(1968) 04 AP CK 0004

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3612 of 1967

Marram Ramachandraiah and Pedda Subramanyam and Others — APPELLANT

Vs

State and Another — RESPONDENT

Date of Decision : 17-04-1968

Acts Referred:
Constitution of India, 1950 — Article 14
Essential Commodities Act, 1955 — Section 3, 5

Citation : AIR 1969 AP 414

Hon'ble Judges : Chinnappa Reddy, J

Bench : Single Bench

Advocate : V. Venkataramanayya, V.S.L. Narasimha Rao and S.V. Sundara Rajan, for the Appellant; Govt. Pleader, for the Respondent

Judgement

Chinnappa Reddy, J.—The several petitioners are merchants carrying on business in various commodities including jaggery. The validity of the Andhra Pradesh Sugar Dealers'' Licensing Order, 1963, particularly in its applicability to jaggery, is questioned in this Writ Petition. The principal submission of Mr. Venkatramanaiah, learned Counsel for the petitioners is that Section 5 of the Essential Commodities Act which enables the Central Government to delegate its powers to the State Government and its officers and in pursuance of which the Andhra Pradesh Sugar Dealers'' Licensing Order has been made by the State Government is ultra vires as it offends Art. 14 of the Constitution of India. Mr. Venkataramaniah submits that where the Central Government makes orders providing for the control of production, supply, distribution, etc., of essential commodities u/s 3 of the Act, those orders are subject to Parliamentary review, since Section 3(6) of the Act requires that every order made under this Section by the Central Government or by any Officer or authority of the Central Government shall be laid before both Houses of Parliament as soon as may be after it is made, But where similar orders are made by the State Government in pursuance of powers delegated to it by the Central Government under S. 5 of the

Act such legislative protection is not available since section 5 does not require that orders made by the State Government should be laid either before Parliament or before the State Legislature. This , submits Mr. Venkataramania, is plainly discrimination is involved because any order made by the Central Government will be applicable to the whole country. whereas an order made by the State Government will not extend beyond the limits of the area of the individual State. He, therefore, submits that there is a justifiable classification. I think that the classification has a much deeper and sounder basis than the mere extent of applicability. If the Essential Commodities Act contained a Provision requiring the State Government to lay the orders made by it before Parliament it may be considered an infringement of the federal principle and an encroachment of the powers of the State by the Centre, since the State Government and its Officers should be responsible to the legislature of the State and not to Parliament. Even if the Act contained a provision directing the State Government to lay the orders made by it before the State Legislature that may amount to an interference with the business of the State Legislature, also infringing the federal principle. The Parliament, in its wisdom did not want the slightest suspicion of encroachment by the Centre. The Parliament appears to have thought that while it could arm the State Government and its Officers it could not direct them to produce the arms for its inspection. That appears to be the reason why Section 5 of the Act does not contain any provision for the laying of orders made by the State Government either before Parliament or the State Legislature.

2. The next submission of Mr. Venkataramaniah is that the Sugar Dealers'' Licensing Order, in so far as it embraces jaggery dealers, is unreasonable since it achieves no purpose. It is not a case where the system of licensing is introduced for the purpose of regulating trade in jaggery because there is no regulation excepting to require dealers to maintain certain forms. There is no provision for controlling production. supply or distribution of jaggery. The mere maintenance of forms achieves no purpose. I am unable to agree with this submission. The Licensing Order is a fore-runner to other orders which may be passed later regulating production, supply and distribution. If the stock position of the commodity is known to the authorities it will be easy for them to regulate distribution etc. When it is found necessary. It is for this purpose that the licensing system is introduced first. The petitioners further urge that the deposit which they are required to make is very heavy. I do not think that a deposit of Rs. 500/- can be considered to be heavy. There is no substance in any of the contentions raised by the petitioners and the Writ Petition is, therefore, dismissed. There will be no order as to costs.

3. Petition dismissed.

