
(2003) 07 PAT CK 0095
In the Patna High Court
Case No : C.W.J.C. No. 12665 of 1999

Sarswatiji Mills and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 24-07-2003

Acts Referred:

Citation : (2003) 4 PLJR 76

Hon'ble Judges : S. Dhavan, C.J;Shashank Kr. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This petition is clearly misconceived. Petitioners are manufacturers, they say processed "Dal". Their argument is that (sic), as they call it, is not an agricultural duce but a manufactured produce comeout of factories. It is not possible for the (sic) to accept this submission.

2. If market fee is to be levied then the (sic) of the subject is to be made in Shedule-I. These entries are made as (sic) on the left side of the Schedule (sic) entries of the subject products on left side alone may not be subject an to a market fee. The law must specifically indicate as to what the species are and announce it before imposing the fee. Once a notification announces the species then the particular product, whatever it may be, becomes liable to market fee under the Bihar Agricultural Produce Markets Act, 1960.

3. For instance, cereals as product is the first item in the Schedule. But market fee will become leviabale on specific items, species in the present context. The Act then took insertions to identify the species as paddy, rice, wheat, maize, barley etc. In another instance, by mere insertion in Entry-XI, on the subject Narcotics, an intention was declared that Narcotics may be liable to market fee. Thus, the law made insertions to the Schedule and put in species as tobacco, zarda, zafrani, etc. As from the date when these species were notified, the market fee was attracted.

4. Coming to the subject matter of this petition, the subject entry is "Pulses" and its species are specified on the right side of the Schedule, which is re-produced.

II Pulses (1) Gram

(2) Arhar

(3) Masur

(4) Urdor Kalai

(5) Khesari

(6) Mung

(7) Dry Peas (Matar or Kerao)

(8) Kulthi

(9) Cowpea seed (dry)

5. The contention before the court that "Dal" is a manufactured product may be a development of modern times but in so far as pulses are concerned clearly it is an agricultural produce and the court is not inclined to declare the Act, in context, ultra vires.

Dismissed.

The court would have dismissed the petition without going into the merit of the case as some manufactures have joined to challenge an Act as ultra vires. Any one who desires to take advantage out of submissions must file a petition individually. The Petitioners are running a business. However, on the petition as it came, the court has rendered its decision as above.