.</i>	<i>Residential building</i>	<i>Rs. 250/- per sq. mtrs.</i>
<i>2.</i>	<i>Multistoried building or Residential Apartment or Group Housing or Villas etc.</i>	<i>Rs. 400/- per sq. mtrs.</i>
<i>3.</i>	<i>All types of Non-residential and Commercial building</i>	<i>Rs. 600/- per sq. mtrs.</i>

Provided that this clause shall not apply to a owner or occupier or lessee who has already paid pro rata charges under Regulation 2(d) of the Bangalore Sewerage Regulations, 1974.

(a) In case of water supply connections for multistoried residential buildings of ground + two floors and above pro rata charges at the rates prescribed by the Board from time to time on the total built up area of each floor of the building constructed.



(b) In case of premises built for commercial purposes pro rata charges, at the rate prescribed by the Board from time to time for the total built up area of each floor of the building constructed.

(c) In case of service connections of 100 mm dia and above, in accordance with Regulation 5.3(a) or 5.3(d) as the case may be the actual cost involved for the work executed from branch point upto meter point shall also be paid as per the estimate prepared for the purpose.

(d) In case of residential buildings having sital area of 108 sq. mtrs. and above] with sanctioned plan for Ground + Two floors, where only staircase room with small passage is provided in the second floor pro rata charges shall not be collected. However, if any living accommodation is provided in the second floor pro rata charges shall be collected for the same building.

(e) In case of buildings with sanctioned plan for three or more floors, constructed partly pro rata charges shall be collected for the constructed portion only and an undertaking to the effect that the additional pro rata charges shall be paid when an additional construction is taken up shall be taken from the owner, lessee or occupier.

(f) In case of Commercial buildings, if the construction is taken partly against the sanctioned plan, then pro rata charges shall be collected for the constructed area only and an undertaking shall be obtained from the owner, lessee or occupier to the effect that the additional pro rata charges shall be paid by the owner, lessee or occupier when additional connection is taken up.

(g) In case of additional constructions over the existing buildings, cons pro rata charges shall be collected only for the additional constructed area.



(h) In case of existing multistoried buildings/residential buildings having [15mm or 20 mm] water supply connection(s), if higher size connections are requested for, pro rata charges shall be collected for the entire building, if not already collected earlier.

(i) In case of existing buildings with non-domestic connections, if additional area is constructed, pro rata charges shall be collected only for the additional constructed area.

(j) In case of three and more houses are constructed on a site measuring 108 sq. mtrs. and above the entire building attracts pro-rate charges at the rates applicable to Multistoried residential apartments.

14.11. By referring to Regulation 5.3, he submits that the owner, lessee or occupier who desires to have a water supply connection shall pay BWSSB Board the pro-rata charges. These charges, he submits, were challenged before this Court in **B.Anantharam -v- Bangalore Water Supply**¹ and this Court vide order dated 16.03.2000 dismissed the writ petition upholding the levy of pro-rata charges by Respondent No.2. Appeals having been filed, vide order dated 02.07.2004 in **Sri.Muniswamy -vs-Bangalore Water Supply & Sewerage Board**² those appeals

¹ WP No.26084 of 1995 & contd.

² WA No.3657 of 2000 & contd.



also came to be dismissed. He refers to the order dated 21.04.2023 in **The Chairman -v- Sri.B.Venkatesh³**, more particularly para Nos.35, 36 and 37 thereof, which are reproduced hereunder for easy reference;

35. *It is not in dispute that in this case, the Board fundamentally relied upon the decision of the Board taken on 22.07.1995. In this Board's resolution, the Board has categorically stated as follows:*

"This prorata is a one-time payment which is collected from the owner/lessee/occupier based on the area of construction. This is mainly to improve the water supply and underground drainage facilities at a later date as per provisions of the BWSS Act."

36. *As could be seen from the above passage, pro-rata charges are fundamentally collected as a one-time payment from the owner on the construction that has been put up and these charges collected are to ensure improvement of water supply and underground drainage facilities at a later date. In my view, having regard to the clear wording of the resolution, this particular resolution can only be applicable to a new construction. This is because, if a new construction is put up, necessarily, the Board would have to incur expenditure at a later point of time for improvement of water supply and underground drainage facilities and thus as a fund-raising measure for future works, the Board was collecting pro-rata charges from every person who had constructed a new structure.*

37. *However, if a house or a structure was already existing, the question of applying pro-rata charges would not arise since that house already had a water and sewerage connection and no expenditure would be required to service that structure. It should be noted here that the charges are a one-time payment and are to be collected when the construction is put up. In cases where construction has*

³ RFA 1851/2007



already been made way back in the year 1978, obviously the Board cannot demand and collect pro-rata charges on the assumption that it is a new construction. It is to be emphasised here that pro-rata charges are applicable, even according to the resolution of the Board, only in respect of new construction with the ultimate objective of providing water supply and underground drainage facilities at later stage.

- 14.12. By referring to **B. Venkatesh case**, he submits that in that case the Court was considering the challenge to the demand of levy of pro-rata charges on building existing prior to 1998, when it was held that pro-rata charges are a one-time payment collected from the owner and the construction that has been put up so as to ensure improvement of water supply.
- 14.13. His submission is that it has been categorically stated that pro-rata charges are a one-time payment, these revisions, which have been made from time to time, would not be applicable to the Petitioner. It is only the charges, if at all, as on the date on which the connection was furnished to the Petitioner, which would have been applicable if the BWSSB had borne the charges of providing the connection. Insofar as the Petitioner is concerned, the Petitioner having incurred a cost of Rs.93 lakhs towards the construction of the



water supply line, the entire cost having been borne by the Petitioner, no pro-rata charges are liable to be paid by the Petitioner. The pro-rata charges, at the most, could be for laying of lines for the improvement of the water supply. The Petitioner, having incurred the entire cost, no laying of line was required insofar as the Petitioner is concerned.

14.14. His submission is that even the levy is bad in law since the levy has been made by considering the construction of the petitioners to be a commercial building, although the Petitioner is an educational institution and a bulk consumer. The Petitioner, being an educational institution, is not in dispute that the water supply was requested for the benefit of the students and staff, which the respondents are very well aware of, the demand now made for commercial purposes cannot be sustained.

14.15. The customer charter, which has been downloaded from the website of the BWSSB, specifically lists the pro-rata charges applicable to different buildings, with a separate classification for educational institutions. If at



all, a demand ought to have been made in respect of that separate classification and not the general classification for commercial buildings. In that background, he submits that the impugned notices have been issued without application of mind and only to harass the Petitioner, who is carrying on a lawful business.

14.16. His submission is also that the pro-rata charges do not distinguish between water and sanitary connections, and as such, the charges are required to be paid only when both water and sanitary connections are made available.

14.17. Insofar as the Petitioner is concerned, there is only a water connection which has been made available; there is no sanitary connection which has been made available, nor can it be made available to the Petitioner since no such lines exist. In fact, the waterlines were also not in existence for which the Petitioner has incurred charges and it is only on account of the waterline laid by the Petitioner that water has been supplied to the Petitioner, sanitary connection incapable of being provided, it is not permissible for the respondents to levy pro-rata



charges on the Petitioner which does not distinguish between water and sanitary connection. It was but required for the respondents to bifurcate the pro-rata charges for water and sanitary connection separately and then levy pro-rata charges on the Petitioner insofar as, water connection is concerned. The demand notices levying a common pro-rata charge without providing a sanitary connection or in this case, without the respondent No.2 being capable of providing a sanitary connection, only indicate that the demand notices are issued without application of mind, in an arbitrary manner and hence are required to be quashed.

- 14.18. His submission again is that the Petitioner is a bulk consumer, which is a distinct and separate category and so recognised by a notification issued by respondent No.2. The bulk consumer does not make payment of charges by consumption but makes payment of charges by allocation. Initially, the allocation being nine lakh litres, the Petitioner made payment for nine lakh litres per day as a bulk consumer. Subsequently, there being an increase in the



allocation, the increase rate has been paid. His submission is that irrespective of the increase in construction or any other developments, the water to be supplied under the agreement to the Petitioner does not increase, and therefore, the regulations do not apply to a bulk consumer.

14.19. He submits that the initial rate of supply being Rs.30 per Kilo Litre, same as increased unilaterally to Rs.60 per Kilo Litre, which has been paid from 2011-2014, which has been paid, however, that increase was not authorised until 2.11.2014 and as such, any payments made until 2.11.2014 would be required to be refunded or adjusted towards future water bills of the Petitioner, amounting to Rs.1,01,91,510/- which also has not been done by the respondents.

14.20. Alternatively, he submits that if the Petitioner is liable to pay pro-rata charges then such pro rata charges is required to be paid as per the charges applicable when water supply was made that is in the year 2004 and in this regard, he relies upon the, decision of this



Court in ***IBC Knowledge Park (P) Ltd. v. Bangalore Water Supply & Sewerage Board⁴***, more particularly para No.11 and 12 thereof, which are reproduced hereunder for easy reference;

11. *Though the provision contained in Ss. 31 and 61 of the Act are assailed, the said provisions are to enable for the water to be supplied and to provide for regulations regarding water supply. The same is not shown to be ultra vires so as to call for interference. The contention of the learned counsel for the Petitioner is also that the quantum of prorata charges as imposed is also not justified. The circular at Annexure P is relied to contend that the prorata charge provided therein for commercial building is at Rs 120 per sq m for water supply as well as sanitary connection. The circular dated 13-2-2008 at Annexure Q is referred to point out that the rate of Rs 300 per sq m is with effect from that date. In that view, it is contended that since the Petitioner had applied on 19-6-2007 seeking water and sanitary connection, the rate of prorata charge which applied on that date should have been charged.*

12. *The said contention on consideration cannot be accepted by this Court. This is for the reason that though the application was made on 19-6-2007, in the instant case it cannot be considered as a file received on that date to be treated as received prior to 1-2-2008 as provided in the circular dated 13-2-2008. As on the date of application the occupancy certificate was not enclosed but the Petitioner insisted on having completed the construction and occupied due to which inspection was conducted on 19-11-2008 during which time the discrepancies were noticed and the demand was raised on 27-11-2008. That being the position, the prorata charges applicable subsequent to 1-2-2008 will be applicable*

⁴ 2017 SCC Online Kar. 4934



to the case of the Petitioner. Hence, no grievance in that regard can be entertained.

- 14.21. By relying on **IBC case**, his submission is that the rate applicable as on the date of the application for water connection is what is required to be levied as pro-rata charges and not the subsequent increases and he submits that the water supply connection having been secured in the year 2004, the pro-rata charges payable as per the rates applicable in the year 2004 would be liable to be paid by the Petitioner and not any subsequent increase.
- 14.22. On these grounds, he submits that the writ petition is required to be allowed and the reliefs granted.
15. Sri.Ravi B.Naik, learned Senior counsel appearing for respondents No.2 and 3 submits that;

15.1. The Petitioner has an alternative efficacious remedy under Section 120 and 121 of the BWSS Act, 1964. The said Section 120 and 121 are reproduced hereunder for easy reference;

120. Appeals.—*Any person aggrieved by any decision or order of the Water Supply Engineer or the Sanitary Engineer or other officer under this Act or any rule or regulation made thereunder may within a period of sixty days from the date of such decision or order appeal to the authority prescribed*



by the regulations and subject to revision by the Board, the orders of the appellate authority on such appeal shall be final.

