

(1999) 07 AHC CK 0058
In the Allahabad High Court
Case No : C.M.W.P. No. 18577 of 1999

India Surgical Works, Ghaziabad and another	APPELLANT
Vs	
Addl. District and Sessions Judge, Hapur and others	RESPONDENT

Date of Decision : 05-07-1999

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964 — Section 17, 2, 25, 26A

Citation : (1999) 3 AWC 2525 : (1999) 2 UPLBEC 1562

Hon'ble Judges : O.P. Garg, J

Bench : Single Bench

Advocate : Vinod Sinha, for the Appellant; B.D. Mandhyan. Advocate, for the Respondent

Judgement

O. P. Garg, J.—The core question involved for consideration on and determination in the present writ petition is whether the absorbent cotton, popularly known as surgical cotton comes within the orbit of the expression "agricultural produce" as defined in Section 2 (a) of the U. P. Krishi Utpadan Mandi Adhinlyam, 1964 (hereinafter referred to as "the Act") and market fee is leviable thereon u/s 17 (iii) (b) of the Act treating it to be cotton (ginned and unginned) as mentioned at SI. No. 3 of item (iv) Fibres. Detailed in the Schedule appended to the Act.

2. The above controversy has come up before this Court in the backdrop of the following facts :

The petitioner No. 1-M/s. Indian Surgical Works. Garh Road, Tilakwa. district Ghaziabad, through its partner-petitioner No. 2. is engaged in the wholesale and retail sale of absorbent cotton wool (I.P.) (for short "absorbent cotton"). The respondent Nos, 2 and 3 (compendiously referred to as "Mandi Samiti") required the petitioners to obtain a licence so that Mandi Samiti of the area may regulate the sale and purchase of the absorbent cotton. It also served a notice dated 31.8.1998 (Annexure-3 to the writ petition) on the petitioners of its intention to levy the market fee. A reply to the said notice was furnished by the petitioner to

the Chairman, Krishi Utpadan Mandi Samiti-respondent No. 3. a copy of which is Annexure-4 to the writ petition. It appears that the petitioners have been unsuccessful in convincing the Mandi Samiti that absorbent cotton being an item notified as a drug is not subject to levy of market fee. Consequently, the petitioners filed an Original Suit No. 254 of 1998 in the Court of Civil Judge (Senior Division) Hapur, to challenge the threatened/ proposed action of the Mandi Samiti to levy the market fee on the absorbent cotton. The Mandi Samiti filed a written statement and also filed an objection to the application for temporary Injunction. The injunction application was allowed by the trial court by order dated 5.2.1999 and it was directed that the Mand Samiti shall not interfere with the petitioners' business of sale and purchase of absorbent cotton. Against the order passed by the trial court, the Mandi Samiti filed a Misc. Appeal No. 17 of 1999 before the Additional District and Sessions Judge, Hapur. This appeal was allowed on 12.4.1999 primarily on the ground that the petitioners, instead of filing the civil suit, should have filed an appeal before the Board as contemplated u/s 25 of the Act.

3. In the present writ petition under Article 226 of the Constitution of India, the petitioners have challenged the order dated 23.4.1999 passed by the respondent No. 1-Additional District Judge, Hapur. rejecting the injunction application and the order dated 31.8.1998 issued by respondent No. 3 manifesting its intention to levy the market fee primarily on the ground that the absorbent cotton is not equivalent to the cotton-ginned and unginned as mentioned in the Schedule to the Act, and since the absorbent cotton is beyond the purview of the Act. market fee cannot be levied. It is prayed that the orders, aforesaid be quashed and the Mandi Samiti be directed not to charge any market fee on the absorbent cotton from the petitioner. A direction has further been sought commanding the Mandi Samiti to restrain themselves from interfering with the business of the petitioners.

4. A counter-affidavit has been filed on behalf of the Mandi Samiti repelling the various contentions taken by the petitioners and reiterating the fact that the absorbent cotton is also cotton as specified in Schedule to the Act and. therefore, market fee is leviable on the absorbent cotton u/s 17 (iii) (b) of the Act. The plea that the petitioners could not raise the dispute before the civil court as a complete apparatus to resolve the dispute has been provided in the Act itself, has also been taken, rejoinder-affidavit has also been filed.

