(1963) 04 P&H CK 0033

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 147 of 1963

Puran Chand APPELLANT

Vs

The State of Punjab and others RESPONDENT

Date of Decision : 16-04-1963

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1), 227, 228
Punjab Sugarcane (regulation Of Purchase And Supply) Act, 1953 — Section 14, 14(4)

Citation : (1963) 04 P&H CK 0033

Hon'ble Judges : P.C. Pandit, J;D.K. Mahajan, J

Bench : Division Bench

Advocate : S.S. Sodhi, for the Appellant; H.S. Doabia, Additional Advocate General and N.N. Goswami, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Pandit, J.—This is a petition under Articles 228/227 of the Constitution of India challenging the validity of the order dated 10th January, 1963 passed by the Cane Commissioner, Punjab, Respondent No. 2, under Rule 10-A of the Rules framed under the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 (Act 40 of 1953) (hereinafter referred to as the Act).

2. According to the allegations of the Petitioner, he is a resident of village Kehri Dabdalan, tehsil Thanesar, district Karnal. He is a cane-grower of the area as defined in the Act. He also owns a power crasher and has since 1961 been carrying on the business of sugarcane crushing and gur making. For the purpose of this business, he purchases sugarcane from other cane-growers of the area and also utilizes the sugarcane grown by himself. Besides this, he also crushes sugarcane at his power crusher and makes gur therefrom for other cane-growers of the area after charging some money. The total number of persons working in his business varies from 8 to 12. His power-crusher, therefore does not fall within the definition of ''factory'' under the Act. Respondent No. 2 purporting to act under Rule 10-A of the Rules framed under the Act passed the following

impugned order:

In exercise of the powers conferred upon me by Rule 10-A of the Punjab Sugarcane (Regulation of Purchase and Supply) (First Amendment) Rules, 1963, I Bhai Sher Jang Singh, I. A. S., Cane Commissioner, Punjab, hereby specify the areas noted against each factory, the entire cane of which the Agent of the factory shall be bound to purchase, and the cane-growers or the Cane-growers Co-operative Societies shall be bound to sell to the said Agent during the crushing season 1962-63:

Name of factory.

Area to be specified.

1.

2.

3. Saraswati Sugar Mills, YamunaNagar.

(a) Area within ten miles radius of the factory gate.

(b) Area within 5 miles radius of the following centres:?

(1) Barara (2) Kesri (3) Mustafabad (4) Shahzadpur (5) Jaidhri (6) Chhachhrauli (7) Pabni (8) Budheri (9) Bhambholi (10) Jathlana (11) Radaur (12) Barshami (13) Kishenpura (14) GopalMochin (15) Ladwa (16) Indiri (17) Bhita (18) Neohari (19) Muthana (20) Sardheri (21) Sadhaura (22) ThanaChapar (23) Maulana (24) Jalubi.

The said order was served on the Petitioner on 16th January, 1963. This has led to the filing of the present petition.

3. It may be mentioned that it is common ground that on 4th March 1963 the Punjab Government issued Notification No. 69(M)-Agr. II (VI)-63/1033 by which in pursuance of the provisions of Sub-rule (2) of Rule 125 of the Defence of India Rules, 1962, they have prohibited the production of gur by the use of sugarcane crushers operated by power in this area. In view of this notification, learned Counsel for the Petitioner submitted that they would not press their objections in the petition in so far as they relate to the production of gur by the use of sugarcane crushers operated by power

4. Learned Counsel for the Petitioner, however, challenged this order on the following two grounds:

(1) That it is based on the provisions of Section 14(4) of the Act, which violate the fundamental rights guaranteed to the Petitioner under Article 14 of the Constitution inasmuch as it leaves room for the Prescribed Authority to discriminate between the various cane-growers of the assigned area by compelling some of them to sell their entire cane to the factory and leaving others to dispose it of in any manner they liked. In this connection, learned

Counsel contended that the Prescribed Authority could do so by specifying any area within the assigned area of a factory, the entire cane of which the cane-growers were bound to sell to the factory. Learned Counsel further submitted that unfettered powers had been given to the Prescribed Authority to specify any area within the assigned area and neither the provisions of this Act nor the Rules framed thereunder lay down any principles on the basis of which he could choose any particular area out of the assigned area ; and

(2) that the provisions of Section 14(4) of the Act which are in the following terms, are in contravention of the fundamental rights of the Petitioner under Article 19(1) (f) and (g) of the Constitution:- S. 14(1)

* * * *

(4) It shall be competent for the prescribed authority to specify any area within the assigned area of a factory, the entire cane of which area the agent of the said factory shall be bound to purchase, and the cane-growers or Cane-growers'' Co-operative Society shall be bound to sell to the said agent.