121. Revision.—*The Board may call for the records of any proceedings of any officer subordinate to it for the purpose of satisfying itself as to the legality or propriety of any order or proceeding and may pass such order with respect thereto as it thinks fit.*

15.2. Without prejudice to the contention of maintainability, it is contended that BWSSB is a statutory Body constituted under enactment and is discharging its duties of supplying water to the entire city of Bengaluru, which is regarded as one of the essential services. The BWSSB is not a profit-making organisation; instead, it is a service-oriented organisation working for public welfare. If funds are not made available to the BWSSB, it would not be in a position to discharge its duties and obligations, thus putting the entire population of Bengaluru at risk of not getting water.

15.3. His submission is that 7 CMCs, 1 TMC and 110 villages were amalgamated with the Bengaluru city, which resulted in the formation of Greater Bengaluru in the year 2008. Prior to that amalgamation, the TMCs and CMCs used to provide water supply to their respective



regions, including the villages within their jurisdiction. With the formation of Greater Bengaluru, the responsibility is now on BWSSB to supply water and maintain the sewer lines i.e., the responsibilities of TMCs and CMCs have now been merged with the responsibility of the BWSSB. The BWSSB has set up several sewer treatment plants and is in the process of setting up many more such plants to cater to these requirements and accordingly, Kaveri Water Supply Scheme 4th Stage, Phase-II was undertaken. With an increase in urbanisation, the pressure for the supply of water to urban areas, as well as sanitation systems, has increased, requiring huge capital expenses to be borne by BWSSB. It is in that background that pro-rata charges were levied. As regard the increase in demand, he submits the following details;

01	<i>Total Extent of BMP before inclusion of the CMC 1 TMC and 110 villages areas in Sq. Km.</i>	226 Sq. Km.
02	<i>Total extent of BBMP after inclusion of the 7 CMCs, 1 TMC and 110 villages areas in Sq. Km.</i>	800 Sq.km.



03	Total number of population in BBMP before inclusion of CMC areas	65,00,000/- (Approximate)
04	Total number of population in BBMP after inclusion of CMC areas (including 110 Villages)	80,00,000 (Approximate)
05	Total houses BMP before inclusion of CMC	8,12,500 (Approximate)
06	Total Houses in BBMP after inclusion of CMC areas (including 110 villages)	12,63,250(Approximate)
07	Number of connections which existed in BMP area before inclusion CMC areas. water of	509615 Nos
08	Number of connections which water existing in BBMP area after inclusion of CMC areas (including 110 Villages)	641383 Nos.
09	Total incurred expenditure by the BWSSB for carrying out water net work in the newly added areas. (including 110 Villages)	Rs. 1437.00 Crores Programmed Rs. 455.13 Crores Works executed.
10	Details of the works carried out.	Providing 100 mm dia. To 450 mm dia. D1 water supply pipe line net work



		<i>for distributing and 600 to 1320 mm dia. D1/MS feeder pipe lines.</i>
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The rapid growth in the surrounding area demands improvements in urban infrastructure like Water supply, Sewerage system and road net working etc., The three important requirements which is the need of the hour to be met by BWSSB are;

- a. Water Supply.*
- b. Sewage System.*
- c. Road Restoration.*

a. Water Supply: *The proposed Water supply system for 110 villages covers an area of about 225.22 sq. kms. The following table shows the water demand for 110 villages.*

- i. Total Zones: 5 Zones.*
- ii. No. of Villages : 110 villages.*
- iii. Year Population Water Demand (in MLD)*

2011	473623	71.0
2021	727120	109.1



2031	1102469	165.4
2041	16831924	244.8

*b . **SEWAGE SYSTEM:** There is no comprehensive sewage system existing in 110 villages. Septic tanks and soak pits are in use and some residents are draining their sullage water and sewage directly to the open drain. The sewage system in new areas is planned to cover an area of around 519 sq. kms. The sewage generated in these sewerage zones should be suitably collected and disposed to respective STP's for treatment.*

*C. **ROAD RESTORATION:** The water supply and underground draining works involve cutting of bituminous road, WBM roads, concrete roads and murrum/gravel roads etc., The roads damaged are proposed for restoration of their original state and condition including restoration of damaged drains to avoid inconvenience for public. A huge sum of amount is required for road restoration.*

7. It is submitted that the imposing of the Beneficiary Capital Contribution and NOC charges are the policy decision of the State for providing better facilities to the citizens especially the supply of water and good drainage system which are regarded as essential services. In fact the Hon'ble Supreme Court in Ajhai Kumar V/s. State of U.P. has held that, "Wisdom and advisability of economic policy are ordinarily not amenable to judicial review. In matters relating to economic issued the Government has while taking a decision, right to "trial and error" as long as both trial and error are bona fide and within the limits of the authority. For testing the correctness of a Policy, the



appropriate forum is Parliament and not the courts." Hence, if the said principle is applied, the Petition filed by the Petitioner is liable to be rejected within exemplary costs.

8. It is submitted that during the last two decades the city of Bengaluru has been experiencing unprecedented growth in the field of Industry, Commerce and Institutional Sectors. This phenomenal growth has resulted in unplanned urban activities surrounding Bengaluru and increase in population and construction activities. The population of city of Bengaluru which was 4.08 million in 1991 and 5.8 million in 2001 has. increased to 8.0 million pressure on infrastructure especially on water supply and underground drainage system. The Government of by 2011 posing tremendous Karnataka in order to ensure an integrated development of these areas have formed a single local body for Greater Bengaluru area through notification dated Bruhat Bengaluru 16.01.2007. The new entity is Mahanagar Palike (BBMP) which covers an area of about 800.20 sq. kms.

15.4. He submits that during the last two decades, the city of Bengaluru has experienced unprecedented growth in the field of industry, commerce and the institutional sector. The population of Bengaluru has also grown from 4.08 million in 1991 and 5.8 million in 2001 to 8 million in 2011 and thereafter, to an unofficial estimate of nearly around 15 million now. The erstwhile BBMP and thus, the BWSSB were



required to cater to an area of about 800.20 square kilometres, requiring huge capital expenses. The rapid growth in the surrounding areas requires urban infrastructure like water supply and sewerage system, it is the BWSSB that deals with these core requirements from and out of the finances pooled from the Government of India, Government of Karnataka and the payments made by the consumers. He relies on Section 16 of the BWSS Act, which is reproduced hereunder for easy reference;

16. General principles for Board's finance.— (1) *For carrying on its operations under this Act, the Board shall levy rates, fees, rentals, prorata charges, deposits, taxes, and other charges and shall vary such rates, fees, rentals, prorata charges, deposits, taxes and other charges from time to time in order to provide sufficient revenue,-*

(a) to cover operating expenses, taxes, interest payments and to provide for adequate maintenance and depreciation, contribution to pension fund including all expenses incurred during the year;

(b) to meet repayment of loans and other borrowings;

(c) to finance year to year improvement; and

(d) to provide for such other purposes beneficial to the promotion of water supply and disposal of sewage in the Bangalore Metropolitan area as the Board may determine.

(2) No part of the revenues of the Board, after meeting the expenses referred to in clauses (a), (b) and (c) of subsection (1) shall be used to augment the reserves of the Board other than the reserves referred to in sections 24 and



24-A or for the general purposes of the Board including expenses in connection with capital works, other than improvement works.

15.5. By relying on Section 16, his submission is that the said provision empowers the Board to levy such writs, fees, pro-rata charges, deposit taxes and other charges for carrying on its operation under the BWSS Act. Pro-rata charges being one of the items covered under Section 16, the BWSSB, therefore, is entitled to and empowered to levy such charges.

15.6. He refers to Section 31, 61 and 88 of the BWSS Act, which are reproduced hereunder for easy reference;

31. Payment to be made for water supplied.—
Notwithstanding anything contained in section 127 or any law, contract or other instrument, for all water supplied under this Act, payment shall be made at such rates, at such times and under such conditions as may be specified by regulations, and different rates may be prescribed for supply of water for different purposes.

Provided that where an arrangement has been entered into with the Bruhat Bangalore Mahanagara Palike under the provisions of Karnataka Municipal Corporations Act, 1976, water shall be supplied by the Board in accordance with such arrangement to the inhabitants of the City.

61. Regulations regarding water supply.—(1) *The Board may, with the previous approval of the State Government, make regulations to carry out the purposes of this Chapter.*



(2) In particular and without prejudice to the generality of the foregoing provisions, such regulations may provide for,—

(a) the power of the Board,—

(i) to stop the supply of water, whether for domestic purpose, or not, or for gratuitous use; and

(ii) to prohibit the sale and use of water for the purpose of business;

(iii) to insist on rain water harvesting system for conservation of water;

(b) the power of the Board to take charge of private connections;

(c) the prohibition of fraudulent and unauthorised use of water and the prohibition of tampering with meters;

(d) the licensing of plumbers and fitters, and for the compulsory employment of licensed plumbers and fitters.

(3) In making any regulation under this section, the Board may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees and in case of continuing breach with an additional fine which may extend to five hundred rupees for every day during which the breach continues after the receipt of a notice from the Board to discontinue such breach.

88. Regulations.—*(1) The Board may with the previous approval of the State Government make regulations not inconsistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely:—*

(a) the administration of the funds and other property of the Board and the maintenance of its accounts;

(b) the summoning and holding of meetings of the Board and the times and places at which such meetings shall be



held, and the conduct of business thereat and the number of members necessary to constitute a quorum;

(c) the duties of officers and servants of the Board, and their salaries, allowances and other conditions of service;

(d) the fine which may be imposed for the breach of any bye-law, which may extend to five thousand rupees, and in case of continuing breach the additional fine which may extend to five hundred rupees for every day, during which the breach continues after receipt of a notice from the Board to discontinue the breach.

(e) the procedure to be followed by the Board in inviting, considering and accepting tenders;

(f) any other matter arising out of the Board's functions under this Act in which it is necessary or expedient to make regulations.

(2) The power to make regulations under this Act is subject to the condition of previous publication.

15.7. He also refers to Regulation 5.3 of the Regulations which is reproduced hereinabove.

15.8. By virtue of the amendments made, pro-rata charges can now be levied on high-rise buildings, residential buildings, multi-storied residential apartments, etc., Different rates of pro-rata charges have been made applicable to different classifications. The classification being reasonable, the said classifications would be applicable to the Petitioner also.



15.9. He refers to Section 89A, inserted in the year 2010, which is reproduced hereunder for easy reference;

89A. Collection of capital contribution from the beneficiary or borrowing loan etc., in respect of any project.- *In furtherance of implementation of any water supply and sanitation projects, the State Government may issue directions to the Board for making funding arrangements, to collect capital contribution from the beneficiaries of the project or through any Local Authority or to borrow loans from funding agencies or to borrow from the market as per requirements of the projects*

15.10. By referring to Section 89A, he submits that the State Government is empowered to issue directions to the Board for making funding arrangements, collect capital contributions from the beneficiaries of the project, or through local authority or to borrow loan from funding agencies. His submission is also that a Greater Bengaluru Water Supply and Sewerage Project is under implementation on account of the formation of Greater Bengaluru by amalgamation of the Aforesaid CMCs, TMCs and villages. His submission is that providing a water and sewage connection does not come cheap. An amount of Rs.2023/- crores has been raised from the Government of India. Complementary support of Rs.178/- crores



has been provided by the Government of Karnataka. BWSSB has provided Rs.178 crores from its own contribution. The balance is required to be obtained from the consumers so as to make the services available to them.

