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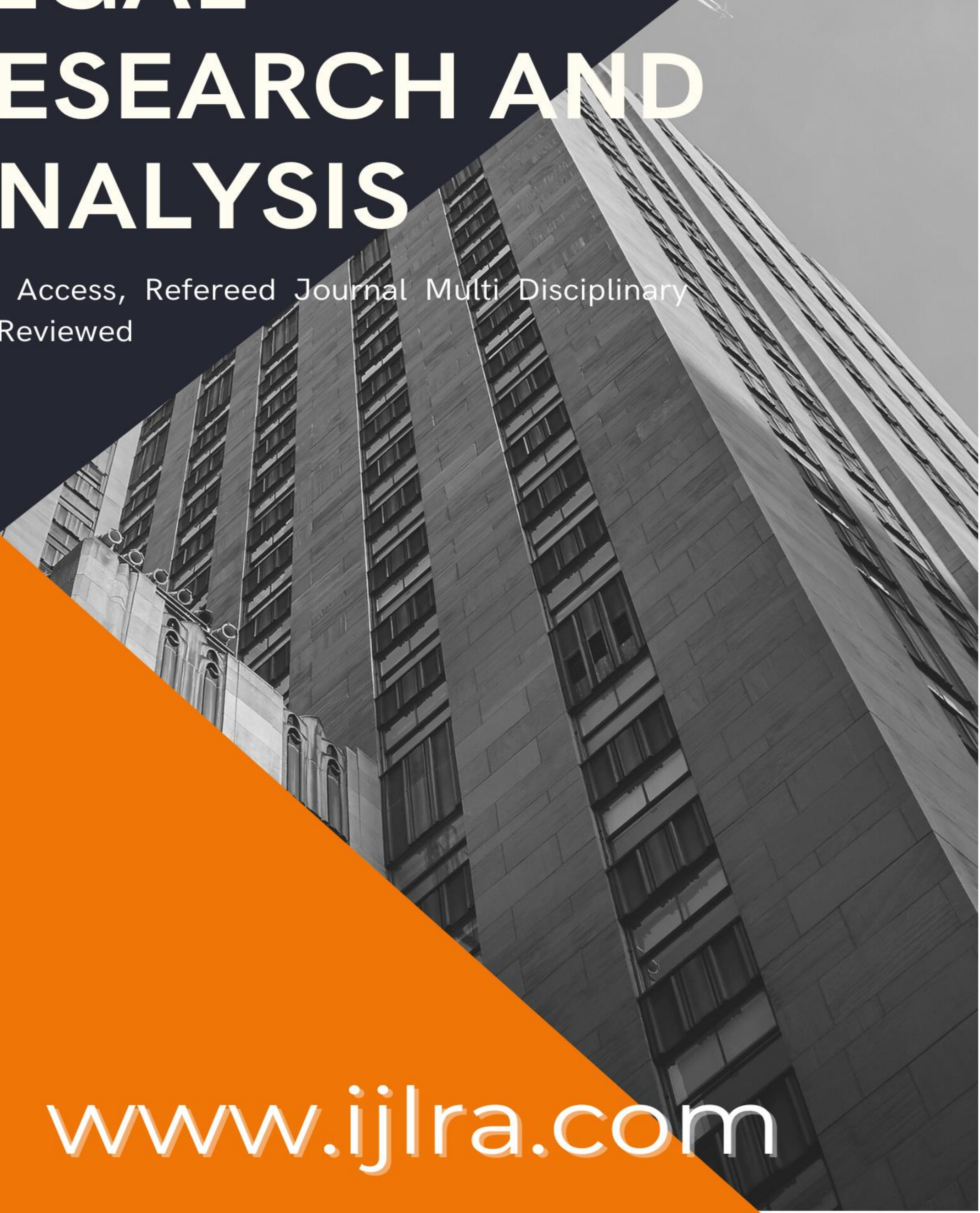

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RENEWABLE CONSUMPTION OBLIGATIONS AND THE LIMITS OF CENTRAL POWER: THE CONFLICT BETWEEN INDIA'S ENERGY CONSERVATION ACT 2001 AND THE ELECTRICITY ACT 2003

