

(1982) 12 AP CK 0021

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 8921, 9274, 9276, 9283, 9846 and 9854 of 1981 and 2145 of 1982

Andhra Pradesh Rice Bran Solvent Extractors" Association
and Another

APPELLANT

Vs

Government of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 24-12-1982

Acts Referred:

Constitution of India, 1950 — Article 19(1)

Essential Commodities Act, 1955 — Section 2, 3, 3(1), 3(2), 3(3)

Citation : AIR 1983 AP 206

Hon'ble Judges : Sreeramulu, J;Chennakesav Reddi, J

Bench : Division Bench

Advocate : N. Rajeswara Rao, K.B. Krishna Murthy, T. Anantha Babu and P. Babulu Reddy, for the Appellant; Government pleader, for the Respondent

Judgement

Chennakesav Reddi, J.—In these writ petitions, the validity of the Andhra Pradesh livestock feed (levy) and Restriction on sale order, 1981 (hereinafter referred to as the "Livestock feed sale order") is challenged. The main and real focus of the controversy centred round the validity of the declared price under Cl. 3 of the Live Stock Feed sale order, which also embraces the question whether Live stock Feed as defined in the said order is an "essential commodity" as defined in s. 2(a) of the Essential commodities Act (hereinafter referred to as the Act).

2. The livestock Feed sale order was made by the Government of Andhra Pradesh with the prior concurrence of the Central Government in exercise of the powers conferred by S. 3 of the Essential commodities Act, 1955 read with the Government of India, Ministry of Industry and civil Supplies (Department of civil Supplies and co-operation) orders No. G.S. r. 681 (E) and No. G.S. R. 682 (E), dated the 30th November 1974. The order came into force on 13th November. 1981 Cl. 2 (g) of the Live stock Feed sale order defines "Live stock Feed to mean (I) solvent Extracted Rice Bran :(ii) solvent Extracted Groundnut oil cake; and

(iii) solvent Extracted cottonseed oil cake. Under Cl. 2 (h) of the Live stock Feed sale order, producer" means any person carrying on the business of manufacturing solvent extraction oil from rice bran or groundnut oil cake or cottonseed oil cake. Cl. 3 notifies the "declared price" of the essential commodity covered by the Live stock feed sale order. Every producer is required to sell every fortnight to the agent or an officer duly authorised by the Government in that behalf 25% of the Total quantity of livestock feed produced by him at the declared price under Cl. 4 restriction on sale and movement of livestock feed is placed by Cl. 5. Under the said clause, a restriction is placed on every producer either to sell or agree to sell or other wise dispose of livestock feed other than the quantity specified in cl. 4 except in accordance with the permit issued in accordance with the permit issued by the collector or an officer not below the rank of Tahsildar authorised by the Government in that behalf.

3. The petitioners in all these writ petitions are producers of live stock feed as defined in Cl. 2 (g) of the Live stock Feed sale order. Writ petition No. 8921 of 1981 is by the Hyderabad Rice Bran Solvent Extractors" Association. In Writ petitions Nos. 9276, 9846 of 1981 and 2145 of 1982, the petitioners are the producers of solvent Extracted Groundnut oil cake while the petitioners in writ petition Nos. 9274 and 9283 of 1981 are the producers of solvent Extracted cottonseed oil cake. The petitioners in writ petition No. 9854 of 1981 are the producers of solvent Extracted rice Bran.

4. The questions arising in all the writ petitions as well as the facts and circumstances giving rise to the writ petitions are similar so for a proper appreciation of the questions involved in the cases, it is sufficient if the facts in one of the writ petitions viz., writ petition No. 8921 of 1981. Are briefly set out. The petitioners are producers of solvent Extracted Rice Bran. The solvent Extraction industru is in its initial stages and it is thriving for the last ten years on the assistance and support given by the central Government.