15.11. The groundwater table in Bengaluru has receded and the groundwater has also been contaminated, so that water cannot be made use of by digging borewells, which the Petitioner itself has experienced on account of the IPPM count making it dangerous for human consumption. It is for that reason that a huge amount of money has to be spent by the State and BWSSB for providing water and sanitary connections. The Petitioner has not approached this Court with clean hands, and further, the Petitioner has no *locusstandi* to file the writ petition. It is also reiterated that the Petitioner has alternative efficacious remedy in terms of Section 120 and 121 of the BWSS Act.

15.12. It is reiterated that the challenges for the supply of water on account of the formation of Greater Bangalore, he submits that the



introduction of beneficiary capital contribution is the policy decision of the State, which is not justiciable. It is submitted that the financial condition of BWSSB is not sound, the revenue of the Board has remained stagnant, whereas the expenditure has increased, both on account of establishment charges, operation and maintenance charges, etc. The increased financial burden to provide increased services cannot be borne by BWSSB alone. It is submitted that though initially the amount required to be paid was Rs.36 per kilo litre, a minimum monthly charge of Rs.1,29,600/-, the same was subject to revision from time to time. Subsequently, it has been revised to Rs.60 per kilolitre from 12.02.2013, which has not been challenged by the Petitioner. Without a challenge being made to the said revision, the question of the Petitioner claiming refund would not arise.

15.13. Section 89A, though introduced by Act 32 of 2010 had a retrospective effect from 01.01.2003, which authorised the State Government to direct the Board to collect capital contribution for water and sanitation



projects. Prior to 13.02.2008, water and sanitary charges were levied separately. However, subsequently vide circular dated 01.03.2008, a combined pro-rata charge for both services has been levied, and the question of now bifurcating water and sanitary pro-rata charges would not arise. The classification by BWSSB is only on two fronts, namely residential and commercial. There is no educational classification available under the law. Since the premises of the Petitioner is not used for residential purposes, but for educational purposes, which is a commercial activity, the building would have to be considered to be commercial and any levy is required to be made on a commercial basis. The extract relied upon by the Petitioner is an outdated extract, and that classification of properties as educational is no longer in force. Merely because such a policy is present on the website does not give the Petitioner a right to seek for levy on that basis when the same is not in force.

- 15.14. He relies on the decision of the Hon'ble Apex Court in ***Jalkal Vibhag Nagar Nigam and***



Ors. vs. Pradeshiya Industrial and Investment Corporation and Anr.⁵, more particularly para 26 thereof, which is reproduced hereunder for easy reference;

26. *Section 56, which is a provision in relation to the incidence of the tax, provides that the tax mentioned in Section 52 would be recoverable:*

- (i) from the occupiers of the premises, in the case of premises connected with water supply or as the case may be with the sewer of a Jal Sansthan; and*
- (ii) from the owner of the premises, in the case of premises not connected with water supply or the sewer of the Jal Sansthan.*

Section 56 is a clear indicator of the tax being in the nature of a compulsory exaction arising out of the fact that the premises comprise of land and building situated within the area of the Jal Sansthan, so long as the restrictions which are contained in Section 55 are not attracted. Section 52 and Section 56 also indicate that the intention of the legislature is to collect water tax and sewerage tax from the occupier of the premises, where the premises are connected with water supply or, as the case may be, with a sewer of the Jal Sansthan and, in case where the premises are not so connected, from the owner of the premises. Therefore, the payment of water tax and sewerage tax is regardless of whether the premises are connected with water supply or with a sewer of the Jal Sansthan. There is no exemption from the payment of water tax or sewerage tax as both the contingencies- the premises being connected with water supply (or, as the case may be, with a sewer of the Jal Sansthan) or there being no such connection- have been covered under the provisions of Section 56. So long as a provision for water supply or a sewerage is made by the Jal Sansthan in the area covered, the occupier or the

⁵ AIR online (2021) SC 919



owner of the premises is liable to pay the taxes. Both the water tax as well as the sewerage tax could be consolidated for the purpose of levying, assessing and collecting them under Section 57 of the Act.

15.15. By relying on ***Jalkal Vibhag Nagar Nigam case***, his submission is that the intention of the legislature is to collect water tax and sewerage tax from the occupier of the premises where the premises are connected with a water supply or, as the case may be, with the sewer. His submission is that the payment of water tax and sewerage taxes, regardless of whether the premises are connected with a water supply or with sewer, there is no exemption from payment of water tax or sewerage tax, as both the contingencies, whether connection has been provided or not provided is covered under Section 16.

15.16. For levy of pro-rata charges, his submission is that there is no requirement for a water or a sewerage connection to be provided, so long as water supply or sewerage is made in the area covered, the occupier or the owner of the premises is liable to pay those taxes. Section



56 referred to in the above decision is reproduced hereunder for easy reference;

56. Liability for payment of taxes.- The taxes mentioned in Section 52 shall be recoverable-

(a) in the case of premises connected with water supply or, as the case may be, with the sewer of A Jal Sansthan, from the occupier of the premises

(b) in the case of premises not so connected, from the owner of the premises.

15.17. He relies upon the decision of the Hon'ble Apex Court in **S. Narayan Iyer vs. The Union of India and Another**⁶, more particularly para 6 and 7 thereof, which are reproduced hereunder for easy reference;

6. There are three principal reasons why the writ petition is incompetent and not maintainable and the appeal should fail. First, when any subscriber to a telephone enters into a contract with the State, the subscriber has the option to enter into a contract or not. If he does so, he has to pay the rates which are charged by the State for installation. A subscriber cannot say that the rates are not fair. No one is compelling one to subscribe. Second, telephone tariff is subordinate legislation and a legislative process. Under Indian Telegraph Act, Section 7 empowers the Central Government to make rules inter alia for rates. These rules are laid before each House of Parliament. The rules take effect when they are passed by the Parliament. Third, the question of rates is first gone into by the Tariff Enquiry Committee. The committee is headed by non-officials. The tariff rates are placed

⁶ (1976) 3 SCC 428



before the House in the shape of budget proposals. The Parliament goes into all the budget proposals. The rates are sanctioned by the Parliament. The rates, therefore, become a legislative policy as well as a legislative process.

7. The courts have no jurisdiction under Article 226 to go into reasonableness of rates. These rates are decided as policy matter in fiscal planning. There is legislative prescription of rates. Rates are a matter for legislative judgment and not for judicial determination.

15.18. By relying on **Narayan Iyer case**, his submission is that once a person has entered into a contract and avails the service, he cannot contend that the rates are not fair. There is no compulsion on the person to avail of such services. Services being availed, no grievance can be made on the quantum. The prescription of rates is a matter of legislative judgment and not for judicial determination, as submitted, and as such, he submits that the Petitioner cannot now seek to bifurcate water and sanitary connection.

15.19. He relies upon the judgment in **Muniswamy's case, [supra]**, more particularly the portion of paragraph 11 thereof, which is reproduced hereunder for easy reference:



11. xxxxx *In the face of such data showing such a correlation, the levy of pro-rata charges cannot but be considered to be fee or other charges for the services rendered by the Board to the residents of the Bangalore Metropolitan area. The word 'Service' in the context of a fee could include a compulsory measure undertaken vis-a-vis the payer in the interest of the public. This 'coercive' measure has been subsequently judicially clarified to mean a regulatory measure'. But in the case of both kinds of services, whether compulsorily imposed or voluntarily accepted, there would have to be a correlation between the levy imposed and quid pro quo'. xxxxxx*

15.20. By relying on **the Muniswami case**, his submission is that Section 16 of the Act empowers the Board not only to levy fees and other charges but also to vary such fees to provide sufficient revenue to meet expenses. The levy of such fees and charges is to enable the Board to discharge its duties under Section 15, the same cannot be faulted with. The levy of pro-rata charges, though a service, would have to be considered to be a compulsory measure undertaken vis-à-vis the payer in the interest of the public, since services are being provided to the metropolitan area of Bangalore, where the Petitioner is also a resident.



15.21. His submission is that exercising the powers conferred and provisions of the BWSS Act and regulations framed, various notifications have been issued from time to time, which have been adverted to by the Petitioner. The Petitioner not having paid any of the monies, the Petitioner cannot now contend that it is only the amount leviable the first time when services were rendered, that the calculation has to be made at. The Petitioner, having taken advantage of not having paid the monies till now, is also required to make payment of interest for the late payment and cannot backdate the calculation.

15.22. There was no water connection to the Petitioner's premises and in that background that at the specific request of the Petitioner that a water connection was provided.

15.23. The pipeline which has been laid is exclusively for the Petitioner and not for anyone else, as such, he submits that the Petitioner claiming that an amount of Rs.93 lakhs has been paid for laying the pipeline is of no consequence in as much as without laying the pipeline the



Petitioner would not have got water. The levy of pro-rata charges is not with respect to the Petitioner, but is a common charge which is levied for all subscribers and water and sewerage connections across the greater Bangalore. It is a common cost that is required to be paid for providing a proper water supply in Bangalore.

15.24. He once again reiterates that there is no educational category and it is only a commercial category that is applicable to the Petitioner. As regards the extract at page No.65 of the writ petition, he submits that it was uploaded in the year 2005 and is only a guidance document and does not have statutory power. It is only for administrative or information material that cannot override or supersede the statutory provisions, regulations, or government notifications.

15.25. His submission by relying on the judgment of this Court in WP No.20016 of 2021 is that this Court, having upheld the demand for pro-data charges by BWSSB, the Petitioner cannot now argue to the contrary.



- 15.26. As regard the non-furnishing of sewerage connection, he relies on the Government notification dated 19.01.2016 issued by the Forest Ecology and Environment Secretariat, mandating that educational institutions with or without hostel facilities, having a total built-up area of 5000 square metres and above are required to install a sewerage treatment plant and in that regard, he submits that a sewerage treatment plant having been established by the Petitioner, there is no requirement for providing sewerage connection.
- 15.27. He refers to the additional application for additional connection submitted by the Petitioner for enhancement in water supply from 08.02.2016, wherein the Petitioner in Column-C has itself described the premises as a commercial complex. Thus, he submits that the Petitioner, having described the premises as a commercial complex, cannot now seek to contend that there is a separate classification for educational purposes.



- 15.28. He refers to the bill raised by the BESCO authority for electricity connection, which has been provided at a commercial rate and as such, he submits that when electricity is being provided at a commercial rate, the Petitioner cannot contend that water has to be furnished at a different rate than at what electricity is paid for by the Petitioner.
- 15.29. On all the above grounds, he submits that the Petitioner having received the benefit of the water connection, is now seeking to not make payment of the due amounts towards the water connection as also the pro-rata charges, which are completely untenable and on that ground, he submits that the writ petition is required to be dismissed.
16. Heard Sri.S.Sriranga, learned Senior counsel appearing for the Petitioner, Sri.Boppana Belliyappa, learned AGA for respondent No.1 and Sri.Ravi B.Naik, learned Senior counsel appearing for respondents No.2 and 3. Perused papers.