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Abstract

India's clean energy transition has produced an unusual legal issue, two central statutes now claim authority over the same regulatory act of compelling electricity distribution licensees to source a fixed share of their power from renewable sources. The Electricity Act 2003 entrusts this function to the State Electricity Regulatory Commissions through section 86(1)(e), and since two decades have treated the renewable purchase obligation as a state-level, tariff-linked instrument. The Energy Conservation (Amendment) Act 2022, by contrast, arms the Central Government with power to prescribe a minimum share of non-fossil energy consumption for 'designated consumers', enforceable through monetary penalties. Notifications issued under the amended Act between 2023 and 2025 extend this renewable consumption obligation to distribution licensees and compute it on the energy they supply to consumers rather than the energy they themselves consume. This article examines whether that extension survives doctrinal scrutiny. It analyses the definitional dissonance between 'consumption' and 'supply' within the Energy Conservation Act; the operation of the overriding and saving clauses in sections 173 and 174 of the Electricity Act and section 60 of the Energy Conservation Act 2001, the constitutional questions of legislative competence, arbitrariness and proportionality. The article argues that the renewable consumption obligation, as applied to distribution licensees, sits uneasily within the parent statute's own definitional scheme and intrudes upon a field that Parliament deliberately assigned to independent State regulators.

Keywords: renewable consumption obligation; renewable purchase obligation; Energy Conservation Act 2001, Electricity Act 2003, designated consumer, regulatory federalism, delegated legislation, ultra vires, Regulatory federalism, Pith and substance, India.

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1. Introduction

The Electricity Act 2003 (‘EA 2003’) created independent State Electricity Regulatory Commissions (‘SERCs’) and, through section 86(1)(e), directed them to promote renewable energy by specifying, for the area of each distribution licensee, a percentage of total electricity consumption that must be purchased from renewable sources.[1] Section 86(1)(e) is the source of the renewable purchase obligation ('RPO'), the principal statutory vehicle for renewable procurement in India, and it vests that function exclusively in the State Commission. It was fixed state by state, calibrated to local resource endowments and tariff impacts, and enforced through the regulatory and adjudicatory machinery under the 2003 Act.

The Energy Conservation (Amendment) Act 2022 disturbed this settlement.[2] By amending the Energy Conservation Act 2001 (‘EC Act’), Parliament empowered the Central Government to specify a minimum share of consumption of non-fossil sources for ‘designated consumers’, backed by civil penalties for shortfalls.[3] Acting on this power, the Ministry of Power issued a series of notifications, culminating in a notification of 27 September 2025, prescribing year-wise renewable consumption obligations (‘RCO’) and, critically, extending them to electricity distribution licensees. For a distribution company, the obligation is computed not on the electricity it consumes for its own operations but on the entire volume of electricity it supplies to its consumers.[4]

The result is a direct institutional collision. The same entity, in respect of the same megawatt-hours, now faces a renewable procurement target set by its SERC under the EA 2003 and a renewable consumption target set by the Central Government under the EC Act, each with its own trajectory, compliance mechanism and penalty regime.

This article uses the controversy as a lens through which to examine three doctrinal problems of wider significance. The first is internal to the EC Act, whether a statute whose operative concept is the ‘consumption’ of energy can lawfully generate an obligation measured by energy ‘supplied’, and whether a distribution licensee, which is in substance a conduit, can be a ‘designated consumer’ at all. The second concerns the relationship between two central

[1] The Electricity Act 2003 no 36 of 2003, s 86(1)(e) (India).
[2] The Energy Conservation (Amendment) Act, 2022, No. 19 of 2022 (India).
[3] EC Act, § 14 (as amended).
[4] Ministry of Power, Government of India, Notification No. S.O. 4421(E), Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), Sept. 27, 2025.

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statutes, how the overriding clause in section 174 of the EA 2003 and the saving clause in section 60 of the EC Act should be reconciled when both Acts claim the same regulatory space. The third is constitutional, whether the RCO regime, tested against the doctrine of pith and substance and against articles 14 and 19(1)(g) of the Constitution of India, represents a permissible exercise of power or a colourable re-entry into a field Parliament had consciously devolved to independent regulators.