5. The solvent Extracted Rice Bran is obtained by extraction of oil by means of a solvent (hexane) from the Rice Bran. After the oil is extracted from the Rice Bran there remains a product called "Deoiled Rice Bran or solvent Extracted Rice Bran". The solvent extraction plants in the state processed 3.84 lakh tonnes of tice Bran during the year 1980-81. It appears. There is still an unutilised rice bran of 2 lakh tonnes remaining unprocessed. The deoiled rice bran or the solvent extracted rice bran is not by itself used as cattle fodder. It is only an ingredient of cattle fodder. It is only an ingredient of cattle fodder. Only 10 or 15% of the bran is used for the manufacture of cattle fodder. So the deoiled rice bran is not the main ingredient of cattle fodder. In fact, of the 27 feed formula recommended in the Book Called "Indian standard specifications for compounded feeds for cattle" the solvent extracted rice bran is used as an ingredient in one formula only. Even in that feed mixture only 155 solvent extracted rice bran or deoiled rice bran is used. Therefore it is pleaded that solvent extracted rice bran cannot be called as "Cattle Fodder" as it is not a primary ingredient in the feed

mixture. The consumption of the solvent extracted rice bran or deoiled rice bran is very low in the state. In fact, for the last three years the local consumption is varying from 3.79% to 10.65% of the local production. Since there was no sufficient local consumption, the central Government is offering support or assistance to the industry to make out losses.

6. As matters stood thus, the Government of Andhra Pradesh in G.O.Ms. No. 440 dated 24-10-1981 issued the order. "The Andhra Pradesh Livestock Feed (Levy) and Restriction on sale order. 1981". The validity of the order is questioned by the petitioners on the ground that the deoiled rice bran is not an essential commodity as defined under S. 2(a) of the Act and that therefore the Government had no power to make the order under S. 3(1) of the Essential commodities Act. Alternatively it is pleaded that even if it is an essential commodity. The conditions postulated in S. 3(1) to make the order are not made out and therefore the order made is ultra vires of the provisions of S. 3 of the Act. It is also contended that the fixation of Declared price Under cl. (3) of S. 3 of the Act is arbitrary and that the price does not at least meet half of the production cost and therefore, the restriction placed by the order on the producers is an unreasonable restriction which would lead to closure of the business, and therefore violative of art. 19(1)(g) of the Constitution of India.

7. Therefore the first question that arises is whether solvent Extracted Rice Bran, Solvent Extracted Groundnut oil cake and solvent Extracted cottonseed oil cake are essential commodities

8. Essential commodity is defined in S. 2(a) of the Act. It reads:

"2. (A) "essential commodity, means any of following classes of commodities:-

(i) foodstuffs, including edible oilseeds and oils".

The term "essential commodity" in Cl. (a) of S. 2 is an inclusive definition. It enumerates ten items and empowers the Central Government to declare of the Act. Under item (I) of S. 2(a) cattle fodder including oil-cake is an "essential commodity. It is well known that deoiled rice bran is an essential ingredient used in the cattle fodder. This ingredient is being used by the dairy and poultry farmers for the last one decade in the place of raw rice bran. Since the raw-rice bran, by virtue of its oil content, will develop rancidity due to over storage, which will be detrimental to vitamin E in the feed, the raw rice bran is replaced by solvent extracted rice bran in the preparation of cattle and poultry feed. Therefore the solvent extracted rice Bran. Solvent Extracted Groundnut oil cake and solvent extracted cottonseed oil cake in our opinion are Essential commodities as defined in S. 2(a)(I) of the Act. They are also "foodstuffs" within the meaning of S. 2(a)(I) of the Act. They are also food stuffs" within the meaning of S. 2(a)(v) of the Act. The Supreme Court in *Sat Pal Gupta and Another Vs. State of Haryana and Others*, had an occasion to consider whether rice bran is foodstuff within the meaning of S. 2(a)(v) of the Act. The Supreme Court held (para 5):