He submitted that by directing him to sell his entire cane to the factory, unreasonable restrictions had been placed on his right to hold and dispose of his property. He could not carry on his business of manufacture of gur by means of animal-driven crushers. Under this order he was being prohibited even from manufacturing gur for his domestic purpose.

5. So far as the first ground is concerned, this point was not taken in the writ petition. All that was stated there was that the impugned order discriminated between the sugar factories wherein 20 or more workers were employed and those like that of the Petitioner where less than 20 workers were employed, because the former were being allowed to utilize the sugarcane of a particular area whereas the latter could not do so. Secondly, in the impugned order the Cane Commissioner had not specified any area out of the assigned area, but on the other hand, the cane-growers of the assigned area had been asked to sell their entire cane to the factory. The Petitioner, therefore, is not an aggrieved party on this account. It is undisputed that no one, but whose rights are directly affected by law, can raise the question of the constitutionality of that law (see in, this connection Chiranjit Lal Chowdhuri Vs. The Union of India (UOI) and Others,

6. As regards the second ground, it is pertinent to mention that the Petitioner has not mentioned in his petition that he was carrying on the business of the manufacture of gur by means of animal-driven crush ers. Even after the issue of the Notification dated 4th March, 1963, he has not filed any additional grounds in this respect and, thus, the State and the sugar mill had no opportunity to meet these allegations However,in my opinion, the provisions of Sub-section (4) of Section 14 of the Act do not impose ureasonable restrictions on the right of the Petitioner to hold property and carry on business. As a matter of fact, the restrictions are reasonable and in the interest of the general public. They, as the State in its return has submitted, are intended to ensure adequate production of

sugar for internal consumption in the country on I payment of fair price to the consumer as also to meet the requirements | of export by the Central Government with the ultimate object of earning foreign exchange, which in its own turn aids the economic growth of the country. It is undisputed that the sugar factories extract maximum quantity of sugar from the sugarcane as compared to the manufacturers of gur. It is, therefore, essential that all the cane available in the assigned area should be utilized by the sugar mills in the interest of the national economy, because by doing so the heavy losses of sugar resultant from the preparation of gur would be avoided. If the sugar mills are asked to purchase sugarcane from long distances, the result would be that extra transport charges would be incurred and there would be corespondent increase in prices of sugar, which would adversely affect the consumers, because they would have to pay more price for this commodity. The sugar mills pay an excise duty at the rate of Rs. 10.70 nP. per maund of sugar and a purchase-tax of 9 nP. per maund of cane, while no such excise duty and purchase-tax are paid by the gur manufacturers. The manufacture of sugar, therefore, results in increase in the State revenue. The cane-growers are no doubt by this provision of law under an obligation to sell their entire cane to the sugar mills, but in doing so they are paid the fair price, which is always fixed by the State. The provisions of Section 14(4) are invoked only in special circumstances, that is, when the sugar mills do not get adequate cane supply for their daily crush and there is an imminent danger of their being closed on account of the non-supply of sugarcane. In the present case, it is on the record that the position of the sugarcane supply of all the sugar mills in the State was considered in the meeting of the Sugarcane Control Board held on 28th December 1962. In that meeting, the Assistant Cane Commissioner informed the Board that adequate quantities of sugarcane were not being supplied to the mills. Such a situation had arisen on account of three grounds (i) low production of sugarcane ; (ii) diversion of cane to the gur manufacture due to its attractive prices and (iii) installation of a large number of power crushers in the assigned areas of the sugar mills. It was under these circumstances that it was considered necessary to invoke the provisions of Section 14(4) of the Act and the impugned order was passed by the Prescribed Authority on 10th January 1963. Moreover, the business of the Petitioner is not being ruined, because there is no total prohibition and he can make the necessary purchases of sugarcane from the areas, which are outside the assigned area of the factory and, thus, manufacture gur by animal-driven crushers. It is true that in this process he might have to incur a little more expense. The position, however, is that he can continue his business and should not grudge an extra small expenditure in the larger interests of the country.

7. As regards the contention that the Petitioner was being prohibited even from manufacturing gur for his domestic purposes, we need not discuss this matter, because the Cane Commissioner in his letter dated 12th March, 1963 addressed to the Advocate-General, Punjab, has pointed out that in pursuance of his order dated 10th January, 1963, action had been taken only against the manufacture

of gur by means of power-crushers and no action had been taken or was intended to be taken against the manufacture of gur for domestic purposes by the use of animal-driven crushers. There is, thus, no force in the second ground as well.

8. No other point was urged before us.

9. The result is that this petition fails and is dismissed. In the circumstances of this case, however, I will make no order as to costs in these proceedings.

D.K. Mahajan, J.

10. I agree.