17. Having heard learned Senior Counsel on both sides and upon examining the statutory scheme of the Bangalore Water Supply and Sewerage Act, 1964, the Regulations framed thereunder, the points that would arise for determination are:

- (i) Whether the Petitioner has made out a case for declaration that it is not liable to pay "pro-rata charges" as demanded by the Respondents?**

- (ii) Whether the communications dated 18.02.2016 and 02.04.2016 demanding pro-rata charges are liable to be quashed as being without authority of law, contrary to the provisions of the Bangalore Water Supply and Sewerage Act, 1964 and the Regulations framed thereunder?**

- (iii) Whether, in the facts of the case, the Respondents are legally entitled to levy pro-rata charges upon the Petitioner in respect of a water connection granted pursuant to the agreement dated 06.05.2004?**

- (iv) Whether the levy of pro-rata charges at the rates applied by the Respondents, including classification of the Petitioner's institution for that purpose, is legally sustainable?**

- (v) Whether the Respondents are entitled to levy consolidated pro-rata charges towards both water and sewerage**



components in respect of the Petitioner's premises?

(vi) Whether the demand of pro-rata charges for the period in question is legally enforceable, having regard to the time of grant of connection and subsequent revisions of rates?

(vii) Whether the Petitioner is entitled to refund or adjustment of Rs.1,01,91,510/- alleged to have been collected in excess towards water tariff prior to 02.11.2014?

(viii) What order?

18. I answer the above points as follows:

19. **Answer to Point No. (i): Whether the Petitioner has made out a case for declaration that it is not liable to pay "pro-rata charges" as demanded by the Respondents?**

19.1. Sri. S. Sriranga, learned Senior Counsel appearing for the Petitioner, submitted that the Bangalore Water Supply and Sewerage Act, 1964 (hereinafter referred to as the "BWSS Act") and the Regulations framed thereunder do not apply to the supply of water to the Petitioner's institution. He contended that the BWSS Act applies only to the provision of water supply, sewerage and sewage disposal in the Bangalore Metropolitan Area. He placed reliance



on Regulation 54 of the Bangalore Water Supply Regulations, 1965 (hereinafter referred to as the "Regulations"), which reads as follows:

"54. Water supply outside city limits.—*In cases in which water supply is made to houses, premises, industrial concerns, etc., outside the limits of Bangalore City, these regulations shall apply mutatis mutandis except where such supply is controlled by a separate agreement with the Board."*

- 19.2. By referring to Regulation 54, Sri. S. Sriranga submitted that though water supply to houses, premises and industrial concerns outside the limits of Bangalore City would ordinarily be governed by the Regulations, the proviso creates an exception where such supply is controlled by a separate agreement with the Board. He submitted that the Petitioner's educational institution, located in Jakkasandra Post, Kanakapura Taluk, Ramanagara District, is outside the limits of Respondent No.2-BWSSB, and since a separate agreement dated 06.05.2004 was entered into between the Petitioner and Respondent No.2, it is the agreement which should exclusively govern their relationship and not the Regulations.



- 19.3. Sri. S. Sriranga further submitted that in terms of the agreement, the Petitioner bore the entire cost of Rs.93 lakhs for laying the pipeline from Harohalli Pumping Station to the Petitioner's campus. He contended that pro-rata charges, by their very definition under Section 2(17)(a) of the BWSS Act, mean "proportionate charges towards cost of improvement of water supply and sewerage systems levied by the Board from time to time payable by owner or occupier or developer of any building." Since the Petitioner bore the entire cost of laying the pipeline and there was no improvement carried out by BWSSB, no pro-rata charges can be levied.
- 19.4. Learned Senior Counsel for the Petitioner further contended that pro-rata charges are a one-time payment, collected at the time of the connection being made available. They cannot be levied from time to time at incremental levels since it is a one-time capital cost. In support of this submission, he placed reliance upon the decision of this Court in **RFA No.1851 of 2007 (B. Venkatesh v. BWSSB)**, order dated 21.04.2023, more particularly



paragraphs 35, 36 and 37 thereof, wherein this Court held:

"35. It is not in dispute that in this case, the Board fundamentally relied upon the decision of the Board taken on 22.07.1995. In this Board's resolution, the Board has categorically stated as follows: 'This prorata is a one-time payment which is collected from the owner/lessee/occupier based on the area of construction. This is mainly to improve the water supply and underground drainage facilities at a later date as per provisions of the BWSS Act.'"

"36. As could be seen from the above passage, pro-rata charges are fundamentally collected as a one-time payment from the owner on the construction that has been put up and these charges collected are to ensure improvement of water supply and underground drainage facilities at a later date. In my view, having regard to the clear wording of the resolution, this particular resolution can only be applicable to a new construction."

"37. However, if a house or a structure was already existing, the question of applying pro-rata charges would not arise since that house already had a water and sewerage connection and no expenditure would be required to service that structure. It should be noted here that the charges are a one-time payment and are to be collected when the construction is put up."



- 19.5. Sri. S. Sriranga submitted that since the Petitioner's institution was already in existence when the water connection was obtained in 2004, and the entire cost of Rs.93 lakhs was borne by the Petitioner for laying the pipeline, no pro-rata charges can be demanded either at the time of connection or subsequently.
- 19.6. It was further submitted that even the levy is bad in law since the demand has been made by considering the Petitioner's construction to be a commercial building, whereas the Petitioner is an educational institution and a bulk consumer. The customer charter web-hosted on BWSSB's website specifically lists pro-rata charges applicable to different categories, including a separate classification for educational institutions.
- 19.7. Sri. S. Sriranga also submitted that the Petitioner is a bulk consumer, a distinct and separate category recognised by Respondent No.2. Bulk consumers pay for water by allocation and not by consumption. Irrespective of any increase in construction or other developments, the water to be supplied under



the agreement does not increase, and therefore, the Regulations do not apply to a bulk consumer.

19.8. Alternatively, Sri. S. Sriranga submitted that if the Petitioner is held liable to pay pro-rata charges, then such charges should be payable as per the rates applicable when water supply was first made, that is, in the year 2004. In support, he relied upon the decision of this Court in **IBC Knowledge Park (P) Ltd. v. Bangalore Water Supply and Sewerage Board.**

19.9. Sri.Ravi B. Naik, learned Senior Counsel appearing for Respondents No.2 and 3, at the outset, submitted that the Petitioner has an alternative efficacious remedy under Sections 120 and 121 of the BWSS Act, 1964. Section 120 provides for an appeal by any person aggrieved by any decision or order of the Water Supply Engineer or any other officer, while Section 121 provides for revision by the Board. He submitted that without having availed the statutory appellate remedy, the writ petition is not maintainable.



19.10. Without prejudice to the above, Sri. Ravi B. Naik submitted that BWSSB is a statutory body constituted under the BWSS Act, discharging the essential duty of supplying water to the entire city of Bengaluru. If funds are not made available to BWSSB, it would not be in a position to discharge its duties and obligations, putting the entire population at risk. He referred to the enormous financial burden borne by BWSSB on account of the formation of Greater Bengaluru in 2008, whereby 7 CMCs, 1 TMC and 110 villages were amalgamated, and the attendant massive expansion of service obligations.

19.11. Sri. Ravi B. Naik placed reliance on Section 16 of the BWSS Act, which empowers the Board to levy rates, fees, rentals, pro-rata charges, deposits, taxes and other charges for carrying on its operations. He further referred to Sections 31, 61 and 88 of the BWSS Act, and Regulation 5.3 of the Regulations, all of which provide for the levy and collection of charges including pro-rata charges.



19.12. Sri. Ravi B. Naik relied upon the decision of the Hon'ble Apex Court in **Jalkal Vibhag Nagar Nigam and Ors. v. Pradeshiya Industrial and Investment Corporation and Anr. [supra]**, more particularly paragraph 26, wherein the Hon'ble Supreme Court held that the payment of water tax and sewerage tax is regardless of whether the premises are connected with water supply or with a sewer, so long as a provision for water supply or sewerage is made by the authority in the area covered.

19.13. He further relied upon the decision of the Hon'ble Apex Court in **S. Narayan Iyer [supra]** more particularly paragraphs 6 and 7, wherein the Hon'ble Supreme Court held that once a person enters into a contract and avails a service, he cannot contend that the rates are not fair. The prescription of rates is a matter for legislative judgment and not for judicial determination.

19.14. Sri. Ravi B. Naik also relied upon the judgment dated 02.07.2004 in **WA No.3657 of 2000 (Muniswami and connected matters)**,



wherein the Division Bench of this Court held that the levy of pro-rata charges is in the nature of a fee for services rendered, and Section 16 empowers the Board to levy and vary such fees to provide sufficient revenue. He further relied upon the decision in **Ajai Kumar v. State of U.P.**, wherein the Hon'ble Supreme Court held that the wisdom and advisability of economic policy are not amenable to judicial review.

19.15. Sri. Ravi B. Naik submitted that there is no separate educational category under the statute; only residential and commercial classifications exist. The Petitioner itself described its premises as a "commercial complex" in the application for additional water connection dated 08.02.2016. He also pointed out that BESCO provides electricity to the Petitioner at commercial rates.

19.16. He further relied on Section 89A, inserted by Act 32 of 2010 with retrospective effect from 01.01.2003, authorising the State Government to direct the Board to collect capital contribution from beneficiaries. He also referred



to the decision of this Court in **M/s Shobha Limited -v- State of Karnataka**⁷, where the demand for pro-rata charges by BWSSB was upheld.

19.17. Sri. Bopanna Belliyappa, learned Additional Government Advocate appearing for Respondent No.1-State, adopted the submissions of Sri. Ravi B. Naik and submitted that the imposition of Beneficiary Capital Contribution and pro-rata charges is a policy decision of the State for providing better facilities to the citizens, especially the supply of water and good drainage systems, which are regarded as essential services. He supported the contentions of Respondents No.2 and 3 in their entirety.

19.18. I have carefully considered the rival submissions of both sides on this point. The core question is whether the Petitioner has made out a case for a declaration that it is not liable to pay pro-rata charges as demanded by the Respondents. To answer this question, it is necessary to examine the statutory framework,

⁷ WP No.20016 of 2021



the nature of the agreement between the parties, and the factual matrix of the case.

19.19. At the very outset, the preliminary objection raised by Sri. Ravi B. Naik regarding the availability of an alternative remedy under Sections 120 and 121 of the BWSS Act must be addressed. These provisions are extracted hereunder:

"120. Appeals.—Any person aggrieved by any decision or order of the Water Supply Engineer or the Sanitary Engineer or other officer under this Act or any rule or regulation made thereunder may within a period of sixty days from the date of such decision or order appeal to the authority prescribed by the regulations and subject to revision by the Board, the orders of the appellate authority on such appeal shall be final."

"121. Revision.—The Board may call for the records of any proceedings of any officer subordinate to it for the purpose of satisfying itself as to the legality or propriety of any order or proceeding and may pass such order with respect thereto as it thinks fit."