"The word foodstuffs which occurs in Cl. (V) of S. 2(a) is not defined in the Act and therefore it must receive its ordinary and natural meaning that is to say a meaning which takes account of and accords with the day-to-day affairs of life cattle and poultry are living components of the natural environment and there is no reason to exclude that which they eat or feed upon from the meaning of the word "foodstuffs" if, what the human beings eat is food, so is what the other living beings eat. Cattle fodder is expressly brought within the compass of essential commodities by Cl. (I) of S. 2(a). It would be illogical if in that context, rice bran is excluded from the purview of essential commodities on the ground that it is eaten by the poultry and not by *Homo sapiens*".

9. Again in *K. Janardhan Pillai and Another Vs. Union of India (UOI) and Others*, , the Supreme Court held that raw cashewnut is "foodstuff" within the meaning of S. 2(a)(v) of the Act. The Supreme Court observed at page 1491:

"According to Webster's Third new international dictionary, the word food means fodder also. One of the meaning of the word "food" given in that dictionary is Material consisting of carbohydrates, proteins and supplementary substances (as minerals, vitamins) that is taken or absorbed into the body of an organism in order to sustain growth repair and all vital processes and to furnish energy for all activity of the organism. In the same dictionary Foodstuff is defined as a substance with food value and the raw material of food before or after processing". One of the usage of the said word is given as a bountiful crop of cereal foodstuffs". therefore foodstuff need not necessarily mean only the final food product which is consumed. It also includes raw food articles which may after processing be used as food by human beings".

10. In common parlance also foodstuffs means materials used as food. The expression is not employed to indicate material used only for human consumption. It also applies to materials used for consumption by other living species. The term "foodstuffs" has not been defined in the Act. It should be given a wider meaning so as to include materials used as food by any living species. Any other interpretation is likely to render the Act itself ineffective. The purpose of the Legislation will be lost and reduce its most of the remedial and beneficial part, if any restricted meaning is to be given to the term "foodstuffs" statutes should be construed not as theorems of Euclid". Said L Hand J., "but with imagination of purpose behind them". The courts should not create impediments and stifle remedial purposes of the statute. They should exercise the impediments and stifle remedial purposes of the statute. They should exercise the impediments in effectuating the purpose. The Supreme Court in *Commissioner of Income Tax, Andhra Pradesh Vs. Taj Mahal Hotel, Secunderabad*, observed:

"Now it is well settled that where the definition of a word has not been given it must be construed in its popular sense if it is a word of everyday use. Popular sense means that sense which people conversant with the subject matter with which the statute is dealing would attribute to it".

We are therefore of the opinion that solvent extracted Rice Bran. Solvent Extracted Groundnut oil cake and solvent Extracted cottonseed oil and solvent Extracted cottonseed oil cake are essential commodities within the meaning of S. 2(a) (I) and (v) of the Act, and therefore the power conferred by S. 3 of the Act can be exercised to regulate their sale and supply.