The article proceeds as follows. Section 2 sets out the two legislative frameworks and their distinct architectures. Section 3 dissects the definitional problem created by the 2025 notification's use of 'supplied' energy and tests it against the settled law of delegated legislation. Section 4 analyses the inter-statutory conflict through the prism of overriding and saving clauses and the canons of harmonious construction. Section 5 addresses the constitutional questions. Section 6 draws out the policy implications and sketches a harmonised model, and section 7 concludes.

2. Two Statutes, Two Architectures

2.1 The Electricity Act 2003 and the renewable purchase obligation

The Electricity Act 2003's object is to consolidate the whole law on generation, transmission, distribution, trading and use of electricity into one comprehensive code, promoting competition, protecting consumer interests, rationalising tariffs, ensuring transparency on subsidies, and advancing efficient and environmentally benign policies. It also builds the sector's institutional framework.[5] The Act repealed the Indian Electricity Act 1910, the Electricity (Supply) Act 1948 and the Electricity Regulatory Commissions Act 1998. The aim of the Act is to insulate the tariff and procurement decisions from short-term political considerations through independent regulatory commissions, a response to decades of fiscal stress produced by executive control of electricity pricing.

Section 86 enumerates the functions of the SERCs, and clause (1)(e) directs each Commission to promote cogeneration and generation from renewable sources by providing suitable measures for grid connectivity and the sale of electricity to any person, and also to specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee.[6]

[5] The Electricity Act 2003 no 36 of 2003 (India).
[6] EA 2003, s 86(1)(e).

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Three features of this provision deserve emphasis. First, the obligation it contemplates is locational and licensee-specific, the percentage is fixed for the area of each distribution licensee, which permits calibration to the renewable resource profile, demand pattern and consumer tariff sensitivity of each state. Secondly, the obligation is embedded in the tariff process. Renewable procurement costs flow into the licensee's annual revenue requirement, which the same Commission scrutinises and allows under section 62 and read with principals of section 61, the body that imposes the obligation also prices its consequences.[7] Thirdly, enforcement is regulatory rather than fiscal, non-compliance is addressed through the Commission's powers under sections 142 and 146, through market mechanisms such as renewable energy certificates, and ultimately through appellate review by the Appellate Tribunal for Electricity under section 111.[8]

The Supreme Court has consistently treated section 86(1)(e) as the source of renewable purchase obligation under the Electricity Act. In Energy Watchdog v Central Electricity Regulatory Commission the Court explained the interplay between regulatory power and central policy instruments, holding that the National Electricity Policy and the Tariff Policy guide but do not displace the statutory discretion of the commissions.[9] In PTC India case the Supreme Court had earlier confirmed that the regulations of electricity commissions, made under the Act, occupy the field of economic regulation to the exclusion of inconsistent executive action.[10] The Tariff Policy 2016, issued under section 3 of the EA 2003, reflects the same allocation, paragraph 6.4 contemplates that renewable purchase obligation trajectories are matters for state commissions, guided by central advice rather than commanded by central diktat.[11] The reasoning in Hindustan Zinc repays close attention, because it defines both the reach and the logic of the renewable obligation under the electricity code.

This architecture has normative as well as institutional content. By interposing an expert commission between the political executive and the licensee, the EA 2003 ensures that renewable mandates are set through a participatory, reasoned and appealable process, with cost consequences transparently allocated. The State of Gujarat v Utility Users' Welfare Association line of authority underscores the quasi-judicial character of commission decision-making and the safeguards that attend it.[12] Whatever else may be said of the RCO regime, it

[7] EA 2003, ss 61–62.
[8] EA 2003, ss 111, 142, 146.
[9] Energy Watchdog v Central Electricity Regulatory Commission (2017) 14 SCC 80.
[10] PTC India Ltd v Central Electricity Regulatory Commission (2010) 4 SCC 603.
[11] Ministry of Power, Government of India, Tariff Policy 2016, para 6.4, issued under EA 2003, s 3.
[12] State of Gujarat v Utility Users' Welfare Association (2018) 6 SCC 21.