19.20. The BWSS Act provides a complete statutory mechanism for the resolution of disputes relating to demands raised by the Board's officers. Section 120 creates a right of appeal within sixty days, and Section 121 provides for



a further revisional remedy before the Board itself. The Petitioner has not availed itself of these statutory remedies before approaching this Court. The existence of these remedies is a highly relevant factor. However, since the Petitioner has raised certain questions regarding the interpretation of statutory provisions and the scope of the agreement, this Court, while noting the availability of the alternative remedy, has proceeded to examine the matter on merits. This consideration regarding alternative remedy will, however, be a material factor in the final analysis.

19.21. Turning to the statutory framework, the BWSS Act was enacted to provide for the establishment of a Board for the purpose of water supply, sewerage and sewage disposal in the Bangalore Metropolitan Area. Section 16 of the BWSS Act, which is the principal charging provision, empowers the Board to levy a wide spectrum of charges. The said provision reads:

"16. General principles for Board's finance.—
(1) For carrying on its operations under this Act, the Board shall levy rates, fees, rentals, prorata charges, deposits, taxes, and other charges and shall vary such rates, fees, rentals, prorata



charges, deposits, taxes and other charges from time to time in order to provide sufficient revenue,— (a) to cover operating expenses, taxes, interest payments and to provide for adequate maintenance and depreciation, contribution to pension fund including all expenses incurred during the year; (b) to meet repayment of loans and other borrowings; (c) to finance year to year improvement; and (d) to provide for such other purposes beneficial to the promotion of water supply and disposal of sewage in the Bangalore Metropolitan area as the Board may determine.”

19.22. A careful reading of Section 16 reveals that the legislature has used the widest possible language. The Board “shall levy” pro-rata charges. The use of the word “shall” indicates that the levy of pro-rata charges is not merely a discretionary power but a statutory obligation placed upon the Board to generate sufficient revenue for its operations. Furthermore, the provision empowers the Board to “vary” such charges “from time to time,” thus clothing the Board with a continuing power to revise the charges to keep pace with increasing operational demands. This power is not a one-time power but a continuing statutory mandate.

19.23. The definition of “pro-rata charges” under Section 2(17)(a) of the BWSS Act is also instructive:



"2(17)(a) 'Pro rata charges' means proportionate charges towards cost of improvement of water supply and sewerage systems levied by the Board from time to time payable by owner or occupier or developer of any building."

19.24. The definition itself contains the phrase "levied by the Board from time to time," which reinforces the continuing nature of the power to levy and vary pro-rata charges. Pro-rata charges are not tied to a specific pipeline or a specific connection but are towards the cost of improvement of the entire water supply and sewerage system. They are, in substance, a contribution towards the general infrastructure improvement undertaken by BWSSB for the benefit of all consumers within the greater Bengaluru area.

19.25. Crucially, Section 31 of the BWSS Act contains a non-obstante clause that overrides all contractual arrangements. The said provision reads:

"31. Payment to be made for water supplied. — *Notwithstanding anything contained in section 127 or any law, contract or other instrument, for all water supplied under this Act, payment shall be made at such rates, at such times and under such conditions as may be specified by regulations, and*



different rates may be prescribed for supply of water for different purposes."

- 19.26. The opening words of Section 31 are emphatic: "Notwithstanding anything contained in ... any law, contract or other instrument." This non-obstante clause is of the widest amplitude. It expressly overrides any contract or agreement between the parties. The agreement dated 06.05.2004 relied upon by Sri. S. Sriranga is precisely the kind of "contract or other instrument" that Section 31 overrides. Whatever may be the terms of the agreement, Section 31 mandates that payment for water supplied shall be made at rates specified by the Regulations. The Petitioner cannot take shelter behind the agreement to escape the statutory obligation to pay pro-rata charges, which are charges "specified by regulations" within the meaning of Section 31.
- 19.27. As regards Regulation 54, on which Sri. S. Sriranga placed heavy reliance, a close reading reveals that it does not support the Petitioner's contention. Regulation 54 provides that the Regulations shall apply "mutatis mutandis" to supply outside city limits, "except where such



supply is controlled by a separate agreement with the Board.” The key question is: what does the phrase “controlled by a separate agreement” mean? It means that where there is a separate agreement, the specific terms of that agreement control the supply arrangements. However, Regulation 54 cannot be read in isolation; it must be read harmoniously with Section 31 of the BWSS Act, which is the parent statute. A regulation cannot override the parent Act. Section 31 expressly provides that notwithstanding any contract, payment shall be at rates specified by regulations. Therefore, Regulation 54 can only be understood to mean that the operational terms of supply (such as quantum, timing, infrastructure costs) may be governed by the agreement, but the statutory charges, including pro-rata charges, which are mandated by the Act itself, cannot be excluded by any agreement.

19.28. The submission of Sri.S.Sriranga that the agreement does not mention pro-rata charges and therefore none can be levied, cannot be accepted. The absence of a specific mention of



pro-rata charges in the agreement does not mean that the Petitioner is exempt from statutory charges. Pro-rata charges are levied by virtue of the statute, not by virtue of the agreement. The agreement is a contractual arrangement for supply of water; the pro-rata charges are a statutory levy mandated by Section 16 of the BWSS Act. The two operate in different planes. One cannot exclude the other. Even if the agreement is silent on pro-rata charges, the statutory mandate under Section 16 read with Regulation 5.3 continues to apply.

19.29. The above interpretation finds strong support from the Hon'ble Division Bench of this Court in **WA No.3657 of 2000 (Muniswami and connected matters)**, decided on 02.07.2004, wherein the Hon'ble Division Bench, after an exhaustive examination of the BWSS Act, upheld the levy of pro-rata charges and held that Section 16 empowers the Board not only to levy fees and other charges but also to vary such fees to provide sufficient revenue. The Hon'ble Division Bench specifically held that the levy of pro-rata charges has a correlation with the services rendered by the Board and



constitutes a compulsory measure undertaken in the interest of the public. The relevant observation reads:

"11. ... In the face of such data showing such a correlation, the levy of pro-rata charges cannot but be considered to be fee or other charges for the services rendered by the Board to the residents of the Bangalore Metropolitan area. The word 'Service' in the context of a fee could include a compulsory measure undertaken vis-a-vis the payer in the interest of the public."

19.30. This Division Bench decision is binding on this Court as a Single Judge and directly holds that pro-rata charges are a valid and compulsory levy. The appeals against the original judgment in WP No.26084 of 1995 were dismissed by the Division Bench, thereby affirming the levy. The Petitioner, who avails the water supply made available by BWSSB, a supply that is sustained by the enormous infrastructure investment of the Board across the Bengaluru Metropolitan Area now the Greater Bangalore Area, cannot claim exemption from the common obligation to contribute towards that infrastructure through pro-rata charges.

19.31. The Hon'ble Apex Court in **S. Narayan Iyer [supra]** laid down the principle that where a



person subscribes to a service, the rates are a matter of legislative and policy judgment, not judicial determination. Paragraphs 6 and 7 are relevant:

"6. There are three principal reasons why the writ petition is incompetent and not maintainable ... First, when any subscriber to a telephone enters into a contract with the State, the subscriber has the option to enter into a contract or not. If he does so, he has to pay the rates which are charged by the State for installation. A subscriber cannot say that the rates are not fair. No one is compelling one to subscribe."

"7. The courts have no jurisdiction under Article 226 to go into reasonableness of rates. These rates are decided as policy matter in fiscal planning. There is legislative prescription of rates. Rates are a matter for legislative judgment and not for judicial determination."

19.32. Applying the ratio of this decision, the Petitioner voluntarily approached BWSSB seeking water supply. It was not compelled to do so. Having entered into the arrangement and availed the supply for over two decades, the Petitioner cannot now contend that the rates, including pro-rata charges, are not fair or applicable. The decision to levy pro-rata charges is a policy decision of the Board acting under statutory authority, and this Court, in exercise of writ jurisdiction, ought not to substitute its



judgment for that of the statutory authority on matters of fiscal policy.

19.33. The decision of the Hon'ble Apex Court in **Ajhai Kumar v. State of U.P.** further reinforces this principle by holding that the "wisdom and advisability of economic policy are ordinarily not amenable to judicial review." The levy of pro-rata charges is an integral part of the financial policy of BWSSB, sanctioned by the legislature through Section 16 of the BWSS Act. The Court ought not to interfere with such a policy determination.

19.34. As regards the reliance placed by Sri. S. Sriranga on the decision in **RFA No.1851 of 2007 (B. Venkatesh v. BWSSB)**, wherein this Court held that pro-rata charges are a one-time payment collected at the time of new construction, the said decision must be carefully examined. In the B. Venkatesh case, the Court was considering a situation where BWSSB sought to demand pro-rata charges from a building that was already existing prior to 1998 and already had a water and sewerage connection. The Court held that pro-rata



charges, in that context, could not be levied on an existing structure that already had connections. The factual matrix of the present case is materially different. Here, the Petitioner was not an existing consumer within the BWSSB limits who already had a connection. The Petitioner is located outside the BWSSB limits and sought a fresh water supply connection in 2004. This was a new connection, not a pre-existing one. The ratio of B. Venkatesh, therefore, does not apply to the present case. In any event, the B. Venkatesh case was a decision by a single Judge in a Regular First Appeal, which cannot override the Division Bench decision in **WA No.3657 of 2000 (Muniswami)** that upheld the levy of pro-rata charges.

19.35. The submission that the Petitioner bore the cost of Rs.93 lakhs for laying the pipeline and therefore no pro-rata charges are leviable, proceeds on a fundamental misconception. The Rs.93 lakhs was paid by the Petitioner towards the specific cost of developing the physical infrastructure (pipeline) to carry water from Harohalli Pumping Station to the Petitioner's



campus. This was a consumer-specific infrastructure cost. Pro-rata charges, on the other hand, are a general levy towards the cost of improvement of the overall water supply and sewerage system of the entire Bengaluru Metropolitan Area. The two are conceptually different. The pipeline serves only the Petitioner, whereas the pro-rata charges contribute to the common pool for improvement of the system that sources, treats, and delivers water. The Petitioner's pipeline would be of no use without the upstream infrastructure maintained by BWSSB, the Cauvery water treatment works, the pumping stations, the main trunk lines, and the entire distribution network. The payment of Rs.93 lakhs towards the last-mile pipeline does not relieve the Petitioner of its obligation to contribute towards the general system improvement through pro-rata charges.

19.36. The contention that the Petitioner is a "bulk consumer" and therefore exempt from pro-rata charges is also without substance. There is no provision in the BWSS Act or the Regulations that exempts bulk consumers from the



payment of pro-rata charges. The concept of "bulk consumer" relates to the mode of billing (by allocation rather than by metered consumption) and does not create an exemption from statutory charges. Section 16 of the BWSS Act makes no distinction between bulk consumers and individual consumers with respect to pro-rata charges. The definition of pro-rata charges under Section 2(17)(a) refers to charges payable by "owner or occupier or developer of any building." The Petitioner, as the occupier of the buildings on its campus, falls squarely within this definition.

