
(1996) 08 KAR CK 0053

In the Karnataka High Court

Case No : Writ Petition Nos. 18125 and 18126 of 1989

M/s. Vinod Basavaraj Bhimalli, Coconut Merchants, Gulbarga
and Another

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 19-08-1996

Acts Referred:

Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 — Section 2(28), 6(2)

Citation : (1997) 5 KarLJ 515

Hon'ble Judges : Harinath Tilhari, J

Judgement

1. By these petitions, the petitioners have challenged the notification, dated 18-3-1989 or 21-3-1989, issued by respondent 1 that is the State Government, published in Karnataka Gazette, dated 23-3-1989, whereby the State of Karnataka exercising the powers under Section 5 of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966, declared raw chilli, banana and coconut as notified agricultural produces. It also declared that the agricultural produces in entire Gulbarga, Aland, Afzalpur and Jewargi Taluks shall come within the framework of expression "Notified agricultural and Marketing" in respect thereof is to be regulated by the provisions of the said Act.

2. The Counsels for the parties have very fairly submitted that this notification has been challenged on the grounds mentioned in the writ petitions, to the effect that the Chief Marketing Officer has not published any notification under Section 6(2)(a), (b) and (c) of the Act, had not followed the prescribed procedure for establishment of market and market yard. But this very notification had already been challenged in A.R. Khaleel v State of Karnataka and Others, 1997(1) Kar. L.J. 327, on these very grounds and this Court has rejected the petitioners contention, after considering the arguments in detail and has held that the notifications are valid.

3. I have applied my mind to the submission of the learned Counsel for the parties. I have gone through the petition as well. The notification has been

challenged in these petitions on the ground that Gulbarga is not the coconut growing area and secondly that notification, dated 20-3-1989 is the preliminary notification. I have also seen the statement of objections which clearly shows that preliminary notification was issued and published on 18-8-1988 in the Karnataka Gazette and also in Karnataka Newspapers on 14-8-1988. This notification is dated 5-8-1988 and market functionaries were given time to file objections within 30 days. According to the case of respondents and the statement of objections, no objections or suggestions were received in pursuance of notification dated 5-8-1988 till the last date for filing objections. As such the notification dated

20-3-1989 had been issued and published declaring coconut along with other produces to be agricultural produces for the area referred to. After the issuances of the final notification, the petitioners are required to comply with the requirements of law in the matter of marketing in the area in the newly added produces.

4. The two-fold contentions of the petitioners Counsel appears to be covered by my earlier decision in A.R. Khaleel's case, supra, dealing with the contention that Gulbarga is not a coconut producing area and as such the notification is illegal, this Court has observed "It might not be a coconut producing area, but agricultural goods or produces can be imported from one area to another area and transactions may take place in that area where it might not be produced. Then for regulating the market in that, notification could be issued and once it has been subjected to notification under Section 5 read with Sections 3 and 4, of the Act, the transaction in relation to that agricultural produce by importer has to be carried on and be regulated in accordance with the provisions of law and procedure prescribed under the Act..." I further observed that Section 65 of the Act provides that market fee is leviable and payable in respect of agricultural produce sold in the market area. The language of section does not say that the agricultural produce produced in the area and then sold in the market, it only says agricultural produce sold in the area which means even if it is imported and then sold, market fee be levied." Taking this view that it is not necessary that agricultural produce concerned must be produced in that area in view of Section 65(2a)(ia) of the Act. Thus considered I do opine that this contention of the learned Counsel for the petitioners is without substance. Second contention that no notification under Section 6(2) had been issued creating market for newly added agricultural produces and unless it is issued, the provisions will not apply, that contention is also without force and particularly in view of the provisions of Section 6, sub-section (4) of the Act, which is a complete reply to the contentions of the petitioners Counsel. Section 6, sub-section (4) of the Act reads-

"6. (4) For the removal of doubts it is hereby declared that after the alteration of a market area or of the items of regulated agricultural produce, if any, under Section 5, it shall not be necessary for the Director of Agricultural Marketing to

make any declaration under this section unless he is of the opinion that it is necessary to declare any area other than the existing market, sub-market, market yard, market sub-yard or sub-market yard as market, sub-market, market yard, market sub-yard or sub-market yard, as the case may be".

5. Therefore, it is very clear that addition of new agricultural produce in the list of already notified agricultural produces will not necessitate the issuance of notification under Section 6(2) of the Act, creating additional market. It is open to the authority to consider if it is necessary or not. If it is necessary it may, but this does not mean that every time when making alteration of items of agricultural produce, notification under Section 6(2) should be issued.

6. Thus considered in view of the decision in Writ Petition Nos. 5345 and 5346 of 1991 and Section 6(4) of the Act, these petitions have got no force and are hereby dismissed. On account of the fairness of the Counsel for the parties, costs are made easy.