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bypasses every one of these safeguards, the quantum is fixed by notification, the cost consequences are externalised to a tariff process controlled by a different body, and enforcement takes the form of a coercive levy rather than a regulated price adjustment reviewed by the Commission that sets the tariff.

2.2 The Energy Conservation Act 2001 and the 2022 amendment

The EC Act belongs to a different regulatory family. Enacted to provide for the efficient use of energy and its conservation, it established the Bureau of Energy Efficiency and constructed a regime addressed to large energy users. Its central device is the 'designated consumer' an energy-intensive establishment, drawn from industries listed in the Schedule, upon which the Act fastens duties such as the appointment of energy managers, the conduct of energy audits and compliance with consumption norms.[13] The statute's vocabulary is consistently demand-side. Section 2(g) defines a designated consumer with reference to the consumption of energy, and the cognate definition of 'consumer' likewise turns on the act of consuming.[14] The obligations in section 14, as originally enacted, were obligations about how an establishment uses energy within its own operations: norms, audits, reporting and efficiency standards.

The 2022 amendment grafted a procurement mandate onto this conservation chassis. The amended section 14 empowers the Central Government to specify a minimum share of consumption of non-fossil sources by designated consumers, with the share permitted to differ across consumer categories, and the amended penalty provisions attach monetary consequences to shortfalls, linked to the quantum of energy by which the obligation is missed.[15] Parallel amendments enlarged the rule-making and delegation provisions and introduced a framework for carbon credit trading. The amendment's stated rationale was to accelerate decarbonisation by harnessing the demand of large energy users that aggregate national electricity demand.[16]

The notifications that followed operationalised this power. A 2023 notification prescribed renewable consumption shares for designated consumers, the notification of 27 September 2025 revised the framework and, in the clause most relevant here, provided that for designated consumers that are distribution licensees the obligation is to be computed on the electrical energy supplied to consumers within the licensee's area of supply.[17] The prescribed trajectory rises steeply across the decade, exceeding forty per cent in the terminal years.

[13] EC Act, ss 13–14.
[14] EC Act, ss 2(g) and 2(u).
[15] EC Act, s 26 (as amended by Act 19 of 2022 .
[16] Statement of Objects and Reasons, Energy Conservation (Amendment) Bill 2022.
[17] Notification of 27 September 2025 (n 4), clause governing distribution licensees.

It is worth pausing on the institutional asymmetry this creates. The SERC’s RPO is set after public hearings, is adjusted for the licensee’s resource constraints, carries a cost pass-through, and is appealable to a specialist tribunal. The central RCO is set by notification without sectoral adjudication, admits no tariff mechanism of its own, and is enforced by adjudicating officers under the conservation statute with appeals lying outside the electricity-law hierarchy. Two commands of comparable magnitude thus differ radically in their procedural pedigree, and the licensee’s exposure under the second is unmediated by the safeguards that legitimate the first.

This reading finds powerful reinforcement in the Supreme Court's recent decision in *Indian Railways v. West Bengal State Electricity Distribution Company Ltd.*,[18] where the Court was called upon to characterise an entity's status under the Electricity Act 2003. The Railways had claimed the status of a deemed distribution licensee; the Court refused, holding that statutory status "demands the substantive fulfilment of legislative obligations" and cannot be conferred by a nominal or functional label. Because the Railways procured and used electricity exclusively for its own operational network and supplied it to no consumer outside that network, it was held to be a "consumer" within Section 2(15) of that Act. The decisive test the Court applied was substantive rather than nominal: what an entity is under a statute turns on what the statute actually requires it to *do*, not on the label most convenient to the revenue interest asserting the classification. Transposed to the present context, that test operates in the mirror image and to the opposite conclusion. Whereas the Railways was pulled *into* the consumer category because it consumes and does not supply, a distribution licensee sits *outside* the designated-consumer category precisely because its defining statutory function is to *supply* to millions of consumers rather than to consume. If, on the Court's reasoning, self-consumption is what makes an entity a consumer and disqualifies it from licensee status, then supply is what makes an entity a licensee and, correspondingly, ill-fitted to a designated-consumer obligation that the Energy Conservation Act 2001 fastens, through Sections 2(g) and 2(u), upon the *consumption* of energy. Clause 8 of the impugned notification cannot manufacture designated-consumer status by the expedient of measuring energy "supplied," because supply is the very characteristic that, on the Court's own logic of substance over label, places a licensee beyond the consumer category the parent statute contemplates.

