
(1998) 01 MP CK 0033
In the Madhya Pradesh High Court
Case No : L.P.A. 168 of 1997

Goyal and Sons and Another	Vs	APPELLANT
Krishi Upaj Mandi Samittee and Another		RESPONDENT

Date of Decision : 22-01-1998

Acts Referred:

Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 — Section 19(6)

Citation : AIR 1998 MP 202 : (1998) 2 MPLJ 282

Hon'ble Judges : Shacheendra Dwivedi, J; S.P. Shrivastava, J

Bench : Division Bench

Advocate : S.L. Basant, for the Appellant; S.P. Jain, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Srivastava, J.

The petitioners/appellants had approached this Court by means of a writ petition under Article 226 of the Constitution of India seeking quashing of the order passed by the respondent, Krishi Upaj Mandi Samiti Sabalgarh, District, Morena (hereinafter referred to as Samiti) requiring the petitioners/ appellants to take out its processed articles out of the market proper only after obtaining the requisite "Gate pass" in the absence whereof the Samiti will not allow passing of the vehicle of the petitioners, carrying the processed goods. The petitioners also prayed for a direction requiring the respondents not to create hurdles in dealing of processed agricultural goods.

A learned single Judge of this Court by means of the impugned order dismissed the writ petition holding that it was without any merit.

Feeling aggrieved, out of the three petitioners, two of them have come up in this Letters Patent Appeal praying reversal of the impugned order.

We have heard the learned counsel for the appellants as well as the learned counsel representing the contesting respondents, and have carefully perused the

record.

The facts, shorn of details, and necessary for the disposal of this appeal lie in a narrow compass. The petitioners had alleged that they were exclusively dealing with the sale of oil which is processed from the listed agricultural produce and is obtained from the agriculturists from the Mandi area (aangan) in respect whereof the market fee has already been paid and there remained no need of payment of market fee for the out going finished products. It was also alleged that the respondent-Samiti could only re-strict the movement of agricultural produce but it had no jurisdiction to restrict in any manner the movement of the processed items which were not mentioned in the schedule attached to the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (hereinafter referred to as me Act). It was further asserted that the order in question containing the impugned direction was without jurisdiction and contrary to law.

The claim of the petitioners was contested by the respondents asserting that in case the petitioners/appellants had paid the required market fee in accordance with the provisions of the Act, on the mustard from which oil is processed, then they were not required to pay the market fee. clarifying that the impugned directions contained in Annexure P/3 only required the petitioners/ appellants to obtain permit or gate pass while removing the oil processed by them. It has been asserted that the oil or the finished product in question in fact, was a product which is processed from the mustard which is enumerated as a notified agricultural produce. If the petitioners had already paid the market fee on the agricultural produce out of which the oil is processed in that event they were not required to pay the market fee all over again. It was further stated that the petitioners were not required to obtain second permit or gate pass which is required to be obtained only at the time when any agricultural produce or any product processed therefrom is to be removed from the area of any market committee.

It was further pointed out that the payment of the required market fee contemplated under the Act cannot be presumed but the requirement of the permit or gate pass was only for the purpose that the due payment of market fee, as required under the Act can be ascertained. The concerned Mandi authorities have to verify as to whether the requisite market fee has been paid on the mustard or any other agricultural produce from which the product which is sought to be transported out of the market proper has been processed. It has been reiterated that in case the market fee has already been paid on any agricultural produce from which the product has been processed which is sought to be removed then in that event the petitioners were not required to pay the market fee. The contesting respondents have asserted that the writ petition was totally misconceived and has rightly been dismissed.

It appears that before the learned single Judge, the petitioners had alleged that as the "processed goods" had been taken out of the purview of the definition of agricultural produce, therefore, any restriction placed on the movement of the

processed goods from the Mandi area was beyond the scope of the Adhinyam. The learned single Judge rejected the aforesaid submission under the impugned order upholding the provisions of Section 19(6) of the Act.

