(1996) 03 AP CK 0008

In the Andhra Pradesh High Court

Case No : Writ Petition No. 6804 of 1995

Hyderabad Fruit Commission Agents-Merchants-Traders Association — APPELLANT

Vs

Government of A.P. and Others — RESPONDENT

Date of Decision : 12-03-1996

Acts Referred:
Andhra Pradesh (Agricultural Produce and Livestock) Markets Rules, 1969 — Rule 74(1), 74(2)

Citation : (1996) 2 ALT 7

Hon'ble Judges : V. Rajagopal Reddy, J;M.N. Rao, J

Bench : Division Bench

Advocate : P. Gangaiah Naidu, for the Appellant; The Government Pleader, for the Respondent

Judgement

M.N. Rao, J.—The petitioner is an association the Hyderabad Fruit Commission Agents, Merchants and Traders Association - and its members are carrying on business in fruits as Commission Agents and Traders by virtue of licences issued by the Agricultural Market Committee, Hyderabad. They claim that the agricultural produce viz., fruits are sold through them to different purchasers within the State of Andhra Pradesh after paying the market fees to the concerned Market Committee. When the purchasers wanted to take the same out-side the State, they allege that the vehicles were stopped at different check-posts and the officers of the Directorate of Marketing have demanded and collected the market fees once again. According to them, when they had already paid the market fees on the fruits purchased, they should not be subjected to levy of market fees on the fruits since the same is forbidden by Rule 74(1) of the Andhra Pradesh (Agricultural Produce and Livestock) Market Rules, 1969.

2. The learned Government Pleader, inviting our attention to bye-law No. 24(8) of the bye-laws of the Agricultural Market Committees, says that in the absence of an export permit, no agricultural produce or livestock or products of livestock shall be permitted to be exported outside the State of Andhra Pradesh. In the

present case, the grievance of the petitioner is that when goods are transported from one market area to another market area within the State of Andhra Pradesh and despite the fact that market fee was already collected, the goods are being subjected to market fee at every check-post. This practice, in our view, is clearly forbidden by law. Dealing with an identical fact situation, a Division Bench of this Court in Sri Vijaya Cotton Traders and Others Vs. State of Andhra Pradesh and Others, observed:

"On behalf of the petitioners in some of the writ petitions, it was submitted that market fee is being levied at the check posts when the goods are being brought into the notified market area and such a levy is illegal. The learned Advocate-General submitted that no market fee is being levied at the check posts and no person is compelled to do so but as a matter of convenience, for the dealer, he is permitted to pay the market fee at the check-post. However, if, as the petitioners allege, market fee is being collected at the check-posts, we are of the view that such levy is illegal. u/s 12 of the Act, market fee is levied on a notified agricultural produce at a particular rate for every hundred rupees of the aggregate amount for which the produce is purchased or sold. Unless therefore, there is a transaction of sale of purchase, there cannot be a levy of market fee. Here again, the learned Advocate-General conceded that if market fee is collected when goods are coming in and even before sale or purchase is effected, no market fee can be collected."

We, therefore, direct that no export permit should be insisted upon in the case of transport of any agricultural produce, livestock or products of livestock within the State of Andhra Pradesh. Only in the case of export outside the State, export permits are necessary.

3. Whether an agricultural produce or lives tock or products of livestock once subjected to levy of market fee can once again be subjected to market fee Under Rule 74 of the Andhra Pradesh (Agricultural Produce and Livestock) Market Rules, 1969 was considered by the Supreme Court in Sreenivasa General Traders and Others Vs. State of Andhra Pradesh and Others, . Interpreting Rule 74(1), the Supreme Court held:

"On a reasonable construction of Rule 74(1) the legal consequences set forth must ensue. If paddy is subjected to levy of a market fee on purchase or sale by the producer to a miller in a notified market area by a market committee within the State is taken to the notified market area of another market committee for being processed i.e., dehusked into rice and sold by a rice miller to a trader or by a trader to a trader in the course of commercial transactions, there cannot be any levy of market fee on such purchase or sale of rice in another notified market area. If that be so, it must logically follow that the subsequent sale of rice in the notified market area of the same market committee cannot be subjected to the levy of market fee on purchase or sale of rice by a miller to a trader or by a trader to a trader if sale or purchase of paddy within such notified market area has suffered the levy of market fee. This is of course subject to the qualification that such sale or purchase has taken place in the notified market area; but outside the market in that area, as enjoined by the proviso to Rule 74(1)."

4. There is no provision in the Actor the Rules concerning the requirement of export permit books. Bye-law No. 24(8) alone mentions about this but even this is ambiguous - whether the export permit books are necessary in the case of transport of agricultural produce, livestock or products of livestock from one market area to another market area, from one notified area to another notified area or from the State of Andhra Pradesh to other States. Bye-law No. 24(8) reads:

"24(8). Export permit books as prescribed duly empossed with the seal of the Market Committee on serial Nos. and attested by the Secretary on the last page of the book shall be supplied on cost to the traders on depositing a security amount of Rs. 150 to identify the produce intended for export. Each such permit shall be in triplicate. First accompanies the exports, duplicate copy is sent to the Market Committee while the third is retained with the trader. Fresh books shall be issued only after the said trader or commission agent submits his detailed accounts in respect of the permit book issued earlier.

"provided always that where a trader has not obtained permit book in the above manner, he may obtain such permit or permits from the Market Committee after payment of Market Fees on the produce intended for export."

5. The learned Government Pleader apprehends that there is every possibility of commission agents and traders escaping payment of market fee even in cases falling within the ambit of Sub-rule (2) of Rule 74. We make it explicit that this order of ours will not in any manner affect the powers of the authorities working the Act to collect market fee in cases falling within the ambit of Sub-rule (2) of Rule 74, which is in the following terms:

"(2) Such fees shall be leviable as soon as the notified agricultural produce, live-stock and products of livestock is purchased or sold by a licensee. The notified agricultural produce, livestock or products of livestock shall be deemed to have been purchased or sold after the notified commodity has . been weighed or measured or counted or counted or when it is taken out of the notified market area."

6. We, therefore, direct that if the fruits purchased by-the purchasers were subjected to market fees and if the purchasers transport the same outside the market area, the same shall not be once again subjected to market fees, provided the purchaser adduces proof of payment of market fee on the fruits purchased. If the respondents had already collected market fee on the sale of fruits and if the fruits had already been subjected to market fees, the amounts so collected by way of market fees shall be refunded to the petitioners provided they establish that they did not collect in turn the market fees from the producers. Enquiry in this regard shall be completed within a period of three

months from the date of receipt of a copy of this order.

7. With the aforesaid direction, the writ petition is disposed of. No costs.