11. The next question is whether the Live stock Feed sale order is ultra vires of the provisions of S. 3(1) of the Act. It is true that S. 3(1) places certain restrictions for the exercise of power by the central Government. It postulates two conditions; (1) that the central Government should form an opinion that the essential commodity in question is not available at fair price and that (2) there is scarcity of the essential commodity resulting in maldistribution. The learned counsel submits that there is absolutely no material placed by the state Government that the producers have been selling the essential commodity at an unfair price and that there has been any scarcity of the live stock feed. On the other hand, it is submitted that the Live stock Feed is available in plenty in the market and that the production in the state was in excess of the consumption within the state. In these circumstances it is contended that the conditions requisite for the exercise of power under S. 3(1) of the Act are not made out and therefore the order is invalid. Sub-sec. (1) of S. 3 of the Act confers power on the Government to make any order regulating supply and distribution of the Essential commodity when it is satisfied that it is necessary or expedient so to do for maintaining supplies of any essential commodity or for securing their equitable distribution and availability at fair prices. It is stated in the counter-affidavit filed by the deputy director (procurement) civil supplies, Hyderabad, on behalf of the respondents that the cost of feed ingredients was going up, cost of feed ingredients was going up day by day, as a result of which poultry Farming had become un-remunerative and several poultry farms had already been closed. It is further averred that there was every danger of further closure of some more units in the state and as a result of the prohibitive cost of the feed and the consequential closure of some of the poultry farms in the state many people, who were engaged in it, were thrown out of employment. It is stated that the live stock Feed sale order was made with an avowed object of securing the equitable live stock feed at fair price in the state of Andhra Pradesh. It is thus clear that the state Government was satisfied that there was scarcity of the live stock feed and it was not available at fair price. The state Government was satisfied that the conditions postulated for the exercise of power under sec. 3 (1) of the Act were fulfilled. In fact, in the preamble, the Live stock Feed sale order specifically expresses the opinion that it is necessary and expedient so to do for securing the equitable distribution and availability of Live stock Feed at fair prices in the state of Andhra Pradesh. In our opinion the averments made in the counter-affidavit clearly show that the requisite opinion was formed after careful consideration of the circumstances prevailing before the impugned order was issued. Therefore the order, in our opinion, is not in excess of the powers conferred by sec. 3 (1) of the Act.

12. Then there remains the submission that cl. (3) of the Live stock Feed sale order which fixes the declared price is without jurisdiction and void.

13. The argument of the learned counsel runs thus: whenever an order is made under sec. 3 (2) (f) of the Act for the sale of the whole or specified part of the Essential commodity held in stock the price to be paid for the essential commodity sold with reference to a requisition made under Cl. (F) of sub-sec. (2) is as u/s 3(3) of the Act. The price so paid shall be the agreed price or the price calculated with reference to the control price fixed in the order u/s 3(2)(c) of the Act or the price calculated at the market rate prevailing in the locality on the date of the sale No price calculated at the rate prevailing in the locality has been fixed in respect of the live stock feed. That there has been no agreed price is admitted. The price has been arbitrarily fixed without any basis under Cl. (3) No enquiry was conducted regarding the price by appointing a commission to arrive at the cost price the relevant factors viz., cost of raw materials production cost and the margin of profits were not taken into account and therefore the fixation of control price with out enquiry is arbitrary since 65% of the live stock feed is exported no purpose will be served by fixing the control price for the entire essential commodity. The restriction placed by the order by Cl. 3 is an unreasonable restriction which would throttle the business and would drive the producer out of the business. Cl. 3 is therefore violative of art. 19(1)(g) of the Constitution.

14. The control price contemplated by sec. 3 (2) (c) is a price for the entire stock and not for a partial stock and therefore the control price only for a part of the stock viz. Levy stock is illegal. There is no control price fixed in this case under sec. 3 (2) (c) of the Act by a prior order. The price was fixed by the levy order itself and such a fixation is impermissible u/s 3(3) of the Act. Therefore only the price has to be fixed u/s 3(3)(c) of the Act at the market rate prevailing in the locality at the time of the sale.

15. The learned Government pleader sri Lakshmana Rao on the other hand, submits that the sole object of an order made under sec. 3 (1) of the Act is to ensure an equitable distribution of the essential commodities at a fair price to the sonsumer and there is no obligation to fix a price as to ensure reasonable profit to the manufacturer. According to him the order may fix the controlled price under sec. 3 (2) (c) and require sec. 3 (2) (f) the whole or part of the essential commodity to be sold to the central Government or the state Government. Therefore the first question is whether the declared price under Cl. 3 is so unreasonable and arbitrary and is violative of art. 19(1)(g) of the Constitution.