5. Heard, Sri Vinod Sinha learned counsel for the petitioners and Sri B. D. Mandhyan. appearing on behalf of the Mand) Samiti.

6. At the outset, a preliminary objection raised by the Mandi Samiti) about the maintainability of the writ petition may be dealt with. Sri B. D. Mandhyan pointed out that if a dispute arises with regard to the question whether a particular item or commodity is subject to levy of market fee or not under the provisions of Section 17 (iii) (b) of the Act. then in the first instance, the Market Committee itself or any subcommittee appointed by it can give its finding which may be subject to challenge in any Court of law when steps are taken for enforcement of

the provisions for realization of the market fee. To fortify this submission, a reference was made to the decision of the Apex Court in the case of Ramesh Chandra Kailash Kumar and Co. v. State of U. P., AIR 1980 SC 1124, as well as a recent decision of a Division Bench of this Court in Krishi Utpadan Mandi Samitt, Kosi Kalan District Mathura and another v. M/s. Mahan Proteins Ltd., (1999) 1 UPLBEC 490. Reliance was also placed on Section 25 of the Act which provides for filing of an appeal before the Board constituted u/s 26A of the Act against an order passed by the Committee. In substance, the submission of Sri Mandhyan is that this writ petition is not maintainable on account of availability of alternative remedy to the petitioners. This submission has been repelled by Sri Vinod Sinha, learned counsel for the petitioners. I have given thoughtful consideration to the matter and find that in the present petition, the basic question of law is whether absorbent cotton" falls within the ambit of cotton ginned and unginned. This aspect of the matter requires authoritative pronouncement by this Court. Moreover, the availability of alternative remedy cannot operate as a bar in every matter though it is always desirable that the petitioners should approach this Court under Article 226 of the Constitution of India after exhausting the statutory alternative remedy available to them. The question of maintainability otherwise of the writ petition under Article 226 of the Constitution on the ground of availability of alternative remedy has come to be considered by the Apex Court in the recent decision in Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and others, (1998) 8 SCC 1. After analyzing the various authorities, the Apex Court observed that much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially In a case where the authority against whom the writ is filed, is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation. Law as it stands, has been summarized in paragraph 15 of the report, as follows :

"Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that If an effective and efficacious remedy Is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as bar in at least three contingencies, namely where the writ petition has been filed for the enforcement of any of the fundamental rights or where there has been a violation of the principles of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decision of the evolutionary era of the constitutional law as they still hold the field."

In my view, law is no cold blooded craft bound by traditional techniques and

formal forceps handed down to us in the form of precedents but a warm blooded art with a break for the past and a tryst with the present deriving its soul force from the current slant of the decision of the Apex Court, the latest of which is Whirlpool (supra).

7. In view of the above position of law. It cannot be said that there is an absolute bar to, entertain a writ petition under Article 226 of the Constitution of India on the ground of availability of alternative remedy. A writ petition can well be entertained in appropriate cases with a view to settle the legal position even though there is an alternative remedy available to the petitioner. In my view, it is one of such cases where the availability of alternative remedy should not deter this Court from deciding the petition on merits, particularly, when counter and rejoinder-affidavits have been exchanged.

8. There is yet another aspect of the matter. The petitioners had filed a suit seeking relief of injunction to restrain the respondent-Mandi Samiti from realizing the market fee on the absorbent cotton. The trial court, as said above, granted a temporary injunction in favour of the petitioners but the appellate court rejected the injunction application. Since the petitioners have already undergone such a lengthy and cumbersome exercise, it would now not be proper to derive them to take the recourse to the alternative remedy under the Act. For all these reasons, I am inclined to dispose of this writ petition on merits Ignoring the fact that the petitioners have an alternative remedy under the Act.

9. Now 11 is the time to consider the petition on merits. The short point for determination as said above, is whether the absorbent cotton is to be treated as one of the items of "agricultural produce" as defined u/s 2 (a) of the Act. To appreciate the very narrow contention arising in the writ petition, a glance of the relevant provision of the Act is Indispensable. This provision reads as follows :

"2 (a) "agricultural produce" means such items of produce of agriculture, horticulture, viticulture, apiculture, sericulture, pisciculture, animal husbandry or forest as are specified in the Schedule, and includes admixture of two or more of such items, and also includes any such item in processed form, and further includes gur, rab. shakkar, khandsari and jaggery."