3. The Definitional Problem: Energy ‘Supplied’ versus Energy ‘Consumed’

The most distinctive infirmity of the 2025 notification lies not in grand constitutional theory

[18] Indian Railways v. West Bengal State Electricity Distribution Company Ltd., 2026 LiveLaw (SC) 476

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but in elementary statutory fit. The EC Act's jurisdictional gateway is consumption. An entity becomes a designated consumer because, and to the extent that, it consumes energy. A distribution licensee, however, consumes only a sliver of the electricity that passes through its system, the power used in its offices, control centres, stores and auxiliary equipment. The overwhelming balance is supplied onward to domestic, commercial, industrial and agricultural consumers, who are the persons that consume it in any ordinary or statutory sense. The figures a licensee's own consumption may be in the order of a fraction the energy it distributes.

The notification's drafters evidently appreciated this, for the clause governing distribution licensees abandons the statutory measure and substitutes a different one. the obligation is computed on energy 'supplied'. The substitution is not cosmetic. A subordinate instrument has thus enlarged the operative reach of the statute roughly a thousandfold through a change of measuring rod that the statute nowhere authorises.

Settled principles of delegated legislation leave little room for such enlargement. Subordinate legislation must conform to the statute under which it is made, it cannot travel beyond the parent Act[19], supplement its substantive scope or vary its definitional architecture. In General Officer Commanding-in-Chief v Subhash Chandra Yadav the Supreme Court held that a rule inconsistent with the provisions of the parent enactment is void,[20] and in State of Tamil Nadu v P Krishnamurthy the Court catalogued the grounds on which subordinate legislation may be struck down, including lack of conformity with the statute and manifest arbitrariness.[21] Kunj Behari Lal Butail makes the complementary point that a delegate cannot enlarge the scope of the power conferred by the legislature under the guise of exercising it.[22] Where a statute defines a term, the definition binds the delegate, a notification cannot quietly convert a status anchored to consumption into one anchored to supply.

Nor can the inclusion of distribution companies in the Schedule cure the defect. The Schedule identifies the classes of establishments from which designated consumers may be drawn; it does not, and cannot, redefine the metric on which the substantive obligation under section 14 operates. Even granting that a distribution company may be designated in respect of the energy it consumes, designation says nothing about the lawfulness of measuring its obligation by

[19] Naresh Chandra Agrawal v. Institute of Chartered Accountants of India, 2024 SCC OnLine SC 114
[20] General Officer Commanding-in-Chief v Subhash Chandra Yadav (1988) 2 SCC 351.
[21] State of Tamil Nadu v P Krishnamurthy (2006) 4 SCC 517.
[22] Kunj Behari Lal Butail v State of Himachal Pradesh (2000) 3 SCC 40.

energy it supplies. The Schedule answers 'who' it is the definitions and section 14 that answer 'how much of what', and on that question the notification departs from its parent.

The internal coherence of the EC Act reinforces the point. The duties that section 14 historically imposed on designated consumers, energy audits, energy managers, consumption norms, are intelligible only in respect of energy the establishment itself uses, one cannot audit the efficiency of electricity one never consumes. Reading the 2022 insertion harmoniously with its statutory neighbours, the non-fossil share it contemplates is a share of the designated consumer's own consumption. The notification's shift to supplied energy is not an interpretation of the section but an amendment of it, effected by the executive.

There is also a conceptual point beneath the textual one. A distribution licensee is, in the economy of the EA 2003, an intermediary. It holds a licence to distribute and supply electricity to consumers; the electricity statute itself distinguishes between the licensee and the 'consumer', whom it defines separately as the person to whom electricity is supplied.[23] To treat the intermediary as the consumer of everything it carries is to collapse a distinction that both statutes maintain and on which the entire licensing and tariff structure rests. The conservation logic of the EC Act, which targets the behaviour of energy users, has no purchase on volumes the licensee never uses. What the notification in truth regulates is the licensee's procurement portfolio, which is precisely the subject matter that the EA 2003 commits to the SERCs.