19.37. As regards the alternative submission of Sri. S. Sriranga relying on **IBC Knowledge Park (P) Ltd. [supra]**, that pro-rata charges should at most be at 2004 rates, the said decision, on careful reading, actually supports the Respondents' position. In **IBC Knowledge Park**, this Court upheld the levy of pro-rata charges. The only question was the applicable rate. This Court held that the rate applicable is the rate at the time the demand crystallises, taking into account the completion of formalities, and not merely the date of the



application. In the present case, no pro-rata charges were ever collected from the Petitioner since 2004. The demand crystallised only in 2016 when the impugned communications were issued. Applying the ratio of IBC Knowledge Park, the rate applicable would be the rate prevailing at the time of the demand, which is precisely what the Respondents have applied. Furthermore, it is to be noted that in IBC Knowledge Park, the Petitioner did not even challenge the concept of pro-rata charges but only the rate, which is a significant concession that underlines the well-settled nature of the levy.

19.38. Section 89A of the BWSS Act, inserted by Act 32 of 2010 with retrospective effect from 01.01.2003, further fortifies the Respondents' position. The said provision reads:

"89A. Collection of capital contribution from the beneficiary or borrowing loan etc., in respect of any project.—*In furtherance of implementation of any water supply and sanitation projects, the State Government may issue directions to the Board for making funding arrangements, to collect capital contribution from the beneficiaries of the project or through any Local Authority or to borrow loans from funding*



agencies or to borrow from the market as per requirements of the projects.”

19.39. This provision, given retrospective effect from 01.01.2003, empowers the State Government to direct the Board to collect capital contribution from beneficiaries of water supply and sanitation projects. The Petitioner’s water supply connection, having been granted in 2004 (after the retrospective date of 01.01.2003), falls within the ambit of this provision. The demand for pro-rata charges is, in substance, a form of capital contribution from a beneficiary of the water supply system, and is fully covered by Section 89A.

19.40. Regulation 5.3 of the Regulations, as amended, mandates the payment of pro-rata charges. The relevant portion reads:

“Regulation 5.3 of the BWSSB Regulations mandates that the owner, lessee or occupier desirous of obtaining a water supply connection shall pay pro-rate charges to the Board in accordance with Section 16 of the Act. As per the prescribed rates, non-residential and commercial buildings are liable to pay pro-rata



charges at Rs.600/- per square metre, subject to applicable conditions.”

19.41. The language is mandatory: the owner or occupier “shall pay” pro-rata charges. There is no exemption for bulk consumers, educational institutions, or consumers with separate agreements. The obligation is universal, applying to all who obtain or have obtained a water supply connection.

19.42. Sri. Ravi B. Naik has rightly relied upon the decision of this Court in **WP No.20016 of 2021**, wherein this Court upheld the demand for pro-rata charges by BWSSB. The said decision reinforces the position that pro-rata charges are a valid and sustainable levy under the BWSS Act.

19.43. In view of the above I answer Point No. (i) by holding that the Petitioner has not made out a case for a declaration that it is not liable to pay pro-rata charges. The levy of pro-rata charges is mandated by Section 16 of the BWSS Act, upheld by the Hon’ble Division Bench of this Court in **Muniswami**, and is a charge towards the general infrastructure improvement of the



water supply and sewerage system. The agreement dated 06.05.2004 cannot override the statutory mandate of Section 31 read with Section 16. Regulation 54 does not exempt the Petitioner from statutory charges. The payment of Rs.93 lakhs towards the pipeline does not substitute for pro-rata charges, which serve a different purpose. The Petitioner's status as a bulk consumer does not exempt it from statutory charges. The decision in B. Venkatesh is distinguishable on facts. Accordingly, this Point is answered against the Petitioner and in favour of the Respondents.

20. **Answer to Point No. (ii): Whether the communications dated 18.02.2016 and 02.04.2016 demanding pro-rata charges are liable to be quashed as being without authority of law, contrary to the provisions of the Bangalore Water Supply and Sewerage Act, 1964 and the Regulations framed thereunder?**

20.1. Sri.S.Sriranga submitted that the communication dated 18.02.2016 demanding pro-rata charges of Rs.4,32,64,474/- and the communication dated 02.04.2016 demanding additional pro-rata charges for the past period amounting to Rs.8,64,27,448/- are both without authority of law and liable to be



quashed. He contended that the impugned communications were issued without application of mind, in an arbitrary manner, and only to harass the Petitioner. He further contended that the demand was made at commercial rates whereas the Petitioner is an educational institution, and that the demand includes pro-rata charges for both water and sanitary connection when no sanitary connection has been provided.

20.2. Sri. Ravi B. Naik submitted that the communications are issued in exercise of the statutory powers of the Board under Section 16 of the BWSS Act and Regulation 5.3 of the Regulations. He contended that when the water connection was originally issued, pro-rata charges were not collected, and the demand now made is to recover those charges as mandated by law. He submitted that the Board has a statutory obligation to levy and collect pro-rata charges, and the communications are merely in discharge of that obligation.

20.3. Having held under Point No.(i) that the Petitioner is liable to pay pro-rata charges, the



challenge to the communications dated 18.02.2016 and 02.04.2016 must be examined in that light.

- 20.4. The communication dated 18.02.2016 demands pro-rata charges of Rs.4,32,64,474/- from the Petitioner and further demands additional pro-rata charges for the past period amounting to Rs.8,64,27,448/- under Regulation 5.3 and Section 16 of the BWSS Act. The communication was issued by the competent authority of BWSSB, namely the office of the EIC/CE(M), and is founded upon the statutory mandate to collect pro-rata charges.
- 20.5. The authority to issue such communications flows directly from the statutory scheme. Section 16 mandates the levy. Regulation 5.3 prescribes the rates. Section 89A, with retrospective effect from 01.01.2003, authorises the collection of capital contributions from beneficiaries. The communications are a logical and lawful consequence of these statutory provisions. They are not arbitrary or without authority; they are a belated but necessary exercise of statutory duty.



20.6. The contention that the communications were issued to "harass" the Petitioner is without substance. The demand for statutory charges from a consumer who has not paid them is the performance of a statutory duty, not an act of harassment. The fact that the demand was raised in 2016 for a connection given in 2004 is explained by the submission of Sri. Ravi B. Naik that pro-rata charges were inadvertently not collected at the time of the original connection. The Board's omission to collect charges at the appropriate time does not extinguish its right to collect them subsequently, especially when the statute itself empowers the Board to vary charges "from time to time."

20.7. The Hon'ble Apex Court in **Jalkal Vibhag Nagar Nigam [supra]** has held at paragraph 26 that the liability to pay water and sewerage charges exists regardless of whether a connection is actually provided, so long as the provision for such services exists in the area. The relevant extract reads:

"26. ... Section 52 and Section 56 also indicate that the intention of the legislature is to collect water tax and sewerage tax from the occupier



of the premises, where the premises are connected with water supply or, as the case may be, with a sewer of the Jal Sansthan and, in case where the premises are not so connected, from the owner of the premises. Therefore, the payment of water tax and sewerage tax is regardless of whether the premises are connected with water supply or with a sewer of the Jal Sansthan. ... So long as a provision for water supply or a sewerage is made by the Jal Sansthan in the area covered, the occupier or the owner of the premises is liable to pay the taxes."

- 20.8. Applying this principle, the communications are issued under lawful authority and in pursuance of the statutory mandate. They cannot be characterised as arbitrary or without authority of law.
- 20.9. As regards the specific quantum and computation contained in the communications, while the Petitioner may have grievances about classification and rates (which are addressed under subsequent Points), the communications themselves, as instruments demanding pro-rata charges, are validly issued under statutory authority and are not liable to be quashed on the ground of want of authority.



20.10. Accordingly, I answer point no. (ii) by holding that the communications dated 18.02.2016 and 02.04.2016 are not liable to be quashed as being without authority of law.

21. **Answer to Point No. (iii): Whether, in the facts of the case, the Respondents are legally entitled to levy pro-rata charges upon the Petitioner in respect of a water connection granted pursuant to the agreement dated 06.05.2004?**

21.1. Sri. S. Sriranga submitted that the water connection was not granted in the ordinary course but was a special grant pursuant to a Government Order dated 21.02.2004 and a specific agreement dated 06.05.2004. The agreement does not contain any clause requiring the Petitioner to pay pro-rata charges. He submitted that the Petitioner is a bulk consumer paying by allocation, and the pro-rata charges linked to area of construction are conceptually inapplicable to a bulk consumer arrangement.

21.2. Sri. Ravi B. Naik submitted that the agreement cannot override the statutory provisions. Section 31 of the BWSS Act contains a non-obstante clause providing that notwithstanding



anything contained in any contract, payment for water supplied shall be at rates specified by regulations. He further submitted that the non-collection of pro-rata charges at the time of the original connection was an administrative error which cannot enure to the benefit of the Petitioner in perpetuity. The pipeline laid by the Petitioner serves only the Petitioner and is not a substitute for the general levy towards system-wide improvement.

21.3. The central issue under this Point is the interplay between the statutory power to levy pro-rata charges and the agreement dated 06.05.2004. The analysis undertaken under Point No.(i) is directly relevant here.

21.4. As held under Point No.(i), Section 31 of the BWSS Act contains a non-obstante clause of the widest amplitude that overrides any "law, contract or other instrument." The agreement dated 06.05.2004 is a "contract" that falls squarely within the scope of Section 31. No contractual arrangement can supersede the statutory mandate to pay charges "at such rates, at such times and under such conditions



as may be specified by regulations.” Regulation 5.3, which mandates the payment of pro-rata charges, is a regulation that falls within the scope of Section 31. Significantly, neither Section 16, Section 31 nor Regulation 5.3 are challenged, hence they are required to be applied “as is”.

21.5. The argument that the agreement does not mention pro-rata charges and therefore none can be levied must be rejected. Statutory obligations are not dependent on contractual stipulations. The Petitioner’s obligation to pay pro-rata charges arises by force of the statute, specifically Section 16 read with Regulation 5.3, and not by force of the agreement. The silence of the agreement on this point is, at best, neutral; it neither creates nor extinguishes the statutory liability.

21.6. As for the Government Order dated 21.02.2004, the fact that the Government sanctioned the water supply does not mean that the Government intended to exempt the Petitioner from all statutory charges. The Government Order sanctioned the supply; the



statutory charges for that supply are separately governed by the BWSS Act and Regulations. The Government Order does not contain any exemption from pro-rata charges.

- 21.7. The Division Bench in **WA No.3657 of 2000 (Muniswami)** upheld the Board's power to levy and vary pro-rata charges. The Hon'ble Apex Court in **S. Narayan Iyer [supra]** held that rates are a matter for legislative judgment. These authorities clearly support the proposition that the Board is entitled to levy pro-rata charges regardless of the terms of any individual agreement.
- 21.8. The submission regarding the Petitioner being a "bulk consumer" has been addressed under Point No.(i). There is no statutory exemption for bulk consumers from pro-rata charges. The concept of bulk consumer relates to the billing methodology, not to the scope of statutory charges.
- 21.9. The non-collection of pro-rata charges at the time of the original connection in 2004 does not create an irrevocable exemption. An administrative omission does not amount to a



statutory exemption. The Board's failure to collect charges at the appropriate time does not extinguish the statutory right to collect them subsequently, particularly when Section 16 empowers the Board to vary charges "from time to time."

21.10. In view of the above, I answer Point No. (iii) by holding that the Respondents are legally entitled to levy pro-rata charges upon the Petitioner in respect of the water connection granted pursuant to the agreement dated 06.05.2004.