16. It is the case of the learned counsel, that the price fixed under Cl. 3 is arbitrary and that the cost of raw material the cost of production and reasonable return for the investment to the producer have not been taken into account. It is contended that no enquiry was made before the price was fixed, that the fixation of fair price should be fair to the producer as well as to the consumer and that the declared price would push down the producer to penury and perilous state.

17. Under sections 3(3-A) 3(3-B) and 3(3-c) of the Act. Procurement price is to be fixed in respect of food stuffs foodgrains and elibile oils and sugarcane respectively with reference to requisition made under sec. 3 (2) (f) after an enquiry ensuring a reasonable return for the industry but it is pleaded that the procurement price fixed arbitrarily without any enquiry we are unable to accede to this contention. The controlled price fixed under sec. 3 (1) read with sec. 3 (2) (c) is different from the procurement price fixed under sub-sections (3-A) (3-B) and (3-C). The object of the order under sec.3 (1) of the Act is to maintain the supplies of the essential commodities at a fair price to the general public the mere fact that in consequence of fixation of fair price some loss may be incurred by an individual producer cannot lead to the invalidity of the order. The restriction placed by Cl. 3 does not reach the stage of prohibition.

18. The Supreme Court had occasion to consider the question whether an enquiry should be made before an enquiry should be made before fixation of fair price in Shree Meenakshi Mills Ltd. Vs. Union of India (UOI), . The Supreme Court observed (para 70):

"The main plank of the petitioner's contention that fair price means a determination with regard to the cost of raw material. Manufacturing cost and reasonable return on the capital employed in the business was founded on the construction that sub-secs. (3) (3A) (3B), and (3c) of sec. 3 of the Essential commodities Act, 1955 constitute a single scheme and what is implicit in sub-section (3) is made explicit in sub-section (3c)".

The power to fix controlled price is in sec. 3 (2) (c) read with sec 3 (1) and not in sec. 3 (3) of the 1955 Act. In sub-sec. (2) (c) of sec. 3 it is stated that the order may provide for controlling the price at which any essential commodity may be bought or sold. The dominant words in sec. 3 (1) are that if the Government is of opinion that it is necessary or expedient to provide for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices. The Government may, by order provide as mentioned therein".

The Supreme Court held (para 75):-

"Therefore controlled price fixed under sec. 3 (1) read with sec. 3 (2) (c) is different from price under sub-sections (3A) (3B) and (3C)".

Proceeding further the Supreme Court observed (para 76):-

"In fixing the prices a price line has to be held in order to give preference or predominant consideration tot he interest of the consumer or the general public over that of the producers in respect of essential commodities. The aspect of ensuring availability of the essential commodities to the consumer equitably and at fair price is the most important consideration".

19. In this case it is stated in the counter-affidavit filed by the deputy Director of civil supplies that the cost of production per metric Tonne of solvent Extracted

Rice Bran, cottonseed oil cake Groundnut oil cake does not exceed the declared price fixed under Cl. (3) of the Livestock Feed sale order. It is further stated that the price has been fixed on a consideration of the various relevant factors such as the cost of production availability of the commodity in the market the demand for the product, its use as livestock feed, the interest of the consumer and the interest of the producer. According to the statement prepared on the basis of the data furnished by the Director of oil Technological Research institute, Anantapur, the producer of solvent extracted cottonseed oil cake makes a profit of Rs. 190-50 ps. Per Metric Tonne while the manufacturer of solvent extracted groundnut-oil cake gets a profit of Rs. 182-77 per M.T. Therefore the apprehension of the petitioners that the implementation of the provisions of the impugned order would lead to a closure of their business is somewhat baseless. We are, therefore of the opinion that cl. 3 places no unreasonable restriction on the right to carry on business and is not violative of Article 19(1)(g).