The ambit and Import of the definition of "agricultural produce" undoubtedly is very wide as the first part extends it not only items of produce of agriculture which are popularly and commonly understood as such but others as well for instance forest, and, the second and third parts widen it further by including in it admixture of two or more of such items as also any such item in processed form. But the width of definition is curtailed and restricted by use of expression "item specified in the Schedule¹. That is, it is not every agricultural produce but only those which are specified in the Schedule to the Act shall be deemed to be agricultural produce whether as such or in processed form. In the Schedule, each of the items included in the definition of agricultural produce has been sub-divided under various heads. In M/s. Atma Ram Ratan Lal and others v. State of

U. P. and others, "1979 ALJ 126, a Division Bench of this Court observed that the definition of the expression "agricultural produce" does not leave the decision as to what is agricultural produce either to the executive Government or to the Courts. The Legislature itself has indicated the agricultural produce which are meant to be regulated by the Act. By the Schedule, the Legislature specifies the commodities which according to it, are agricultural produce, being either the produce of agriculture or forest etc., are statutorily agricultural produce. The producers and traders in any of the specified commodities are within the purview of the Act. Therefore, the definition is not open to scrutiny by Courts on ground that in its true scientific sense, or even in the commercial parlance a particular commodity, though specified in the Schedule, is not an "agricultural produce". Therefore, any one of these items detailed in the Schedule or their admixture or their processed form retaining their basic characteristic would fall within the sweep of "agricultural produce". Under the head (iv) Fibre-cotton (ginned and unginned) has been specified at serial No. 3 in the Schedule.

10. Sri Vinod Sinha, learned counsel for the petitioners urged that there is a difference in an item, which has been processed and that, which has been converted by adopting the manufacturing process. According to the learned counsel, the absorbent cotton is manufactured after it has undergone a detailed process of chemicalization. A reference was made to The Pharmacopoeia of India"-p. 814. in which under the heading "Absorbent Cotton Wool", the procedure for its preparation has been specified. It is provided that Absorbent Cotton Wool is prepared from cotton consisting of the epidermal trichomes of the seeds of cultivated species of GSE Syplum (Fam. Kalvacat). The trichomes removed from the seed are freed to fatty matter by treatment with Alkali, bleached with Chlorinated Soda or Chlorinated Lime, washed and combed to form a fleecy white mass of soft white filaments, consisting almost "entirely of cellulose. Absorbent cotton wool may tend to loose its absorbency under medication, or heat, or prolonged storage. According to the learned counsel for the petitioners, the Absorbent cotton wool is manufactured by treating the cotton with chemical substances like castic soda, soda ash, washing soap, silicate, sulphuric acid, hydrochloric acid, bleaching powder etc. For this reason, it is treated as "drug". A reference was made to the chart appended to "The Drugs and Cosmetics Rules, 1945" wherein, at SI. No. 10. Absorbent cotton wool bandages, absorbent gauze and adhesive plaster have been classified as "drug". It was also urged that Absorbent cotton wool is taxed under the provisions of Central Sales Tax Act, 1956. treating it to be different from the cotton of all kinds (indigenous or imported) in its unmanufactured state whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste. Sri Vinod Sinha further made a reference to the decision of this Court in Commissioner of Sales Tax v. M/s. Standard Pharmacy. G. T. Road, Chaziabad. STI 1991 All 182, in which it was held that surgical cotton cannot be treated as cotton as declared under the provisions of the Central Sales Tax Act. This ruling relied upon by the petitioners does not have direct bearing on the question arising in the present

writ petition. There are few other decisions, viz.. Commissioner, Sales Tax v. Fairdeal Corporation Ltd., (1962) 13 STC 750 ; Shri Ram Products v. State of Tamil Nadu, (1983) 52 STC 187 ; M/s United India Surgical Works v. Commissioner, Sales Tax, 1987 UPTC 1820 and M/s. United India Surgical Works v. Commissioner, Sales Tax, 1985 UPTC 967. The gamut of these decisions is that the absorbent cotton wool prepared by cleaning, boiling, bleaching, drying and carding the ginned cotton and sold as surgical cotton is not "raw cotton (whether ginned or unginned)" within the meaning of relevant Sales Tax Act and it is, therefore, liable to Sales Tax.