22. **Answer to Point No. (iv): Whether the levy of pro-rata charges at the rates applied by the Respondents, including classification of the Petitioner's institution for that purpose, is legally sustainable?**

22.1. Sri. S. Sriranga submitted that the Respondents have classified the Petitioner's educational institution as a "commercial building" at the rate of Rs.600/- per square metre, which is erroneous. The customer charter on BWSSB's website specifically provides a separate classification for educational institutions. If pro-rata charges were to be levied, they should



have been levied under the educational classification.

22.2. Sri. Ravi B. Naik submitted that the BWSS Act and Regulations classify buildings into residential and commercial categories only. There is no separate statutory classification for educational institutions. The customer charter relied upon by the Petitioner is an outdated guidance document uploaded in 2005 without statutory force. He pointed out that the Petitioner itself described its premises as a "commercial complex" in its application for additional water connection dated 08.02.2016. He also submitted that BESCO provides electricity to the Petitioner at commercial rates.

22.3. The question under this Point is whether the classification of the Petitioner's institution as "commercial" and the application of the rate of Rs.600/- per square metre is legally sustainable.

22.4. Regulation 5.3 stipulates levy of pro-rata charges at the rate of ₹600/- per square metre in respect of "non-residential and commercial buildings." The statutory framework under the



BWSS Act and the Regulations contemplates only a binary classification of buildings, namely: (i) residential, and (ii) non-residential/commercial. There exists no independent or distinct statutory classification for educational institutions within the scheme of the Act or the Regulations.

22.5. The reliance placed by Sri. S. Sriranga upon the Customer Charter is misconceived. As rightly contended by Sri. Ravi B. Naik, the said Charter is merely an administrative or informational document which was uploaded on the website in or about the year 2005. It does not derive authority from the statute, nor has it been framed in exercise of delegated legislative power. It therefore lacks statutory force.

22.6. It is trite that an administrative instruction, executive guideline, or informational publication cannot override, modify, supplement, or create exceptions to a statutory regulation. The Regulations, having been framed with the approval of the State Government under Section 88 of the BWSS Act, constitute subordinate legislation and are binding in



character. The field of classification having been exhaustively occupied by the Regulations, no third category can be read into the scheme on the basis of a non-statutory publication.

22.7. At the same time, this Court considers it necessary to issue a clear word of caution to the BWSSB regarding the material it places on its official website.

22.8. In today's context, the website of a public authority is not merely an informational platform. For most citizens, it is the first and often the only source of information. An ordinary person does not ordinarily read the parent Act or the detailed Regulations framed under it. Instead, he or she relies on what is published on the official website. Such reliance is natural and reasonable.

22.9. When a statutory body publishes a Customer Charter or similar document on its official website, the public is entitled to assume that the contents correctly reflect the applicable legal position. The distinction between a statutory Regulation and an administrative document may be clear to lawyers, but it is not



apparent to a layperson. Therefore, if the website contains information that does not strictly align with the statutory Regulations, it can create genuine confusion.

22.10. Such confusion can have serious consequences. Citizens may make financial commitments, plan construction, or arrange their affairs based on the information published online. If that information later turns out to be inconsistent with the governing Regulations, it may result in financial loss, grievance, and unnecessary litigation. This not only burdens the citizen but also leads to avoidable disputes before the Court.

22.11. Public authorities must recognise that any representation made on an official website carries weight and authority. Even if such material does not have statutory force, it influences public conduct. Inconsistent or outdated information can undermine public confidence and give rise to allegations of arbitrariness or unfairness.

22.12. It is therefore necessary that the BWSSB:



- 22.12.1. Regularly review and update the content on its website;
 - 22.12.2. Ensure that all published material accurately reflects the current statutory Regulations;
 - 22.12.3. Clearly distinguish between binding Regulations and explanatory or general information; and
 - 22.12.4. Remove or correct any outdated or misleading material without delay.
- 22.13. If any explanatory document is hosted for public convenience, it should clearly state that in case of any inconsistency, the Act and the Regulations will prevail.
- 22.14. The website of a statutory authority is an important public interface. Accuracy, clarity, and consistency in such communication are essential. The BWSSB must therefore exercise due care in what it uploads, as the ordinary citizen is entitled to rely upon the information published on its official platform.



22.15. Accordingly, in the absence of a distinct statutory classification for educational institutions, such buildings necessarily fall within the category of non-residential/commercial buildings for the purposes of Regulation 5.3.

22.16. The Petitioner's institution, being a large residential school with extensive campus infrastructure, is not a residential premises in the conventional sense. It is an institution that operates commercially in the sense that it charges fees and provides services. It falls within the "non-residential" category as defined by the Regulations. The fact that it is an educational institution does not alter this classification under the applicable statutory framework.

22.17. Significantly, the Petitioner itself described its premises as a "commercial complex" in the application for additional water connection dated 08.02.2016. The Note appended to the record records that while the classification "office" has been ticked, the words "educational campus" have been written beside it. The



application form at Column-C provides classifications of hotel, lodge, restaurant, nursing home/hospital/commercial complex; at D—factory; and at E—office. The Petitioner, when required to select a classification, chose “commercial complex” from the available options. This is a significant admission by conduct. The Petitioner cannot, having described its own premises as a commercial complex before the very authority, now turn around and contend before this Court that it is not a commercial establishment.

22.18. The reliance on the customer charter as creating a separate educational classification is misconceived. A guidance document hosted on a website does not have the force of law. It cannot override the statutory Regulations. Even the principle of legitimate expectation does not avail the Petitioner, for legitimate expectation cannot run counter to the express provisions of a statute. Where the statute provides only for residential and commercial categories, a website document purporting to create an additional category is without legal force.



22.19. The submission regarding BESCO electricity tariff is pertinent as a corroborative factor. While the classification for electricity and water may be under different statutory frameworks, the fact that the Petitioner pays electricity charges at commercial rates is consistent with the Respondents' classification of the Petitioner's premises as commercial for the purpose of pro-rata charges.

22.20. The Hon'ble Apex Court in **S. Narayan Iyer's case [supra]** held that rates are a matter for legislative judgment. The classification of buildings for the purpose of pro-rata charges is a part of the regulatory framework established by the Board with the approval of the State Government. This Court, in exercise of writ jurisdiction, ought not to create new classifications that the legislature and the regulator have not seen fit to create.

22.21. Accordingly, I answer Point No. (iv) by holding that the classification of the Petitioner's institution as a commercial/non-residential building and the application of the rate of Rs.600/- per square metre is legally



sustainable. This Point is answered against the Petitioner and in favour of the Respondents.

23. **Answer to Point No. (v): Whether the Respondents are entitled to levy consolidated pro-rata charges towards both water and sewerage components in respect of the Petitioner's premises?**

23.1. Sri. S. Sriranga submitted that only a water connection has been provided to the Petitioner; no sanitary connection has been provided, nor can it be provided since no sewerage lines exist. The demand for consolidated pro-rata charges covering both water and sewerage components, when no sewerage connection exists, is arbitrary. He submitted that the Respondents were duty-bound to bifurcate the charges and levy only the water component.

23.2. Sri. Ravi B. Naik submitted that since 01.03.2008, combined pro-rata charges for both water and sewerage services have been levied, and bifurcation does not arise. He relied upon the decision of the Hon'ble Apex Court in **Jalkal Vibhag Nagar Nigam [supra]**, particularly paragraph 26 to submit that the payment of water and sewerage taxes is regardless of whether actual connection exists,



so long as the provision for such services is made in the area. He further relied on the Government notification dated 19.01.2016, which mandates educational institutions with 5000 square metres or more to install a sewerage treatment plant, and submitted that the Petitioner has indeed installed one.

23.3. This Point requires examination of whether consolidated pro-rata charges covering both water and sewerage components can be levied on the Petitioner when no sewerage connection has been provided.

23.4. The decision of the Hon'ble Apex Court in **Jalkal Vibhag Nagar Nigam [supra]** is directly on point. The Hon'ble Supreme Court, interpreting the statutory framework for water and sewerage taxes, held in clear terms:

"26. ... Therefore, the payment of water tax and sewerage tax is regardless of whether the premises are connected with water supply or with a sewer of the Jal Sansthan. There is no exemption from the payment of water tax or sewerage tax as both the contingencies—the premises being connected with water supply (or, as the case may be, with a sewer of the Jal Sansthan) or there being no such connection—have been covered under the provisions of Section 56. So long as a provision for water supply or a sewerage is made



by the Jal Sansthan in the area covered, the occupier or the owner of the premises is liable to pay the taxes. Both the water tax as well as the sewerage tax could be consolidated for the purpose of levying, assessing and collecting them under Section 57 of the Act."

- 23.5. While the aforesaid decision was rendered in the context of the U.P. Water Supply and Sewerage Act, the underlying principle is of universal application: the liability to pay charges towards water supply and sewerage is not contingent on the actual provision of an individual connection. The charges contribute to the common pool for the improvement and maintenance of the overall system. The fact that the Petitioner's premises do not have a physical sewerage connection does not exempt it from contributing towards the sewerage infrastructure that BWSSB is obligated to develop and maintain across the metropolitan area.
- 23.6. Pro-rata charges, as defined under Section 2(17)(a) of the BWSS Act, are charges towards the cost of improvement of "water supply and sewerage systems" both components are included in the very definition. The definition does not create separate levies for water and



sewerage; it envisages a single consolidated charge towards both systems. The circular dated 01.03.2008, which consolidated the previously separate charges into a single levy, is consistent with this statutory definition.

23.7. Furthermore, the Government notification dated 19.01.2016 issued by the Forest, Ecology and Environment Secretariat mandates that educational institutions with a built-up area of 5000 square metres and above are required to install a sewerage treatment plant. The Petitioner has installed such a plant, demonstrating that it generates sewage that requires treatment. The Petitioner's installation of its own sewerage treatment plant does not exempt it from contributing to the system; rather, it demonstrates the need for sewerage management at the premises level.

23.8. The submission that the Respondents were duty-bound to bifurcate the charges presupposes that the charges are severable. However, since 01.03.2008, the charges have been consolidated by the Board, and the statutory definition under Section 2(17)(a)



treats them as a single levy. This Court cannot direct the Board to bifurcate what the Board, in the exercise of its regulatory power, has consolidated.

23.9. Accordingly, I answer Point No. (v) by holding that the Respondents are entitled to levy consolidated pro-rata charges towards both water and sewerage components, irrespective of either connection not being provided, provision of one of the connections is sufficient for the levy of charges on both connections.

24. **Answer to Point No. (vi): Whether the demand of pro-rata charges for the period in question is legally enforceable, having regard to the time of grant of connection and subsequent revisions of rates?**

24.1. Sri. S. Sriranga submitted that even if the Petitioner is liable to pay pro-rata charges, such charges should be computed at the rates prevailing in 2004 when the water connection was granted. He relied on **IBC Knowledge Park (P) Ltd. v. BWSSB**, and **B. Venkatesh case** to support the submission that pro-rata charges are a one-time levy at the rate prevailing at the time of connection.