20. A submission is also made by the learned counsel that the fixation of declared price for the entire live stock feed is unreasonable when there is no demand for the whole quantity. No doubt, a plain reading of Cl. 3 leaves an impression that the producer is compelled to sell the entire livestock feed manufactured by him at the declared price. But a reading of the next clause viz., cl. 4 would dispell that impression. It provides for the levy on live-stock feed and states that every producer shall sell to the agent or an officer duly authorised by the Government in that behalf 25% of the total quantity of live-stock by every fortnight at the declared price. Therefore the manufacturer is not obliged to sell the balance of other 75% of the live-stock feed at the declared price Cl. 5 places a restriction on the movement of the balance of the live-stock feed without a permission issued by the collector or an officer not below the rank of Tahsildar or authorised by the Government in that behalf. Therefore the declared price under Cl. 3 must be read down to apply only to the 25% of the levy live-stock feed. Vide: Sri Kanyakaparameswari Anna Satram Committee, Vijayawada and Others Vs. The Commissioner, Hindu Religious and Charitable Endowments and Others, .

21. In the counter-affidavit it is conceded that so far as the rest of the 75% is concerned . there is no restriction on the price and distribution and the producer is at liberty to sell 75% levy free oil cake at any price he likes There is no restriction on the sale or movement of the levy free stock if the 25% levy is delivered. The permit required to be obtained under cl. (5) of the order is only for the purpose of ensuring that the delivery of 25% levy is not evaded.

22. Then the next question is whether the controlled price for a part of the essential commodity alone can be fixed under s. 3(2)(c) of the Act. According to the learned counsel for the petitioners, the controlled price contemplated under S. 3(2)(c) must be for the entire specified essential commodity and not for a part of the essential commodity. S. 3(2)(c) contemplates fixation of a fair price of the essential commodity. S. 3(2)(c) speaks specifically (about) the control of the price. It is a very general term. It provides for the fixation of the price at which

any essential commodity can be brought or sold. Under S. 3(2)(f) the competent authority may direct the sale of the whole or a part of the stock held by the producer or stock holder. Sub-sec. (3) provides that the price for the stock sold in compliance with an order made with reference to Cl. (F) of subsec. (2) shall be as provided thereunder. The clause provides that the price shall be the agreed price or the controlled price and when there is neither an agreed price nor a controlled price the market price. Thus S. 3(3) contemplates fixation of a controlled price with reference to the entire stock or part of the stock. Therefore taxation of a controlled price for a certain percentage of the stock of specified commodity under S. 3(2)(c) is valid. There is divergence we are supported in the view expressed by us by the decision of this Court in *Sri Venkateswara Rice Mill and Others Vs. State of Andhra Pradesh and Another*, . Obul reddy, C.J. Speaking for the Court observed (At. P. 87:

"The object of procuring from millers or dealers by the Government is to make rice available at reasonable price to the consumers. A dealer or miller is called upon only to sell a portion of the total quantity of each variety of rice at a notified price. It is not the case of the petitioners that the Government while fixing the notified price has not taken into consideration the rate has not taken into consideration the rate at which a dealer or miller purchased paddy conversion charges transport charges and other incidental expenses and also the marginal profit. So a notified price is fixed not only after taking the relevant factors into consideration, that is to say to see that no dealer or miller suffers loss by his having to sell a portion of the total quantity of the rice which he produces or manufactures".

23. The Rajasthan High Court in *Mutha Parasmal Jain and Others Vs. Union of India (UOI) and Others*, observed:

"I am inclined to agree with the view taken by the andhra pradesh High Court which as mentioned above, is consistent with the view expressed by the Hon"ble Supreme Court that under S. 3(2)(c) of the Act. The power is general and cannot be restricted in its application by putting a rider that control must be done for a partial or a limited purpose. Even on the general principles of Interpretation of statutes, if power has been given in unrestricted, unfettered language or words by the legislature then within the wide and general amplitude of the powers the authority can exercise it partially or for a part".