The learned counsel for the petitioners/ appellants has strenuously urged that Section 2(1)(a) of the Act which defines "agricultural produce" was amended in the year 1990, by deleting the words "whether processed or not" occurring therein but Section 19(6) of the Act. wSs not amended so as to bring it in conformity with the amended Section 2(1)(a) of the Act. Therefore, it is urged that the provisions contained in Section 19(6) of the Act which include the "products processed from agricultural produce" which had been taken out of the ambit of the amended definition are liable to be ignored. 10. The learned counsel for the respondents has urged that the amendment in the definition of "agricultural produce" as contained in Section 2(1)(a) of the Act cannot lead to any such inference as suggested as Section 19(6) has to be read conjointly with Section 19(4) of the Act. It is further urged that Section 19(6) of the Act does not suffer from any legal infirmity and taking into consideration its purpose and the object to be achieved, the impugned action of the respondent- Samiti cannot be held to be vitiated in law.

The "agricultural produce" has been defined in Section 2(1)(a) of the Act as under--

"(a) "agricultural produce" means all produce (x x x) of agriculture, horticulture, animal husbandry, apiculture, pisciculture, or forest as specified in this Schedule."

The provisions contained in Sections 19(4) and 19(6) of the Act referred to hereinabove are to the following effect:

"19. Power to levy market fee,--

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(4) If any notified agricultural produce is found to have been processed without payment of market fees due on such produce, the market fees shall be levied and recovered on double the market value of processed products of such produce.

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(6) No notified agricultural produce nor any products processed therefrom shall be removed out of the market proper except in accordance with a permit issued by the Market Committee in such form as may be prescribed by bye-laws.

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A perusal of the aforesaid provisions indicate that if any notified agricultural produce is found to have been processed without payment of market fee due on such produce, the market fee shall be levied and recovered on double the market value of processed products of such produce.

The petitioners had asserted in paragraph 6 of the writ petition that the oil in the

sale whereof they were dealing had been processed from the listed agricultural produce for which the market fee has already been paid. The contesting respondents have also clearly indicated in the return filed by them that in case the market fee had been paid on the agricultural produce utilised for the processed goods sought to be removed by the petitioners from the market proper they were not required to pay the market fee all over again but the petitioners had to disclose as to whether the requisite market fee on the agricultural produce from which the oil in question had been processed had been paid or not and it was for this purpose obtaining of the permit or gate pass was required. The provisions contained in Section 19(6) of the Act, only require that no notified agricultural produce nor any products processed therefrom shall be removed out of the market proper except in accordance with a permit issued by the market committee in such form as may be prescribed by the bye-laws. The purpose of the permit or gate pass which is being insisted upon by the respondents appears to be to ensure that the market fee leviable on the notified agricultural produce from which the product sought to be removed from the market proper had been processed stands paid, as otherwise as contemplated u/s 19(4) of the Act, if any notified agricultural produce is found to have been processed without payment of market fee due on such produce, the market fee shall be levied and recovered at double the market value from processed products of such notified agricultural produce.

The learned counsel for the appellants tried to urge that in view of the amendment in Section 2(1)(a) of the Act deleting the words "whether processed or not", occurring therein in the year, 1990, the whole purpose of issuance of permits or requirement of obtaining permits contemplated u/s 19(6) of the Act, stood nullified, and therefore, no such restriction which was necessary before the coming into force of the amendment could be imposed.

In the aforesaid connection, suffice it to say that in spite of the amendment, the legislature in its wisdom continued to retain the provisions contained in Sections 19(4) and 19(6) of the Act. It is well established that so far as regards efficiency and policy; of that the legislature is the only Judge; they are responsible to a Court of justice for the lawfulness of what they do and of that the Court is the only Judge. Obviously, therefore, the wisdom of the legislative policy cannot be scanned by this Court. The contention of the learned counsel for the appellant is clearly devoid of merits and is not at all acceptable.

Taking into consideration the facts and circumstances as brought on the record and our conclusions indicated hereinabove, no justifiable ground had been made out for any interference by this Court while exercising the extraordinary jurisdiction envisaged under Article 226 of the Constitution of India.

We do not find any justifiable ground to interfere with the impugned order dismissing the writ petition.

This appeal deserves to be and is hereby dismissed.

There shall, however, no order as to costs.