11. Without dilating over the matter any further, it may swiftly be stated that the fact that absorbent cotton wool has been termed as a drug under the Drugs and Cosmetic Act, 1940, and is not subject to tax under the Central Sales Tax Act or the U. P. Trade Tax Act is not relevant to the controversy in hand. An agricultural produce may be classified as a drug as defined under the Drugs and Cosmetics Act, 1940. but the mere fact that an agricultural produce has been given a label of drug would not mean that it has ceased to be an agricultural produce. Similarly, a processed item of drug may be liable to sales tax but merely on this ground, it would not cease to be subject to the market fee under the Act. In *Krtshi Utpadan Mandi. Samiti Kanpur etc. v. M/s. Ganga Dal Mills and Co. and others*, AIR 1984 SC 1870, it was observed that to resolve the controversy, one will have to seek light from the definition of expression "agricultural produce" as set out in Section 2 (a) of the Act and not by a resort to decisions under entirely different statutes such as the Sales Tax laws to find out whether the whole grain and its split folds constitute the same product or two different and independent products commercially so recognised. It is an indisputable canon of construction that expression is defined in the statute unless there is anything repugnant in the subject or context, the expression has to be construed as having the same meaning assigned to it in the dictionary clause of the statute. This canon of construction is too well recognized to necessitate any reference to precedent.

12. Independent of the provisions of the Drug and Cosmetics Act, 1940. and the Central Sales Tax Act, the moot point for determination is whether the absorbent cotton comes within the sweep of "agricultural produce". Absorbent cotton is basically an item of cotton, which is undoubtedly agricultural produce, within the meaning of Section 2 (a) of the Act read with item (iv) SI. No. 3 of the Schedule. It is maintained by the petitioners that the absorbent cotton undergoes manufacturing process and cannot be treated to be a processed item of agricultural produce. This submission is not plausible. There is a clear distinction in the processing, on the one hand, and the manufacturing and production on the other, of a particular item. The difference in processing and manufacturing came to be highlighted in the decision of this Court in *Nanak Chand and others v. State of U. P. and others*, 1969 ALJ Vol. 67, 352. The definition clause of agricultural , produce includes a processed produce. In law, processing cannot be equated with manufacture. For this reliance, was placed upon the *Union of India v. Delhi Cloth and General Mills*, AIR 1963 SC 79. There it was urged that in the course of

manufacturing vegetable products from raw materials non-essential vegetable oils are produced at intermediate stages. As soon as that stage reaches, non-essential vegetable oils will be deemed to have been manufactured, because the process of their manufacture is then complete. This argument was negated by Supreme Court. It was observed :

"To say this is to equate "processing" to manufacture and for this we can find no warrant in law. The word "manufacture" used as a verb is generally understood to mean as bringing into existence a new substance and does not mean merely to produce some change in substance."

Manufacture implies a change. Every change is the result of treatment on labour and manipulation, but for manufacture something more is necessary ; there must be transformation, whereby a new and different article emerges. In other words, it may be said that if an article is so treated that the resultant is different in its nature, character and identity, the treatment would properly be manufacture and not mere processing. The test would be whether the end product is so distinct as to be a new substance in form or nature. In Nanak Chand's case (supra), the question was to what exactly happens to sugarcane when Gur. Rab, Shakkar etc., are made from it. The petition stated that sugarcane is pressed and its Juice extracted. The juice is boiled in five pans one after another. Every time in cleansing chemicals are used. Thereafter, it becomes an altogether different product. The counter-affidavit, however, asserted that Gur, Rafa, Shakkar etc., are all products of sugarcane juice after slight processing which retain the original characteristics of sugarcane. They do not become a different produce. It has also been stated that the sugarcane Juice is not boiled in several pans one after another. Mostly a single pan is used in villages. The procedure does not really involve the use of any chemicals in order to produce a change in the constitution of the sugarcane. The sugarcane juice does not lose its identity. It is cleaned, crystallized and solidified. In the opinion of learned Judge, it cannot be said that the procedure involves the creation of a substance which is entirely distinct in its nature or character from the sugarcane juice. The sugarcane juice is not transformed into anything which may be a new element or material physically or chemically. It is merely * labour treatment and manipulation of sugarcane juice, which produce some change in the substance. It does not bring into existence a new substance. In the background of the above facts, it was held that the procedure would be processing and not manufacture. Cur, Kab, Shakkar, etc. would hence be agricultural produce within the meaning of the Act and would be governed by its provisions.