24. The Punjab and haryana High Court in *Hari Ram Paras Ram and Others Vs. State of Haryana, Chandigarh and Others*, also held that while exercising the power under S. 3(2) of the Act, it was within the competency of the state Government to fix the levy price of the rice or percentage of the stock. A Contrary opinion was expressed by the High Court of Joe Pereira and Others Vs. Union of India and Others, , respectively we regret we are unable to share the view expressed by the learned Judges in these cases. Further these cases relate to the fixation of procurement prices under sub-sec. (3B) of S. 3 of the Act. They do not relate to the fair prices fixed under S. 3(2)(c) of the Act.

25. Then there remains the submission whether there should be prior order made under S. 3(2)(c) fixing the controlled price before and order under S. 3(2) (f) for levy is made and whether fixation of the controlled price in the Live stock Feed sale order itself is impermissible under S. 3(3) of the Act. Sub-sec. (2) S. 3 makes the position clear. It reads:

"3 (2) without prejudice to the generality of the powers conferred by subsection (1) an order made thereunder may provide---

(a) & (b) xx xx xx (c) for controlling the price at which any essential commodity may be bought or sold:

(d) and (e) xx xxx xxx (f) for requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any essential commodity-

(a) to sell the whole or a specified part of the quantity held in stock or procured or received by him or

(b) in the case of any such commodity which is likely to be produced or received by him, to sell the whole or a specified part of such commodity when produced or received by him. To the central Government or a state Government or to an officer or agent of such Government or to a corporation owned or controlled by such Government or to such other person or class of persons and in such circumstances as may be specified in the order.

Explanation 1: An order made under this clause in relation to foodgrains, edible oil-seeds or edible oils may have regard to the estimate production, in the concerned area of such foodgrains, edible oil-seeds and edible oils fix the quantity to be sold by the producers in such area and may also fix or provide for the fixation of. Such quantity on a graded basis having regard to the aggregate of the area held by or under the cultivation of the producers.

Explanation 2: For the purpose of this clause "production" which its grammatical variations and cognate expressions include manufacture of edible oils and sugar".

26. It is manifestly clear from the sub-section that an order made under S. 3(1) may provide besides other matters mentioned therein for the controlled price and procurement of a part or whole of the stock of any essential commodity by the Government therefore the fixation of the declared price by the Levy order itself is valid and is not prohibited by the provisions of S. 3(3) of the Act.

27. To sum up our conclusions:

(1) The Andhra Pradesh Live stock feed (levy) and Restriction on sale order, 1981 is not ultra vires the powers conferred by S. 3 of the Essential commodities Act:

(2) the solvent extracted rice bran, solvent extracted groundnut oil cake, solvent extracted cotton-seed oil cake which are used in the preparation of Dairy and poultry feed are essential commodities as defined in s. 2(a) (I)" and (v) of the

Essential commodities Act, so the power conferred by S. 3 of the Act can be exercised to regulate their sale and supply.

(3) clause 3 of the Levy order is not arbitrary and unreasonable and is not violative of art. 19(1)(g) of the Constitution of India.

(4) An order made under S. 3(1) of the Essential commodities Act may provide for a controlled price under S. 3(2)(c) for a part or whole of the specified essential commodity.

(5) Fair price or the declared price fixed by Cl. (3) of the order is applicable only to the 25% of the Levy Livestock feed and the producer is free to sell the balance of the 75% of the produced quantity at the price of his own choice.

(6) a prior order fixed the control price before an order for levy is made is not contemplated by S. 3(2) of the Act and fixation of the control price in the Levy order itself is not contrary to the provisions of S. 3(3) of the Act.

28. For the reasons recorded above, the writ petitions must fall and they are accordingly dismissed with costs. Advocate's fee Rs. 150/- in each.

29. The learned counsel in all these writ petitions make an oral application for leave to appeal to the Supreme Court. In our opinion no substantial question of law of general importance, which requires to be decided by the Supreme Court is involved in the cases. The oral application is therefore rejected.

30. Petitions dismissed.