4. Resolving the Inter-Statutory Conflict

4.1 Sections 173 and 174 of the Electricity Act: the overriding code

Assume, contrary to the analysis above, that the EC Act can be read to authorise an RCO computed on supplied energy. The question then becomes which statute prevails when both occupy the field of renewable procurement by distribution licensees. The EA 2003 answers this in unusually emphatic terms. Section 174 declares that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, and section 173 carves out only three named statutes from this supremacy: the Consumer Protection Act, the Atomic Energy Act and the Railways Act.[24] The EC Act is conspicuously absent from the carve-out, and since the conservation statute predates the EA

[23] EA 2003, s 2(15) (definition of 'consumer') and s 2(17) (definition of 'distribution licensee').

[24] EA 2003, ss 173–174

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2003, Parliament legislated the overriding clause with that statute already on the books.

The Supreme Court has characterised the EA 2003 as an exhaustive code on all matters concerning electricity,[25] a characterisation that supports reading sections 173 and 174 as deliberately exclusionary. On this view, in any case of inconsistency between a section 86(1)(e) obligation framed by a SERC and a central RCO framed under the EC Act, the former prevails as the command of the later, special and overriding enactment. The inconsistency is real, not hypothetical, the central trajectory and the state trajectories diverge in quantum, phasing and technology mix, and a licensee cannot simultaneously calibrate its procurement to two inconsistent masters without one obligation effectively displacing the other.

4.2 Section 60 of the Energy Conservation Act: the internal disclaimer

Strikingly, the EC Act itself disclaims any intent to collide with other laws. Section 60 provides that the Act's provisions are in addition to, and not in derogation of, any other law for the time being in force.[26] A statute that describes itself as supplementary cannot easily be deployed to override the considered allocation of regulatory power in the EA 2003. Where a later instrument made under the supplementary statute purports to duplicate, with different content and harsher sanctions, an obligation that the principal electricity code assigns to state commissions, section 60 supplies an internal rule of priority: the EC Act must yield, or at least be read down so as not to derogate from section 86(1)(e).

The combined operation of section 174 of the EA 2003 and section 60 of the EC Act is therefore mutually reinforcing rather than merely cumulative. One statute claims supremacy; the other concedes it. Where two enactments each contain priority clauses, the Supreme Court has resolved the contest by examining the policy and purpose of the competing statutes and by asking which legislature, or which scheme, more specifically addresses the subject matter.[27] Here no genuine contest arises, because only the electricity code asserts priority; the conservation statute expressly disavows it. The 2022 amendment did not alter section 60, nor did it amend the EA 2003 to create an express interface, a legislative silence difficult to square with any intention to transfer the renewable procurement function from the commissions to the central executive.

[25] Gujarat Urja Vikas Nigam Ltd v Essar Power Ltd (2008) 4 SCC 755
[26] EC Act, s 60.
[27] Solidaire India Ltd v Fairgrowth Financial Services Ltd (2001) 3 SCC 71; Ashoka Marketing Ltd v Punjab National Bank (1990) 4 SCC 406.

4.3 Generalia specialibus and harmonious construction

The maxim that general provisions do not derogate from special ones points in the same direction. The EA 2003 is the special law governing electricity procurement by licensees; the EC Act is a general law on energy efficiency spanning all energy forms and user classes. Even where two central statutes contain competing non-obstante or saving clauses, courts resolve the conflict by identifying the enactment that deals more specifically with the subject matter and by preferring the construction that allows both statutes a meaningful field of operation.[28] That harmonisation is readily available here. The EC Act can operate fully upon establishments that genuinely consume energy at scale, including the licensee's own operational consumption, while the EA 2003 continues to govern the licensee's procurement on behalf of its consumers. What harmonious construction cannot accommodate is a reading under which the general statute swallows the special one's core function.

A final interpretive consideration deserves notice. Repeal or curtailment of a statutory scheme by implication is disfavoured; the presumption is that Parliament does not intend to cut down the jurisdiction of an expert regulator sub silentio. Had the 2022 Parliament intended the Central Government to assume concurrent or superior authority over licensee renewable procurement, the orthodox course was an express amendment to section 86(1)(e) or an entry in section 173's exception list. Successive Electricity (Amendment) Bills have in fact proposed locating uniform renewable obligations within the EA 2003 itself, a legislative history that confirms where the drafters understood the power to belong.