13. Almost the similar matter, as was dealt with in Nanak Chand's case (supra), came to be considered before the Apex Court in the case of Kishan Lal v. State of Rajasthan, JT 1990 (1) SC 550, in which it was held that :

"Inclusion of sugar in the Schedule was urged to be arbitrary as it was not produced out of soil the basic ingredient of agricultural produce. Fallacy of the submission is apparent as it was in complete disregard of definition of the word

"agricultural produce" in the Act which includes all produce whether agricultural, horticultural, animal husbandry or otherwise as specified in the Schedule. The legislative power to add or Include and define a word even artificially, apart, the definition which is not exhaustive but inclusive neither excludes any item produced in mill or factories nor it confines itself to produce from soil. If that be the construction then all items of animal husbandry shall stand excluded. It further overlooks expanse of the expression "or otherwise as specified in the Schedule" nor switch over from indigenous method of producing anything to scientific or mechanical method changes Its character..... No distinction was made on method of production, namely, by modern plant and machinery. To say, therefore, that sugar being produced in mill or factories could not be deemed to be agricultural produce is both against the statutory language and judicial interpretation of similar provisions of the Act in statutes of other States".

14. Sri Vinod Sinha, learned counsel for the petitioners laid great emphasize on the decision of the Apex Court in the case of State of Rajasthan v. Rajasthan Agricultural input Dealers Association, AIR 1996 SC 2179, in which the expression "agricultural produce" as defined in the Rajasthan Agricultural Produce Markets Act, 1961, came to be Interpreted. In that case, the question was whether seeds are to be treated as "agricultural produce". It was held that seeds are not "agricultural produce" as the food grains become seeds after process of applying insecticides, other chemicals and poisonous substance is followed. It was observed that in consequence, one of its basic character, i.e.. Its-consumption as food by human beings or animals or for extraction for like purposes is irretrievably lost. Para 7 of the report summarizes the reasoning adopted to arrive at the aforesaid decision. It reads as follows :

"It Is undoubtedly true that foodgrains per se could be used as seeds for being sown and achieving germination, but in that form they retain the dual utility of being foodgrains as well as seeds. By process of coating and applying insecticides, other chemicals and poisonous substances to the food grain meant to be utilized as seeds," one of its basic character. i.e., its consumption as food by human being or animals or for extraction for the like purpose, gets irretrievably lost and such processed seeds become a commodity distinct from foodgrains as commonly understood."

On the strength of the above observation, Sri Vinod Sinha, learned counsel for the petitioners urged that absorbent cotton is a commodity distinct and different from the ginned or unginned cotton, inasmuch as, the former had undergone transformation on account of epidermal trichomes of the seeds of cultivated species of GSE-Sypium (Fam. Kalvacat). It was also urged that absorbent cotton is produced with Alkali, bleached with Chlorinated Soda or Chlorinated Lime, washed and combed to form a fleecy white mass of soft white filaments, consisting almost entirely of cellulose. It was also urged that the uses of the two types of cotton are entirely different. The cotton-ginned or unginned, which is termed as "agricultural produce" does not have the capacity to soak blood, pus

or any other type of liquid flowing from the various organs or part of the human or animal body, while the merit of the surgical cotton is that it has the capacity of absorbing the blood, pus and other liquids just like a blotting paper. The simplicity of the submissions is deceptive. The various submissions overlook the very definition of the expression "agricultural produce" as quoted above.

