(1998) 04 PAT CK 0039

In the Patna High Court

Case No : Civil Writ Jurn. Case No''s. 1196 and 1975 of 1986

Rameshwar Jute Mills Ltd. APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 09-04-1998

Acts Referred:

Citation : AIR 1998 Patna 164 : (1998) 2 PLJR 334

Hon'ble Judges : P.K. Sarkar, J;Bisheshwar Prasad Singh, J

Bench : Division Bench

Advocate : Ramesh Kumar Agrawal and Subhas Kishore Verma, for the Appellant; K.P. Yadav and Suresh Prasad, for the Respondent

Final Decision : Allowed

Judgement

1. In these two writ petitions identical question is involved and, therefore, they have been heard together and are being disposed of by this common order. In C.W.J.C. No. 1196 of 1986 the year in question is 1978-79 while in C.W.J.C. No. 1075 of 1986 the year in question is 1977-78. In both the years the respondent-Market Committee has imposed market fee on the sale of the item ''Mesta'' treating it to be the same as ''Jute.''

2. The submission urged on behalf of the petitioner is that ''Jute'' and ''Mesta'' are two different items and Mesta is neither a derivative nor processed form of jute. These two items are botanically different and so known in the commercial world by persons dealing with these items.

On the other hand, the contention of the respondents is that in the Jute (Licensing and Control Order) 1961 issued under the Essential Commodities Act, 1955, ''raw jute'' has been defined as fibre of jute as also known as pal, kosta, nalita, bimli or mesta and, therefore, jute must include mesta. This is the reasoning which has found favour with the revisional authority also, as is apparent from its order dated 24-8-1985 (Annexure-7) dismissing the revision petitions filed by the petitioner.

3. At the very threshold counsel for the petitioner submitted that the approach of the respondents is errneous in law. It is dangerous in the matter of construction to adopt a definition of a commodity given in a different statute for a different purpose. The licensing order to which reference has been made in the revisional order was meant for licensing jute industry, and for that purpose jute was understood to include mesta. The purpose under the Market Act is not to licence any industry but to impose market fee on the agricultural produce enumerated in the Schedule to the Act, as it stood in the relevant years. Counsel for the petitioner places reliance upon a passage appearing in Msco. Pvt. Ltd. Vs. Union of India (UOI) and Others, . The Supreme Court held (at p. 78 of AIR) :

"The expression ''industry'' has many meanings. It means ''skill,'' ''ingenuity,'' ''desterity,'' ''diligence,'' ''systematic work or labour,'' ''habitual, employment in the productive arts,'' ''manufacturing establishment'' etc. But while construing a word which occurs in a statute or a statutory instrument in the absence of any definition in that very document it must be given the same meaning which it receives in ordinary parlance or understood in the sense in which people conversant with the subject-matter of the statute or statutory instrument understand it. It is hazardous to interpret a word in accordance with its definition in another statute or statutory instrument and more so when such statute or statutory instrument is not dealing with any cognate subject. Crares on Statute Laws (Sixth Edn.) says thus at page 164 :

In construing a word in an Act caution is necessary in adopting the meaning ascribed to the word in other Acts." It would be a new terror in the construction of Acts of Parliament if we were required to limit a word to an unnatural sense because in some Act which is not incorporated or referred to such an interpretation is given to it for the purposes of that Act alone (Macbeth & Co. v. Chislett) (1910 AC 220)."

To the same effect are the observations of the Supreme Court in Union of India (UOI) and Others Vs. Shri R.C. Jain and Others, wherein it was observed that it is not a sound rule of interpretation to seek the meaning of words used in an Act, in the definition clause of other statutes. The definition of an expression in one Act must not be imported into another. We, therefore, entertain no doubt that the reasoning adopted by the revisional authority and reiterated before us by counsel for the respondents, that jute must include Mesta because it is so defined under a licensing order issued by the Central Government in connection with the licensing of jute industry under the Essential Commodities Act, cannot be sustained.