5. Constitutional Dimensions

5.1 Legislative competence and pith and substance

"Electricity falls under Entry 38 of the Concurrent List, so Parliament clearly had the power to pass both statutes. The constitutional problem with the RCO regime is not about whether Parliament could legislate at all. It is about what the measure really does in substance, and whether the executive can use delegated rule-making under one statute to achieve something that Parliament, in the scheme of the other statute, deliberately kept out of executive hands Applying the doctrine of pith and substance, the RCO as applied to distribution licensees is, in essence, a regulation of electricity procurement and supply, not of energy conservation. Its operative effect is to direct the composition of a licensee's power purchase portfolio, the

[28] CIT v Shahzada Nand & Sons AIR 1966 SC 1342; and in the dual-special-statute context, Solidaire India (n 24).

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quintessential subject of section 86(1)(e) and of the tariff jurisdiction of the commissions. A measure whose substance belongs to the electricity-regulation scheme cannot acquire validity merely by being dressed in conservation clothing, and the use of the EC Act as a vehicle to bypass the institutional safeguards of the EA 2003 invites scrutiny under the principle, hounarable Supreme Court of India established that "what cannot be done directly cannot be done indirectly.[29]

5.2 Article 14: classification and arbitrariness

1. The equality challenge proceeds on two planes. The first is classification. The EC Act's designated-consumer mechanism groups distribution licensees with energy-intensive industries such as aluminium, cement and fertiliser plants, entities that consume vast quantities of energy in their own production processes. A licensee that consumes almost nothing but carries everything is not similarly situated to such establishments, as honourable Supreme Court held that the classification must be founded on an intelligible differentia, which distinguishes the persons or things that are grouped together from others left out of the group. The differentia must have a rational nexus (a reasonable connection) to the object sought to be achieved by the statute in question.[30]
2. The second plane is arbitrariness in operation. The same licensee is exposed to two inconsistent renewable mandates and two penalty regimes for the same megawatt-hours, with the central penalty computed on shortfalls against a base, supplied energy, that the parent statute does not recognise. Double, inconsistent exposure of this kind, without any statutory mechanism of reconciliation, bears the hallmarks of manifest arbitrariness as that doctrine has developed since Shayara Bano.[31]

5.3 Articles 19(1)(g) and 300-A: proportionality and consequences

Distribution licensees carry on a regulated business protected by article 19(1)(g), and restrictions upon it must satisfy the proportionality standard now firmly embedded in Indian public law, a legitimate aim, a rational connection, necessity in the sense of the least restrictive effective alternative, and balance.[32] Decarbonisation is unquestionably a legitimate aim, and renewable mandates are rationally connected to it. The regime falters at the third stage. A less restrictive and institutionally coherent alternative exists and indeed already operates: renewable

[29] KC Gajapati Narayan Deo v State of Orissa AIR 1953 SC 375
[30] State of West Bengal v Anwar Ali Sarkar AIR 1952 SC 75.
[31] Shayara Bano v Union of India (2017) 9 SCC 1,
[32] Modern Dental College and Research Centre v State of Madhya Pradesh (2016) 7 SCC 353

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obligations fixed by SERCs with cost pass-through, resource calibration and appellate oversight. Superimposing a central penalty-backed mandate adds coercion without adding decarbonisation, since the megawatt-hours are the same. Nor can the Union derive comfort from the environmental reasoning of Hindustan Zinc, where renewable obligations were upheld as reasonable restrictions under article 19(6) in service of articles 21, 48-A and 51-A(g). That deference was earned by the architecture of the measure, not merely its green objective, the obligation fell on entities that actually consumed the energy, was imposed by the regulator that simultaneously controlled cost recovery, and was enforced through a compensatory surcharge softened by waiver and carry-forward for genuine difficulty. The RCO defeats each of these features, binding a non-consumer by reference to energy it never uses, divorcing the penalty from any tariff mechanism, and admitting no statutory accommodation for shortfall beyond the licensee's control. A precedent that validated a proportionate instrument cannot be invoked to validate a disproportionate one pursuing the same end, if anything, the institutional premises of Hindustan Zinc supply the benchmark against which the central regime falls short.

