
(1977) 11 P&H CK 0012
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1249 of 1977

Sant Ram Panna Lal

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 29-11-1977

Acts Referred:

Citation : (1978) ILR (P&H) 203 : (1978) PLJ 31 : (1984) RRR 470

Hon'ble Judges : A.S.Bains, J

Advocate : Mr. Pawan Bansal, Advocate., Advocates for appearing Parties

Judgement

A.S. Bains, J. (Oral)

1. The petitioners are Commission Agents. They have filed this joint petition against the notification dated 22nd February, 1977 (Annexure P.1) vide which the principal market yard was denotified under Section 7(2) of the Punjab Agricultural Produce Markets Act, 1961 (hereinafter referred to as the Act). The impugned notification is in the following terms :

"In exercise of the powers conferred under subsection (2) of Section 7 of the Punjab Agricultural Produce Markets Act, 1961 and all other powers enabling him in this behalf, the Governor of Punjab is pleased to denotify the principal yard/subyard notified vide Punjab Govt. Notification No. 1272 MC/AgriV/63/3573 dated 7th June, 1963 as specified in the schedule appended below :

SCHEDULE

Sr. No.

Locality of principal yard/subyard

Notified Area

1.

(Pharwahi Bazaar, For all Agricultural

Market Committee

2.

Handiaya Bazzar, Produce

Barnala.

3.

Handiaya Road, For Fruits and, near Octroi Post

Vegetables.

Their main ground of attack is that there is no provision of denotifying the principal market yard; there are no circumstances under which such a decision of denotifying can be taken and that there are no facilities provided in the new market yard. Separate returns have been filed on behalf of respondent No. 1, the State and respondent No. 2. Secretary, Market Committee, Barnala. A preliminary objection is taken. Mr. Gupta, learned counsel for respondent No. 2, has contended that vide Punjab Government notification issued on April 21, 1977, the area in question was declared as submarket yard. It is to this place that the market is being shifted and this notification was never challenged.

2. Section 7 of the Act is in the following terms:

"(1) For each notified market area, there shall be one principal market yard and one or more sub market yards as may be necessary.

(2) The State Government may, by notification, declare any enclosure, building or locality in any notified market area to be principal market yard for the area and other enclosures, buildings or localities to be one or more sub market yards for the area."

A reading of this section shows that in each notified market area shall be one principal market yard and one or more submarket yards and the State Government by notification can declare any enclosure, building or locality in any notified market area to be principal market yard for the area and other enclosures, buildings or localities to be one or more submarket yards for that area. In the present case, the principal market yards for that area. In the present case, the principal market yard had been denotified and the sub market yard was notified on April 21, 1972. The purpose of the principal market yard and the submarket yards is the same. Buying and selling is done in each yard. It is settled law that an authority which has power to notify and enclosure as principal market yard or submarket yard, can also denotify. A reference may be made to Section 19 of Punjab General Clauses Act, 1898, which is in the following terms :

"19. Where, by any Punjab Act, a power to issue notifications or make orders, rules or bylaws is conferred then that power includes a power exercisable in the like manner and subject to the like sanction and conditions (if any), to add to,

amend, vary or rescind any notifications, orders, rules or byelaw so issued or made."

A reading of this section shows that under any Punjab Act, the authority which can notify can also denotify any area. Mr. Gupta stated at the Bar that the principal market yard, which is denotified, is situated in the thick of Barnala town and is not sufficient to cater to the present day needs. Para 12 of the returns in the following terms :

"Not admitted. Before the denotification of the old Mandi Barnala, objections from all concerned were invited vide Punjab Government Notification dated 19.3.1974."

This para is not contradicted by the petitioners by filing replication. Moreover, in para 9 of the return filed on behalf of the respondent No. 1, it is stated that the New Mandi Barnala has since been declared as principal market yard vide Punjab Govt. Notification No. 2659/RDIII77/13049, dated 19.7.1977. This is a matter of common knowledge that during the recent times with the advent of green revolution resulting in increase in production of wheat and other grains like rice etc. selling and buying activity has increased many times when earlier the principal market yard was declared. It is for the authorities to see and declare any area to be a submarket yard or a principal market yard in consonance with the needs. This Court cannot sit as an Appellate Court to decide such matters. Moreover, the only question which was raised in the petition was whether the State Government is competent to denotify an already notified principal market yard. In view of my observations (supra) that the authority which can notify can also denotify, I do not find any merit in this contention.

3. No other point is urged.

4. For the reasons recorded above, this writ petition fails and is dismissed, but with no order as to costs.