4. We have then to consider how the framers of the statute understood the matter, and if there is anything in the Act to show that the framers of the statute understood ''Jute'' to include ''Mesta,'' that intention must be given its full effect. If not, we will have to find out as to how ''Mesta'' is understood in the commercial world by persons dealing with the commodity, whether it is derivative of jute or just another name for jute or it is distinct commodity so understood by

them. Under the Schedule to the Bihar Agricultural Produce Markets Act, 1960, the agricultural produces are arranged under Part XII. Part VII deals with fibres, and the second item under this part is ''jute.'' There is no mention of ''Mesta'' in this part of the Schedule. Under Part XII with the heading ''Miscellaneous,'' item No. 6 is ''Jute Seed'' and item No. 7 ''Mesta Seed.'' There are as many as 33 items under Part XII of the Schedule. Apparently, the framers of the Act were aware of the distinction between ''Jute'' and ''Mesta'' and that is why under Part XII ''Jute Seed'' and ''Mesta Seed'' have been separately mentioned under item Nos. 6 and 7 respectively. Counsel for the petitioner rightly submitted that if ''Jute'' includes ''Mesta,'' it was enough to mention ''Jute seed'' which would have naturally included ''Mesta seed,'' if that was the understanding of the framers of the law. Since that is not so, it must be held that the framers of the law understood ''Jute'' and '' Mesta'' to be two different agricultural produces. We find considerable force in the submission, which is also supported by the material placed before us, that these two items are understood as distinct separate items in the commercial world by persons dealing with these items. Annexure-I is a letter written to the petitioner by the Indian Jute Mills Association after the matter had been considered by the concerned Division of the Association, the comments offered are as follows :

"Plantwise mesta is different from Jute, Mesta fibres are generally coarser than jute fibres. However, mesta fibres can be and are often mixed in different proportions with jute fibres for manufacturing jute yarns and fabrics."

5. Anhexure 2 is a note prepared by the Indian Jute Industries'' Research Association dealing with jute, its property and uses. In Annexure 2 the fineness and mechanical properties of jute has been compared with those of other fibres, such as Cotton, Ramie, Hemp, Mesta, Silk, Wool etc. The table deals with the fineness of the fibres concerned, their breaking strength, their breaking elongation, stiffness, toughness etc. Jute and Mesta have been dealt with as two distinct fibres. Annexure 3 is the notification issued by the Government of India, Ministry of Textiles and Supply dated 10th July, 1985. The notification mentions the minimum prices at which ''Jute'' and ''Mesta'' of different varieties and grades specified in the said schedule shall be purchased or sold in Calcutta during the year July, 1985 to June, 1986. Different varietiesof ''Jute'' and different varieties of ''Mesta'' have been enumerated. Their prices are also different. A similar notification has been annexed as Annexure 4 dated 10th July, 1984.

6. Counsel for the petitioner relied upon 1996 Edition of Words and Phrases of Central Excise and Customs by Sri S. B. Sarkar, M.Sc., retired member of Central Board of Excise and Customs. Mesta fibre has been described as follows in the said book:

"Mesta fibre is obtained from Hibiscus spp. Used in place of jute, and mixed with jute. (See ''Jute-Bimlipatam Jute'')."

From the material placed before us it is evident that botanically Jute plant and

Mesta plant are two different plants. Mesta is not a derivative of jute nor is it a by-product of jute. The commercial world, including the Indian Jute Mills Association, as also the Indian Jute Industries'' Research Association treat jute as different from Mesta. No doubt the jute yarn or fibres and Mesta fibres may be mixed in certain proportion but that does not make it the same commodity. Even the Government of India has fixed different prices for Jute fibre and Mesta fibre. Apart from all these, in the Schedule to the Act itself there is intrinsic material to show that the framers of the law themselves understood ''Jute'' as different from ''Mesta'', and that is why in Part XII of the Schedule, both Jute seeds and Mesta seeds have been separately included. We are, therefore, satisfied that market fee cannot be levied on Mesta treating as covered by the item ''jute''. Though similar, they are distinct and so known to the commercial world.

7. In these circumstances, these writ petitions are allowed and the impugned orders of assessment as well as the appellate and revisional orders are set aside. There will be no order as to costs.

