

(1984) 05 KAR CK 0001
In the Karnataka High Court
Case No : W.P. Nos. 7069 to 7071/84

Laxmi Rice Mills and Ors

APPELLANT

Vs

Chief Marketing Officer

RESPONDENT

Date of Decision : 31-05-1984

Acts Referred:

Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 — Section 65(2)

Citation : (1985) 1 KarLJ 89

Hon'ble Judges : K. A. Swami, J

Judgement

1. In these petitions under Articles 226 and 227 of the Constitution, the petitioners, who are the market functionaries being the traders carrying on their trade under the jurisdiction of the various market committees which have been arrayed as respondents 2 to 10, have sought for a declaration that when rice or paddy is delivered towards levy pursuant to the provisions of the Karnataka Rice and Paddy Procurement (Levy) Order, 1981 and the Karnataka Rice and Paddy Procurement (Levy) Order, 1983 (hereinafter referred to as "the Levy Order, 1981; and the Levy Order, 1983, respectively), no market fee is payable on such sale, as no sale takes place; therefore, no market fee is payable; that they are subsequent sellers and as such, they are not liable to pay the market fee; and further to declare that there is no liability to pay market fee on the paddy or rice purchased and surrendered by them to the Government towards levy under the Levy Order, 1981 and the Levy Order, 1983. They have also sought for quashing the notices issued to them by the Market Committees in question.

2. At the outset, it must be stated that it is not the case of the petitioners that the Market Committees in question, have demanded market fee on the value of the rice or paddy surrendered by them as levy. In the notices, market committees have only demanded market fee on the purchases made by the petitioners in the market areas.

3. Though several facts are alleged and contentions are raised in these petitions, but Sri. R. Gopal, learned Counsel for the petitioners, has urged only the

following points:

(i) that the market fee is not payable by the petitioners on the value of the paddy or rice they purchase and surrender or have surrendered towards levy either under the Levy Order, 1981 or the Levy Order, 1983:

(ii) that the amount demanded under the various notices is not correct.

4. 1) POINT NO. (i): While elaborating the first point, learned Counsel submits that when the petitioners purchase paddy or rice from the growers, under the Levy Orders referred to above, they are required to surrender 50 per cent of the purchase they make, towards levy; therefore, in effect, 50 per cent of the purchase made by them will be for and on behalf of the State Government, therefore, in respect of the 50 per cent of the purchase of rice or paddy made by them cannot be made liable to market fee.

4. 2) It is not disputed that the market fee is payable by the purchasers, not being the person who purchase such produce for their domestic consumption and not being retail sale or purchase, on the rice and paddy which are notified as agricultural produces, purchased within the market area under Sec. 65(2) of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (hereinafter referred to as "the Act"). It is not possible to accept the contention that the purchase of paddy or rice in the market area and surrender of 50 per cent of such purchase towards levy under the aforesaid Levy Orders, form part of the same transaction. The purchase of rice or paddy in the market area by the petitioners precedes surrender of levy in as much as surrender of levy takes place only subsequent to the purchase. What happens after the purchase, the market committee is not concerned. The liability to pay the market fee arises as soon as the purchase of notified agricultural produce in the market area takes place. The fact that subsequent to the purchase" the petitioners are required to surrender 50 per cent of the quantity they purchase, towards levy under the aforesaid Levy Orders, is not a relevant factor to be taken into consideration for the purpose of finding out whether the petitioners are liable to pay the market fee on the agricultural produces i.e., paddy and rice in the instant cases, they purchase in the market area. The transaction of purchase takes place within the market area as such, the market fee is leviable by the market committee.

4.3) The contention that the 50 per cent of the purchase of paddy or rice is required to be surrendered towards levy under the aforesaid Levy Orders; therefore, in effect, it amounts to purchasing for and on behalf of the State Government to the extent of the quantity, which is required to be surrendered as levy, is not sustainable and there is no support for it in law. If such a contention is accepted, it leads to introducing an agent between the seller and the State Government. Such a position neither flows from the aforesaid Levy Orders nor from the General Law relating to sale of goods and contract. The seller has no concern whatsoever with the State Government. He is not concerned whether the purchaser surrenders levy or not. If the purchaser of paddy and rice is

recognised as an agent of the State Government to the extent of the quantity of such purchase, he is required to surrender to the State Government towards levy; the State Government becomes liable to pay the value of the paddy or rice surrendered towards levy at the market rate to the seller. The purchase prices fixed under the aforesaid Levy Orders, for paddy and rice surrendered, are not the market rates. Acceptance of the contention of the petitioners would lead to astounding results which cannot at all be supported in law.

Hence, the first point is answered in the negative and against the petitioners.

5. Point No. (ii): The sums demanded by the market committees under the various notices in question issued by them, fall under sub-section (1) of Sec. 132 of the Act. If the petitioners dispute the correctness of the sums demanded, it is open to them to raise a dispute under sub-section (2) of Sec. 132 of the Act.

Sub-sec. (2) of Sec. 132 of the Act, provides that if any question arises whether a sum is due to the market committee or the Board within the meaning of sub-section (1), it shall be referred to the Chief Marketing Officer or an officer subordinate to him authorised by him and the Chief Marketing Officer or the authorised officer shall after making such enquiry as he deems fit, and after giving to the person from whom the sum is alleged to be due an opportunity of being heard, decide the question; and his decision shall be final and shall not be called in question in any Court or before any other authority. Therefore, it is open to the petitioners to raise the dispute before the Chief-Marketing Officer. Hence, it is not necessary to consider the second point. The contentions in this regard are left open.

6. Accordingly, I do not see any justification to issue Rule. The writ petitions are dismissed, keeping open the contentions relating to the correctness of the sums demanded from the petitioners.