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(1977) 08 AP CK 0013

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 664 of 1976

Budha Veerinaidu — APPELLANT

Vs

State of Andhra Pradesh and Another — RESPONDENT

Date of Decision : 17-08-1977

Acts Referred:
General Clauses Act, 1897 — Section 3(31)
Income Tax Act, 1961 — Section 10(20), 2(31)

Citation : (1983) 143 ITR 1021

Hon'ble Judges : B.J. Divan, C.J;Jayachandra Reddy, J

Bench : Division Bench

Judgement

Divan, C.J.—This writ appeal is directed against the judgment of our learned brother, Raghuvir J., dismissing the writ petition filed by the present appellant. The main question arising in this case is whether the Market Committee functioning under the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966, is a local authority for the purpose of the Land Acquisition Act of 1894.

2. The petitioner before us challenges a notification issued u/s 6(1) of the Land Acquisition Act. It was issued on July 10, 1972. Thereafter a notification u/s 6 of the Act was issued on September 2, 1974, and it was proposed to acquire 12.02 hectares of land in Anakapalli town for the needs of Anakapalli Market Committee. There was an earlier litigation also between the parties and it has been contended on behalf of the petitioner herein that the Market Committee is a company and the provisions in Pt. VII of the Land Acquisition Act should have been made applicable. It is clear that u/s 6(1) of the Land Acquisition Act, the acquisition should be for a public purpose. Section 6(1) declares that declaration can be made by the Government, if the other conditions mentioned in the section are fulfilled, to the effect that any ''particular land is needed for a public purpose. Under the second proviso to Section 6(1) no such declaration shall be made unless compensation to be awarded for such property was to be paid by a company wholly or partly out of public revenues or some fund controlled or

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managed by a local authority. In the instant case, if the Market Committee is a local authority, then the declaration would be a proper one and the notification issued u/s 6(1) would be a valid notification.

3. The question whether the Marketing. Committee is a local authority or not has to be considered in a very narrow compass. There is no definition of the word " local authority " in the Land Acquisition Act. But in the General Clauses Act " local authority " has been defined in Clause (31) of Section 3 to mean, "a municipal committee, district board, body of sport commissioners or other authority legally entitled to, or entrusted by the Government with the control or management of municipal or local fund ". In Patel Premji Jiva v. State of Gujarat 1970 2 SCWR 460, the Supreme Court has held that a Marketing Committee functioning under the Gujarat Agricultural Produce Markets Act, 1963, is a local authority for the purpose of Section 6 of the L. A Act. In para. 4 of the judgment(at p. 461) Shah J. (as he then was), speaking for the Supreme Court, observed :

" The expression '' local authority '' is not defined in the Land Acquisition Act. But by the General Clauses Act, 10 of 1897, the expression '' local authority'' is defined as meaning '' a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund''. By virtue of Section 10(2) of the Gujarat Agricultural Produce Markets Act, 1963, the market committee is a local authority within the meaning of the Bombay General Clauses Act. A local authority being by virtue of Section 3(26) of the Bombay General Clauses Act, 1904, a body which is entrusted by Government with control or management, inter alia, of a local fund, there is no scope for the argument that the market committee constituted under the Gujarat Agricultural Markets Act, 1963, is not a local authority within the meaning of Section 6 of the Land Acquisition Act."

4. It is true that this decision of the Supreme Court rests on two conclusions. The first conclusion is that by virtue of Section 10(2) of the Gujarat Agricultural Produce Markets Act, 1963, a market committee is a local authority within the meaning of the Bombay. General Clauses Act. But it is also pointed out that if a body is entrusted by the Government with control over management of a local fund, there is no scope for the argument that the market committee established is not a local authority. The test, therefore, which the Supreme Court applied was entrustment of local fund by the Government to a market committee.

