

(1992) 04 PAT CK 0045
In the Patna High Court
Case No : C.W.J.C. No. 1591 of 1983

M/s Mahadeo Galla Bhandar

APPELLANT

Vs

Subdivisional Officer, Hajipur and Others

RESPONDENT

Date of Decision : 17-04-1992

Acts Referred:

Bihar Agricultural Produce Markets Act, 1960 — Section 8(3), 9(5)

Citation : (1993) 2 PLJR 554

Hon'ble Judges : S.B. Sinha, J

Bench : Single Bench

Advocate : Ramesh Kumar Agrawal, for the Appellant; R.J. Ojha and Jagdish Narain, for the Respondent

Final Decision : Allowed

Judgement

S.B. Sinha, J.—In this writ application the petitioner has prayed for quashing of the notice of assessment in form "C" dated 26.7.82, as contained in Annexure-1 to this writ application as also an order of assessment dated 15.2.83, as contained in annexure-2 thereto and demand notice issued against the petitioner for realisation of the amount in terms of the order of assessment dated 22.2.83, as contained in. Annexure-3 to the writ petition. The fact of the matter is not in dispute. The petitioner is a trader and is licenced under the provisions of the Bihar Agricultural Produce Markets Act, 1960 (hereinafter referred to as "The Act"). The petitioner carries on business within the jurisdiction of the Agricultural Produce Market Committee, Goroul (Respondent no. 3). By reason of the impugned order, as contained in Annexure-1 to the writ application, the Secretary, of the respondent Market Committee directed the petitioner to produce book of account. Thereafter the order of assessment was passed by the Subdivisional Officer, Hajipur, respondent no. 2 and also the Secretary of the respondent no. 3.

2. In this case a counter affidavit has been filed wherein it has been admitted that by a notification dated 8.6.82 issued u/s 8 (3) read with section 9 (5) of the

Act, the first Market Committee was superseded and power of the Chairman and the Vice-Chairman and all Subcommittee of respondent no. 3 vested in the Sub-divisional Officer, Hajipur. The said Notification dated 8.6.82 is contained in annexure-A to the counter affidavit.

3. It is true that in the counter affidavit it has been contended that the petitioner did not appear before the Assessment Sub-Committee pursuant to the Annexure-1 to the writ application. In view of the statement made in the counter affidavit, however, it is evident that the Secretary of the respondent no. 3 the Agricultural Produce Market Committee issued notice (Annexure-1 to the writ application). The order of assessment also could not have been passed by respondent no. 2 sitting with the Secretary of respondent no. 3 Market Committee. This aspect of the matter is squarely covered by a decision of this Court reported in 1984 B.B.C.J. 441 : 1984 PLJR 412.

4. In view of the aforementioned decision, I have no other option but to allow this application and to quash the notice as contained in annexure-1 to the writ application, the order of assessment as contained in annexure-2, as also the demand notice as contained in Annexure-3, inasmuch as all of them were issued/ passed after supersession of the first Market Committee i.e. 8.6.82. However, it goes without saying that the Assessment Subcommittee or any other competent authority who is now authorised to pass the order of assessment may issue a fresh notice to the petitioner or may pass fresh order of assessment in accordance with law. This application, is therefore, allowed, let a Writ of Certiorari issue accordingly. In the facts and circumstances of the case, there shall be no order as to cost.