

(2005) 10 PAT CK 0002
In the Patna High Court
Case No : CWCJ No. 11634 of 2003

Rajendra Prasad Yadav

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-10-2005

Acts Referred:

Bihar Agricultural Produce Markets Act, 1960 — Section 27A, 9

Citation : (2005) 4 PLJR 508

Hon'ble Judges : S.N. Hussain, J;Nagendra Rai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The petitioner, who is a member of the Munger Agriculture Produce Market Committee (for short "the Market Committee"), has challenged the appointment of respondent No. 9-Abul Hasan as a Chairman of the said Market Committee. The only point, that has been raised on behalf of the petitioner, is that respondent Abul Hasan is a trader and has obtained a licence to trade under the provisions of the Bihar Agricultural Produce Markets Act, 1960 (for short "the Act") and as such his appointment as a Chairman of the Market Committee will adversely affect the interest of the agriculturists as u/s 27A of the Act he is one of the members of the Committee for assessment of the market and levy of fee.

2. We do not find any force in the point raised on behalf of the petitioner having regard to the statutory provisions mentioned hereinafter.

3. Section 9 of the Act deals with the constitution of the second and subsequent Market Committee. According to sub-section (1) thereof, there shall be following categories of persons/members in every market area:-

(i) Seven agriculturists constituencies for electing seven representatives of agriculturists, in the manner prescribed.

(ii) Two traders' constituencies for entire market area for electing two

representatives of the licensed traders under this Act, in the manner prescribed.

(iii) One shall be Sub-divisional Officer of the sub-division in which headquarters of the Market Committee is situated, who shall represent the interest of the State Government.

(iv) Two co-operative societies" constituencies for the entire market area for electing two representatives of the cooperative societies holding valid licence under this Act.

(v) One shall be a person appointed under sub-section (1) of Section 20, who shall be the ex-officio member Secretary of the Market Committee.

(vi) One shall be a person nominated by the State Bank of India, Bihar Region/ Circle.

(vii) One shall be a person elected from amongst the members of the municipality or notified area committee within whose jurisdiction the principal market yard is situated and in the event there is no municipality or notified area committee, from executive committee of the Gram Panchayat within whose jurisdiction the principal market yard is situated.

(viii) One shall be person nominated by Zila Parishad from amongst its members.

(ix) One shall be person nominated by Agriculture Department.

(x) One shall be a member nominated by the State Government from amongst the members of the Legislature in whose constituency, the principal market yard is situated.

3.1 Sub-section (4)(i) of Section 9 of the Act says that an officer, nominated by the State Government shall be the Chairman of the Market Committee for 2 years or 6 years after the passing of the Act, thereafter the State Government shall appoint the Chairman from amongst the members of the Market Committee. Sub-section (4)(ii) thereof provides that the Market Committee shall elect one of its members, representing the agriculturists" interest to be its Vice-Chairman.

4. Admittedly, two terms have already expired and as such the appointment of the Chairman has to be made by the State Government and the State Government, as a matter of fact, has made the appointment. According to sub-section (4)(i) of Section 9 of the Act, only restriction put with regard to appointment of the Chairman is that he should be from amongst the members of the Market Committee. The said provision does not show that the nomination should be made from any of the members of a particular group of the Market Committee, while with regard to appointment of Vice-Chairman, the statutory provision is specific that the ViceChairman shall be the person, who should represent the agriculturists" interest. Had the legislature any intention to confine the appointment to the post of Chairman to the members of a particular category of the Market Committee, then it should have clearly provided so. The absence of

such restriction leads to only one inference that any member of the Market Committee, as provided u/s 9(1) of the Act, will be appointed as the Chairman of the Market Committee.

5. Learned counsel for the petitioner, however, elaborating his submission, submitted that the object of the Act is to protect the interest of the agriculturists and if a trader-licensee, though a member of the Committee, is appointed as a Chairman of the Market Committee that will jeopardise the interest of the agriculturists and in this connection he referred to Section 27A of the Act, where Chairman is one of the members of the Assessment SubCommittee for assessment and levy of fee, in the manner as prescribed.

6. A bare perusal of Section 27A of the Act shows that the Assessment Sub-Committee shall consist of three authorities; (i) the Chairman, (ii) the Vice-Chairman and (iii) the Secretary of the Market Committee, for the purposes of assessment and levy of fee. The Vice-Chairman is, admittedly, a representative of the agriculturists. The Secretary is appointed by the State Government. Therefore, the Chairman is not the only person, who has to pass an order of assessment and levy of fee. This has to be done by an Assessment Sub-Committee of three authorities.

7. In that view of the matter, on the basis of Section 27A of the Act, the specific provision contained in sub-section 4 (i) of Section 9 cannot be said to be either contrary to law or contrary to the object of the Act or shall in any way affect the interest of the agriculturists. In the result, there is no merit in this writ application and it is, accordingly, dismissed.