

(2004) 07 CAL CK 0023
In the Calcutta High Court
Case No : C.O. No. 15314 (W) of 1993

Jangipara Panchayat Samity and Another	APPELLANT
Vs	
State of West Bengal and Others	RESPONDENT

Date of Decision : 15-07-2004

Acts Referred:

West Bengal Agricultural Produce Marketing (Regulation) Act, 1972 — Section 13
West Bengal Panchayat Act, 1973 — Section 117

Citation : (2005) 1 CHN 632

Hon'ble Judges : Amitava Lala, J

Bench : Single Bench

Advocate : M.M. Mallick and Jamuna Saha, for the Appellant;

Judgement

Amitava Lala, J.—It appears to this Court that in spite of giving several directions for appearance in the earlier occasion, nobody appeared on behalf of the respondents to oppose this writ petition when it has been placed under the heading "Old Matters".

2. It appears to this Court that the Panchayat Samity itself had taken out the writ petition to stop granting licence for cattle hat or running the same under the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972. According to Mr. Mallick, cattle hat cannot be treated to be agricultural produce at any stretch of imagination. It can be covered by such Act. Upon going through preamble I find that this Act has been provided for regulation of marketing of agricultural produce in West Bengal and for matters connected therewith. u/s 13 of such Act, there is a provision for grant of licence for carrying out the business as a trader, commission agent, broker, weighman, measurer, warehouseman or surveyor, or sell or purchase agricultural produce, or engage in processing and preservation of agricultural produce, or set up, establish or continue a stall, shed or other structure for storage, sale or purchase of any agricultural produce, except, under and in accordance with the prescribed terms and conditions of the licence issued in this behalf by the market committee.

3. From the plain reading of such part of the section it appears that the same is applicable to the individuals for the aforesaid purpose to obtain licence from the market committee. If any licence for grant of cattle hat is being made under such section of the Act is totally de hors the law. Such law cannot go beyond the agricultural produce and the matter connected therewith. Such section under the Act is not in respect of establishing any hat or market. But it is in respect of giving licence to an individual by the market committee. Therefore, even assuming for the moment that if any of the such products are coming under the zone of consideration, such Act with its enlarged face value, cannot be applicable in any manner whatsoever in case of establishment of hat or market. Establishment of hat or market is clearly provided u/s 117 of the West Bengal Panchayat Act, 1973. Thereunder the power is given to the Panchayat Samity to grant licence for hat or market. Such section is so clear and explicit that this Court does not require any further clarification but to quote it hereunder:

"117. Power of Panchayat Samiti to grant licence for hat or market.--A Panchayat Samiti may require the owner or the lessee of a hat or market or an owner or a lessee of land intending to establish a hat or market thereon, to obtain a licence in this behalf from the Panchayat Samiti on such terms and conditions as may be prescribed and subject to the provisions of Section 133, on payment of a fee for such licence".

4. Thus, upon going through both the sections and by way of interpretation hereunder I cannot say that neither establishing cattle hat can be governed by the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972 nor the same is applicable in respect of the "hat" or "Market" but only in respect of the individual shop and some allied matters. Therefore, grant of licence, if any, under said Act is declared as bad in law.

5. Thus, the writ petition stands disposed of.

6. There will be no order as to costs.

7. Let urgent xeroxed certified copy of this order, if applied for, be given to the learned Counsel for the petitioner within fortnight from the date of putting the requisites.