15. It is unnecessary for the present purpose to cite all the decisions or to undertake a journey through the factual hinterlands of each decision or to turn the headlights on the observations made in each of the decisions. Nevertheless, a short and swift reference to the few decisions may profitably be made. In Civil Misc. Writ Petition Wo. 5213 of 1972, *M/s. Girraj Kishore Chandra Pal v. State of U. P.* decided on October 15, 1973 (All), it was held that ghee is an agricultural produce for the purpose of the Act. Similarly in *Hindu Muslim Trading Co. v. Krishi Utpadan Mandi Samlti*, Special Appeal No. 83 of 1974, decided on 6.11.1974 (All), a Division Bench of this Court held that unmanufactured tobacco, though excisable commodity, is also liable to be regulated by the Act. In that decision, this Court elaborately went into the Excise Rules and held that there was no conflict between the operation of the Excise Rules and the provisions of the Act. In another case *Nisar Ahmad v. State*, Writ Petition No. 11668 of 1975, decided on 9.11.1976 (All), a Division Bench repelled the submission that dealers in tobacco are within the purview of the Act. The traders who carry on the business of manufacture, sale and storage etc., of tobacco were held to be governed by the provisions of the Act. They were bound to obtain a licence before they -could validly carry on their business. All the above decisions were approved by a Division Bench of this Court in the case of *M/s. Atma Ram Ratan Lal (supra)*, in which it was held that tendu leaves which are specifically mentioned under the heading "Forest produce" are liable to be governed by the Act. The various submissions based on the rules and the Excise Act were rejected on the same grounds as they related to tobacco. In relation to Bin, it was urged that it is manufactured from tobacco and tendu leaves. Attention was invited to the definitions of the word "manufacture" occurring in Central Excise and Salt Act and in the Factories Act. Those definitions, it was held, have been given for the purposes of those Acts. In the present Act, the definition of "agricultural produce" includes not only the items specified in the Schedule but also admixture of two or more of such items including any such item In processed form. Biri is made by covering tobacco with tendu leaves. Both tobacco and tendu leaves are specified commodities. Bin is nothing else but admixture of these two commodities. It was held that it is clearly within the definition of "agricultural produce". In *Krishi Utpadan Mandi Samtti v. M/s. Congo Dal Mills (supra)*, the Apex Court has made the position clear in para 13 of the report, which runs as follows :

"13. Analyzing the definition of the expression agricultural produce "it would mean not only those items of produce of agriculture as are specified in the Schedule, but will also include the admixture of two or more of such items as also any such item on its processed form. Let us re-write the definition by

substituting one of the items in the "Schedule" to make explicit what is implicit therein. Agricultural produce means a produce of agriculture such as gram as specified in the Schedule and would also include gram in its processed form. Therefore, not only gram is an agricultural produce but gram in its processed form is equally an agricultural produce. When it is said in the definition "such Items of produce of agriculture as are specified in the Schedule", it means-that not only all those items of agricultural produce which are set out In the Schedule will constitute agricultural produce but also the admixture of two or more of such Items of produce of agriculture as set out In the Schedule as well as any such items of agricultural produce in their processed form."

16. In view of the well-embedded legal position with regard to the sweep of the expression agricultural produce" as defined in Section 2 (a) of the Act, there can be no dispute about the fact that absorbent cotton is nothing but a derivative of the "cotton" itself. While preparing the absorbent cotton, the essential fibre ingredients of cotton do not lose their identity. Absorbent cotton whole is prepared by cleaning, boiling, drying and carding the ginned cotton. The ginned cotton is simply cleaned, sterilized and chemicalized with an avowed object of making it more hygienically superior so that the chances of catching Infection by the persons/animals undergoing medical treatment may be minimized. There is no warrant for the submission that the process of chemicalization of cotton involves a manufacturing activity or that it results in the creation of a substance which is entirely different and distinct in nature from the cotton. The cotton is not transformed Into anything which may be a new element or material physically or chemically. It is entirely a labour treatment and manipulation of cotton refines and enriches the substance though it does not bring into existence a new substance or article. The simplified procedure which requires addition of certain chemicals and sterilization of the raw cotton is to be termed as processing rather than manufacturing. In my view, for the reasons stated above, there is hardly any difference in a raw cotton-ginned or unginned, on the one hand, as well as absorbent cotton, except that their uses are different. One cannot, therefore, escape from the conclusion that the absorbent cotton is covered by the definition of "agricultural produce" and is, therefore, subject to levy of market fee as contemplated u/s 17 (iii) (b) of the Act. The impugned notice dated 31.8.1998. Annexure-3 to the writ petition, requiring the petitioners to obtain a licence from the Mandi Samiti and its intention to levy the market fee on the sale and purchase of absorbent cotton does not call for any interference either by the civil courts or by this Court in the writ jurisdiction. Accordingly, the writ petition turns out to be without any merits.

17. In the result, the writ petition is dismissed without any order as to costs.