5. There is no statutory definition available anywhere of " local fund ". But the Andhra Pradesh Financial Code defines " local fund " to mean, inter alia, " the moneys received and administered by a body which, though not part of the Government''s departmental organisation, has been placed under the control of the Government by a law, or a rule having the force of law, whether in regard to its proceedings generally or to specific matters, e.g., its budget, creation of particular posts in. its service and appointments to such posts, and the leave, pension and other rules applicable to its servants ". "Local body " has been

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defined by the Financial Code to mean "a district board, municipal council (including the Hyderabad and Secunderabad Corporations), panchayat or a market committee constituted under the Madras Commercial Crops Markets Act, 1933". The Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966, has substituted the Madras Commercial Crops Markets Act, 1933. In Chap, XIII of the Financial Code provision is made for local funds and Article 304 provides what the different classes of local funds are. Clause (v) reads:

" Market committee funds, i.e., the moneys of market committees, governed by the Madras Commercial Crops Markets Act, 1933 (Madras Act XX of 1933)."

6. Though the word " local fund " has not been statutorily defined, it is permissible to us to refer to the Financial Code of the Andhra Pradesh Govt. which is a set of rules issued by the Government for the guidance of the officers, for finding out what the concept of local fund is and it is clear that under the Andhra Pradesh Financial Code the market committee fund constitutes one of the categories of local funds.

7. Apart from this test, when one goes through the Andhra Pradesh (Agricultural Produce and Livestock) Markets Rules, 1969, framed by the State Govt. under the provisions of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966, it is clear that ample provision has been made for the budget which has to be sanctioned by the director, for collection of licence fees and regulation of market charges, etc., for law charges and for creation of different posts and appointment to such posts in the market committee. All these matters'' are to be strictly supervised by the Government and are to be carried out under the direction and control of the Government and the director of marketing is an officer appointed by the Government. Hence the requirements of the definition in Clause (1) of the " local fund ", namely, control over its budget, creation of particular posts and appointment to such posts are satisfied. All these matters are directly under the control of the State Govt. Hence the moneys received and administered by the market committee, which fulfil these requirements would constitute local fund. Since the market committee has been entrusted by the Government with the control and management of this local fund, it would be a local authority within the meaning of Clause (31) of Section 3 of the General Clauses Act, 1897.

8. Mr. Babulu Reddy contended that the principle of noscitur a sociis should be applied while construing the definition of the word " local authority" occurring in Clause (31) of Section 3. He contended that municipal committees, district boards and body of port commissioners are all " local self-government bodies" as that phrase is generally understood and, therefore, the words " other authority " occurring in Clause (31) should be read to mean other bodies of local self-government. We are unable to accept this contention. The bodies of port commissioners who are specifically mentioned in Clause (31) can by no stretch of imagination be called local self-government bodies. The port commissioners are appointed specifically by the Government to administer the affairs of the ports

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and they need not and do not discharge any functions of local self-government. Even the principle of ejusdem generis is not applicable because there is no genus to be found in the definition under Clause (31) of Section 3, which passed on to the words "other authority ". It is clear that if the management and control of the local fund is entrusted by the government to a particular body or authority, that body or authority would become local authority within the meaning of Clause (31) of Section 3 of the General Clauses Act, 1897. Applying all the tests necessary and in the light of the judgment of the Supreme Court in Patel Premji Jiva v. State of Gujarat 1970 2 SCWR 460, it is clear that the market committee in this case is a local authority and not a company. The main ground of challenge, therefore, to this land acquisition proceedings must be rejected.

9. Mr. Babulu Reddy for the appellants very feebly argued before us that the acquisition of the proposed land was in violation of a Government order issued by the Government in which good agricultural land was not directed to be acquired. The G.O. stated that acquisition of good agricultural land should be resorted to where absolutely unavoidable. It is for the government officers concerned while deciding to acquire a particular agricultural land to consider whether it is absolutely unavoidable to acquire such land, even though it was a good agricultural land. We cannot in this writ petition interfere with the discretion, which is, even according to the G.O., vested in the land acquisition authorities. The question of avoidability of acquisition, because of the land being a good agricultural land, is a matter left to the discretion of the acquisition officers. There is no question of violation of any fundamental right arising in this case. In these circumstances, the second argument of Mr. Babulu Reddy must also be rejected.

10. In these circumstances, we agree with our learned brother, Raghuvir J., that the notification issued u/s 6 was a valid notification since the acquisition was for, a local authority. This writ appeal, therefore, fails and is dismissed with costs. However, possession not to be taken till the crop which is standing on the land at present is harvested Advocate''s fee Rs. 150.

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