The consequences are not confined to the licensee. Penalties and stranded procurement costs ultimately press upon consumer tariffs, engaging the interests of millions of households in the licensee’s area. And the extraction of monetary penalties under an instrument that exceeds its parent statute raises a further question under article 300-A, which forbids deprivation of property save by authority of law, an ultra vires notification cannot supply that authority.[33]

6. Policy Implications and a Harmonised Pathway

Nothing in the foregoing analysis questions the urgency of India’s renewable transition or the legitimacy of national targets. In 2003, India chose to route the economic regulation of electricity through independent commissions precisely because procurement and tariff decisions made by executive fiat had produced fiscal stress and investor uncertainty. Renewable obligations are procurement decisions with tariff consequences relocating them to the central executive, enforceable by penalty rather than mediated by tariff process, unwinds that institutional settlement and creates the very fragmentation, two regulators, two trajectories, two sanction regimes, that codification desired by the Central Act 2003 was meant to end.

A harmonised pathway is available within the existing legal ecosystem. First, national renewable trajectories can be transmitted through the instruments the EA 2003 itself provides,

[33] KT Plantation Pvt Ltd v State of Karnataka (2011) 9 SCC 1.

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the National Electricity Policy and the Tariff Policy under section 3, leaving quantitative fixation and enforcement with the SERCs, whose obligation to be guided by such policies the Supreme Court has affirmed while preserving their ultimate discretion.[34]

Secondly, if Parliament considers a uniform statutory floor indispensable, the orthodox course is to amend the EA 2003, as successive Electricity (Amendment) Bills have proposed, so that the obligation lives within the code that prices and polices it.

Thirdly, the EC Act's RCO can be confined, by amendment or by reading down, to energy genuinely consumed by establishments, including the operational consumption of licensees, preserving the conservation statute's integrity while eliminating duplication. Each route advances decarbonisation, none requires a subordinate instrument to rewrite its parent statute's definitions.

A reading-down disposition deserves particular attention because it offers the court a middle path. Rather than striking the notification in its entirety, the writ Courts could construe the impugned clause as operative only to the extent of the licensee's own consumption, leaving the RCO fully effective against industrial designated consumers, who are its natural addressees. Such a disposition would vindicate the statutory text, avoid any setback to renewable deployment, since the SERC obligations would continue to drive licensee procurement, and signal to the executive that the route to a national supplier quota runs through Parliament.

The dispute also carries a broader lesson for the design of climate-era regulation in federal systems. Decarbonisation mandates increasingly cut across pre-existing regulatory allocations, and the temptation to use whichever statute offers the fastest executive route is considerable. The Indian experience with the RCO suggests that speed purchased at the cost of statutory coherence is illusory: it generates litigation, compliance paralysis and tariff uncertainty that retard the very transition it seeks to accelerate. Durable climate regulation must be built through, not around, the institutions that govern the sector.

[34] Energy Watchdog v Central Electricity Regulatory Commission (2017) 14 SCC 80.

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7. Conclusion

The renewable consumption obligation imposed on distribution licensees under the amended Energy Conservation Act presents a rare alignment of textual, structural and constitutional objections. Textually, an obligation computed on energy supplied cannot be derived from a statute whose jurisdictional concept is energy consumed, the September 2025 notification's measuring rod multiplies the statutory base a thousandfold and thereby exceeds the delegate's authority. Structurally, the Electricity Act's overriding clause and the conservation statute's own non-derogation clause converge on a single conclusion, renewable procurement by licensees belongs to the State Electricity Regulatory Commissions under section 86(1)(e), as the Supreme Court's jurisprudence from Hindustan Zinc to Energy Watchdog has assumed. Constitutionally, the regime strains the doctrines of pith and substance, manifest arbitrariness and proportionality, and visits its costs ultimately on consumers.

Declarations

Conflict of interest: The author is part of the group which has interests in the electricity distribution business, the doctrinal analysis is purely for academic interests.

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