
(1957) 12 KL CK 0028
In the High Court Of Kerala
Case No : O.P. No. 208 of 1957

Krishna Pillai

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 06-12-1957

Acts Referred:

States Reorganisation Act, 1956 — Section 119, 120, 121, 4

Citation : (1958) KLJ 743

Hon'ble Judges : M.S. Menon, J

Bench : Single Bench

Advocate : K.P. Abraham, George Kurien, M.M. Cherian, for the Appellant;

Final Decision : Dismissed

Judgement

M.S. Menon, J.—The petitioner is a B class licensee for the year 1957 under the Travancore Tobacco Act, I of 1087, as continued in force by the Travancore-Cochin Administration and Application of Laws Act, 1125. Ext. P1 is the licence issued to him and one of the provisions in the licence reads as follows:

The right conferred by this licence extends only to the purchase of tobacco from any "A" Class licensee or other "B" Class licensees in the State.

The only question that arises for determination in this case is: What exactly is the area covered by the words "in the State"? According to the petitioner the present Kanyakumari District of the Madras State should be considered as part of the "State of Kerala" for the purposes of the Travancore Tobacco Act, I of 1087, as the said area formed part of Travancore-Cochin immediately prior to the reorganisation of the States on 1-11-1956.

2. The contention is based on Section 119 of the States Reorganisation Act, 1956, which provides that the provisions of Part II of that Act which effected the territorial changes and the formation of new States

shall not be deemed to have effected any change in the territories to which any

law in force immediately before the appointed day extends or applied, and territorial references in any such law to an existing State snail, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

The learned Government Pleader concedes that if Section 119 stood by itself the position taken up by the petitioner has to be sustained. His answer to the petitioner's contention--with which I agree--is that Section 120 provides that:

for the purposes of facilitating the application of any law in relation to any of the States formed or territorially altered by the provisions of Part II, the appropriate Government, may, before the expiration of one year from the appointed day, by order make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority;

and that the Kerala Adaptation of Laws Order, 1956, has specifically provided by clause 5(2):

References to Travancore in the laws in force in the Travancore-Cochin area of the State or in any portion thereof, where such references denote the territories of the former State of Travancore, shall be construed as references to such territories excluding the portion thereof which from the 1st day of November 1956 form part of the State of Madras by virtue of the provisions of Section 4 of the States Reorganisation Act, 1956.

3. In view of Section 120 of the States Reorganisation Act, 1956, and clause 5(2) of the Kerala Adaptation of Laws Order, 1956, I entertain no doubt that the petitioner's contention is unsustainable; and that the Government was right when they ordered that purchases from the Kanyakumari District of the Madras State cannot be considered as purchases from A Class or B Class licensees "in the State" and that "all movements of tobacco from the Kanyakumari District of the Madras State to this State can be considered only as import as per section 5(2) of the Kerala Adaptation of Laws Order, 1956". (See Ext. P 6).

4. The learned Government Pleader also draws my attention to the power to construe laws given by section 121 of the Act:

Notwithstanding that no provision or insufficient provision has been made u/s 120 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to any State formed or territorially altered by the provisions of Part II, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

In the light of what is stated above this petition has to be dismissed and it is hereby dismissed with costs, Advocate's fee Rs. 100/-