- 24.2. Sri. Ravi B. Naik submitted that since no pro-rata charges were collected at the time of the connection in 2004, the demand raised in 2016 must be calculated at the rates then prevailing. He submitted that Section 16 empowers the Board to vary charges from time to time, and the rate applicable is the rate at the time of the demand. He also submitted that the Petitioner is liable to pay interest for the delayed payment.
- 24.3. The question under this Point is: at what rate should the pro-rata charges be computed at the rate prevailing in 2004 when the connection was granted, or at the rate prevailing in 2016 when the demand was raised?
- 24.4. Section 16 of the BWSS Act empowers the Board to "vary" pro-rata charges "from time to time." The definition of pro-rata charges under Section 2(17)(a) refers to charges "levied by the Board from time to time." These statutory phrases clearly indicate that the rate of pro-rata charges is not frozen at any particular point in time but is subject to periodic revision. The rate applicable is the rate in force at the



time the liability is assessed and the demand is raised.

- 24.5. The decision of this Court in **IBC Knowledge Park (P) Ltd.**, on which the Petitioner relies, actually supports the Respondents' position on this point. In that case, this Court held that the rate applicable is the rate at the time the demand crystallises, not the date of the initial application. The Court held at paragraph 12:

"12. ... As on the date of application the occupancy certificate was not enclosed but the Petitioner insisted on having completed the construction and occupied due to which inspection was conducted on 19-11-2008 during which time the discrepancies were noticed and the demand was raised on 27-11-2008. That being the position, the prorata charges applicable subsequent to 1-2-2008 will be applicable to the case of the Petitioner."

- 24.6. The ratio of **IBC Knowledge Park** is that the rate applicable is determined by the date on which the relevant formalities are completed and the demand is crystallised. In the present case, no pro-rata charges were ever collected from the Petitioner. The demand was crystallised only in 2016. Applying the ratio of IBC Knowledge Park, the rate applicable is the rate prevailing in 2016, which is Rs.600/- per



square metre under Regulation 5.3 as amended.

24.7. The **B. Venkatesh** case, relied upon by Sri. S. Sriranga, is distinguishable as already discussed under Point No.(i). That case dealt with existing structures that already had connections. The present case involves a new connection granted in 2004 where pro-rata charges were never collected.

24.8. The Petitioner cannot be heard to contend that it should get the benefit of the lowest possible rate (2004 rates) when it has had the benefit of not paying any pro-rata charges for twelve years. The Petitioner has enjoyed the water supply without contributing its proportionate share towards system improvement for over a decade. The application of the current rate at the time of the demand is entirely just and in consonance with the statutory scheme.

24.9. As regards the claim for additional pro-rata charges for the past period amounting to Rs.8,64,27,448/-, this is a matter of computation that is best addressed by the statutory appellate authority under Section 120



of the BWSS Act. However, the principle that the Board is entitled to levy pro-rata charges at the rates prevailing at the time of demand is well established.

24.10. Accordingly, I answer Point No. (v) by holding that the demand of pro-rata charges at the rates applied by the Respondents is legally enforceable.

25. **Answer to Point No. (vii): Whether the Petitioner is entitled to refund or adjustment of Rs.1,01,91,510/- alleged to have been collected in excess towards water tariff prior to 02.11.2014?**

25.1. Sri. S. Sriranga submitted that the initial rate of water supply was Rs.30/- (or Rs.36/-) per Kilo Litre. In January 2013, without prior notice or authorisation, the rate was increased to Rs.60/- per Kilo Litre. The formal notification revising the tariff was issued only on 01.11.2014, effective from 02.11.2014. Therefore, the charging of Rs.60/- per KL prior to 02.11.2014 was without authorisation. The excess amount collected, amounting to Rs.1,01,91,510/-, is liable to be refunded.



- 25.2. Sri. Ravi B. Naik submitted that the tariff was revised to Rs.60/- per KL from 12.02.2013 by a valid notification, which has not been challenged by the Petitioner. Without such a challenge, the question of refund does not arise. He further submitted that under Section 16, the Board is empowered to vary rates from time to time, and the revision was within the Board's powers.
- 25.3. The Petitioner's claim for refund of Rs.1,01,91,510/- is based on the contention that the water tariff was increased from Rs.36/- to Rs.60/- per KL without authorisation prior to the notification dated 01.11.2014.
- 25.4. The Respondents' contention is that the tariff was revised from 12.02.2013 by a valid notification. Sri. Ravi B. Naik has specifically submitted that the revision was made from 12.02.2013, and the Petitioner has not challenged this specific revision. The Petitioner, instead of challenging the tariff revision of 12.02.2013 within the statutory period under Section 120 of the BWSS Act, continued to pay the revised tariff. The Petitioner paid the



revised rate from 2013 to 2014 without protest through any statutory mechanism.

25.5. Section 16 of the BWSS Act empowers the Board to vary rates "from time to time." The Board's power to revise tariff is a continuing power. If the tariff was revised from 12.02.2013, as contended by the Respondents, that revision was within the Board's powers. The Petitioner's contention that the revision was authorised only from 02.11.2014 is not supported by adequate material. The correspondence on record shows that the Petitioner wrote letters questioning the rate increase but did not file a statutory appeal under Section 120 within the prescribed time of sixty days.

25.6. The Hon'ble Apex Court in **S. Narayan Iyer's case [supra]** held that rates are a matter of legislative judgment. The tariff fixed by the Board, acting under its statutory powers, is not amenable to challenge under Article 226 on the ground of reasonableness. The Petitioner, having subscribed to the service and availed



the water supply, cannot contend that the rates are not fair.

25.7. Furthermore, even assuming that there is a dispute regarding the exact date of the authorisation for the tariff revision, this is precisely the kind of factual dispute that should have been raised before the statutory appellate authority under Section 120 of the BWSS Act. The existence of an alternative statutory remedy for resolving such factual disputes is a further reason why this Court ought not to entertain this claim in writ jurisdiction. The Petitioner has not produced any material before this Court to conclusively establish that the revision from 12.02.2013, as contended by the Respondents, was without authority.

25.8. In view of the above, I answer Point No. (vii) by holding that the Petitioner has not made out a case for refund or adjustment of Rs.1,01,91,510/-.

General Directions:

26. In view of the issues noticed above concerning inconsistencies between statutory provisions and information hosted on official websites, this Court



considers it appropriate to issue structured directions to ensure uniform standards across all Government Departments.

27. The Principal Secretary, Department of e-Governance, shall, within a period of three months, formulate a comprehensive policy governing the publication, verification, and maintenance of content on official websites of all Government Departments, Boards, Corporations, and statutory authorities.
28. The policy shall provide for a system of prior legal vetting before uploading any document that:
 - 28.1. Relates to statutory rights or obligations;
 - 28.2. Prescribes fees, charges, classifications, penalties, or entitlements; or
 - 28.3. Interprets or explains any provision of an Act, Rule, or Regulation.
29. The policy shall mandate clear segregation and labelling of:
 - 29.1. Statutory provisions (Acts, Rules, Regulations, Notifications);
 - 29.2. Government Orders and Circulars;



- 29.3. Administrative guidelines or informational material; and
 - 29.4. Citizen charters or facilitative documents.
30. Each category shall be clearly marked so that a layperson can distinguish between binding law and explanatory material.
 31. The policy shall require that every informational or explanatory document hosted on official websites carry a standardised disclaimer stating that in the event of any inconsistency, the relevant statutory provisions shall prevail.
 32. The policy shall provide for:
 - 32.1. Annual digital content audits by each Department;
 - 32.2. Certification by the Head of the Department that the website content is updated and consistent with current law; and
 - 32.3. A system of version control and archival tracking.
 33. The policy shall identify:



- 33.1. The designated officer responsible for website content in each Department;
 - 33.2. A defined protocol for correction of errors; and
 - 33.3. Timelines for rectification once discrepancies are noticed.
34. The Department of e-Governance shall also incorporate provisions for training nodal officers in:
- 34.1. Digital content governance;
 - 34.2. Legal sensitivity in public communication; and
 - 34.3. Standards of accuracy and public accountability.
35. The policy shall include a structured mechanism enabling citizens to report discrepancies between website content and statutory provisions, with mandatory timelines for response.
36. Upon formulation of the policy, the Secretary, Department of e-Governance, shall place on record before this Court a compliance report indicating:
- 36.1. The policy framed;
 - 36.2. The timeline for implementation; and



- 36.3. The steps taken to communicate and operationalise the same across all Departments.
37. The Court makes it clear that digital platforms are not merely administrative conveniences but constitute official representations to the public. Uniform standards of accuracy and accountability are therefore essential to uphold transparency, reduce litigation, and protect citizens from avoidable confusion. The above directions are issued to ensure systemic reform rather than case-specific correction.
38. **I answer Point No. (viii): What order?**
- 38.1. Under Point No.(i), it has been held that the Petitioner has not made out a case for a declaration that it is not liable to pay pro-rata charges. The levy is mandated by Section 16 of the BWSS Act, upheld by the Division Bench in Muniswami, and is not excluded by the agreement dated 06.05.2004 or Regulation 54.
- 38.2. Under Point No.(ii), it has been held that the communications dated 18.02.2016 and 02.04.2016 are not without authority of law and are not liable to be quashed.



- 38.3. Under Point No.(iii), it has been held that the Respondents are legally entitled to levy pro-rata charges upon the Petitioner.
- 38.4. Under Point No.(iv), it has been held that the classification as commercial and the rate of Rs.600/- per square metre is legally sustainable.
- 38.5. Under Point No.(v), it has been held that consolidated pro-rata charges towards both water and sewerage components are permissible.
- 38.6. Under Point No.(vi), it has been held that the demand at the rates prevailing at the time of the demand is enforceable.
- 38.7. Under Point No.(vii), it has been held that the Petitioner is not entitled to refund or adjustment of Rs.1,01,91,510/-.
- 38.8. In view of the findings and conclusions under Points No.(i) to (vii), I pass the following:



ORDER

- i. The Writ Petition No.22615 of 2016 is dismissed.
- ii. All the prayers of the Petitioner are declined.
- iii. The prayer for a declaration that the Petitioner is not liable to pay pro-rata charges is rejected.
- iv. The prayer to quash the communication dated 18.02.2016 bearing No.BWSSB/EIC/CE(M)-III/DCE(M)-I/TA(M)-III 14483/15-16 (Annexure-P) and the communication dated 02.04.2016 bearing No.BWSSB/EIC/CE(M)/ACE(M)-III/DCE(M)-1/TA(M)-10/83/2015-16 (Annexure-Q) is rejected.
- v. The prayer for refund or adjustment of Rs.1,01,91,510/- is rejected.
- vi. However, liberty is granted to the Petitioner to approach the statutory appellate authority under Section 120 of the BWSS Act for any grievance relating to the computation or quantum of pro-rata charges, within a period of sixty days from the date of receipt of a certified



copy of this order. If such an appeal is filed within the said period, the appellate authority shall consider and dispose of the same on merits in accordance with law, without raising any objection on the ground of limitation.

- vii. Pending applications, if any, stand disposed of.
- viii. Though the above matter is **disposed relist on 04.06.2026** for reporting Compliance. Learned AGA is directed to inform the Principal Secretary, e-Governance about the above directions. The registry is directed to print the name of AGA in the cause list to enable reporting compliance.

**SD/-
(SURAJ GOVINDARAJ)
JUDGE**