
(1986) 12 RAJ CK 0015

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2441 of 1985

Mohan Lal Ganesh Mal

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 05-12-1986

Acts Referred:

Citation : (1987) WLN 38

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

Bench : Single Bench

Judgement

Ashok Kumar Mathur, J.—The petitioner, by this writ petition, has prayed that the notification dated 21st April, 1977 (Ex.1) may be quashed whereby the Bali Tehsil was included in Krishi Upaj Mandi Samiti, Sumerpur, and the respondents may be restrained from charging Rs. 1.25% as market fee from the resident of Lunawa village & should not force petitioner to obtain licence. The petitioner has also prayed that respondents may be restrained from launching any prosecution against the petitioner and other business-men for not obtaining the licence under the provisions of the Rajasthan Agricultural Produce Markets Act and Rules.

2. The petitioner is a partnership firm and doing the business of sale and purchase of Kapas, Kirana etc. at Lunawa. There exists a Krishi Upaj Mandi Samiti at Sumerpur, which has been constituted and functioning under the provisions of the Rajasthan Agricultural Produce Markets Act, 1961 (here in after referred to as "the Act") and the Rajasthan Agricultural Produce Markets Rules, 1963 (here in after referred to as "the Rules"). By a notification dated 21st April, 1977 in the Bali Tehsil has been included in the Market Area of Krishi Upaj Mandi Samiti, Sumerpur. Bali town has been declared as sub-market yard. Thereafter, a notification was given to the petitioner and all other dealers that they should obtain licence for the sale and purchase of the agricultural produce and market fee @ 1% was notified on sale and purchase of the agricultural produce brought and sold in the market area. This fee was increased to 1.25%. The petitioner obtained the licence as he had no option. The village Lunawa where the

petitioner is doing the business is at the distance of more than 40 Kms. from Bali and 100 Kms. from Sumerpur, he is not getting any facilities as provided in the Act, therefore, he is not liable to pay any market fee. A return has been filed by the respondent. It has been submitted that sub-market yard at Bali is coming up and necessary construction and godowns facilities as required under the Act, are under completion. A road has also been constructed from Bali to Luwana and 1/2 remains to be completed. The distance from Luwana to Bali is only 5 Kms. and Sumerpur is only 25 Kms. It is further submitted that a proposal for establishment of sub-market yard at Lunawa is under is in contemplation under the rural primary market scheme. Under this scheme, it is incumbent on the Panchayat to allot or sale a piece of land of one Hectare to the Market Committee. In case land is made available by the Panchayat the Market Committee can avail subsidy for the RPM worth Rs. 150000/- provided by the Central Government and can itself invest the rest of the amount. But the Sarpanch of the village Lunawa who is partner of the petitioner-firm is not cooperating with the answering non-petitioner despite repeated requests in as much as he is not providing the suitable land and due to this fact, market committee is unable to avail the land for the rural Primary Market.

3. I have heard both the learned counsel for the parties and perused the reply. I need not go into the dispute that whether the Sarpanch, who happens to be the partner of the petitioner, is deliberately not allotting the land for establishment of sub-market yard at Lunawa. But under the provisions of the Act and Rules. The Market Committee has to provide necessary facilities, if they are charging the fee, from the traders and agriculturists. According to the principle of paid pro-quo if the Committee wants to charge the fee then it is incumbent upon them to provide necessary facilities. Thus, I direct that the respondent should establish the sub-market yard at Lunawa within a period of one year from today and petitioner is also directed to cooperate with the Market Committee and make the necessary efforts to get the land allotted from Panchayat for establishment of sub-market yard.

4. The writ petition is disposed of with the above directions. No. order as to costs.