

(2010) 07 GUJ CK 0017
In the Gujarat High Court

Case No : Special Civil Application No. 2014 of 2001 with Civil Application No, 7034 of 2010

Animal Protection Trust

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 29-07-2010

Acts Referred:

Export (Quality Control and Inspection) Act, 1963 — Section 17
Raw Meat (Chilled/Frozen) (Quality Control and Inspection) (Amendment) Rules — Rule 3(2)
Raw Meat (Chilled/Frozen) (Quality Control and Inspection) Rules, 1992 — Rule 3

Citation : (2011) 263 ELT 33

Hon'ble Judges : S.J. Mukhopadhaya, C.J;K.M. Thaker, J

Bench : Division Bench

Advocate : N.M. Kapadia, for the Appellant; P.S. Champaneri and V.H. Kanara, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, CJ.

1. In this public interest litigation, the petitioner challenged the amendment to Rule 3 of the Raw Meat (Chilled/Frozen) (Quality Control and Inspection) Rules, 1992 framed in exercise of powers conferred by Section 17 of the Export (Quality Control and Inspection) Act, 1963.

2. The proviso, banning the export of meat sourced from animal slaughtered in an abattoir or a slaughter house run by a local authority, made under sub-rule (2) of Rule 3 was omitted by the impugned amendment notified on 15-7-1999.

3. u/s 17 of the Export (Quality Control and Inspection) Act, 1963, the Central Government is empowered to frame Rules by issuing notification in the Official Gazette including the conditions which a testing house, surveyor or samples should satisfy for purposes of approval by the Central Government and the procedure to be followed for various types of quality control and inspection.

4. It appears that on 9-7-1999 in exercise of powers conferred u/s 17, the Central Government amended the 1992 Rules and the following proviso was inserted in sub-rule (2) of Rule 3 :-

Provided that the meat sourced from animal slaughtered in an abattoir or a slaughter house run by a local authority shall not be eligible for export.

5. The said amendment was challenged before the Bombay High Court in Writ Petition No. 1728 of 1999 - M/s. Miki Exports International & Ors. v. Union of India & Ors. wherein ad-interim order of stay was passed on 13-7-1999, but thereafter by impugned notification dated 15-7-1999, the Central Government omitted the proviso aforesaid as was inserted below sub-rule (2) of Rule 3 by earlier notification dated 9-7-1999.

6. The main plea taken by the petitioner is that the Ministry recalled the notification without any application of mind and just by telephonic talk directed to omit the proviso. The notification dated 9-7-1999 was recalled without inviting objections within a span of seven days as a result of which now there will be increase in the number of killings of dumb animals.

7. Though the above vague pleading has been made but there is nothing on the record to suggest as to the amendment was made without compliance of the procedure, on the basis of any telephonic direction. After the interim order of stay was passed by the Bombay High Court, if it has come to the notice of the authorities that the amendment as was made is not in accordance with law or not in public interest or is otherwise bad, it is always open to the competent authority to repeal the amendment in the public interest.

8. Admittedly, there was no ban to export the meat sourced from animals slaughtered in an abattoir or a slaughter house run by a local authority prior to 9-7-1999. The proviso which was inserted on 9-7-1999, having omitted by way of notification dated 15-7-1999, the original position has been restored. The law as was originally existing having not been challenged, we find no case made out to interfere with the amendment. There being no merit, the petition and the Civil Application are both dismissed. There shall be no order as to costs.