
(1962) 03 AHC CK 0007
In the Allahabad High Court

Shree Gopal Paper Mills, Limited

APPELLANT

Vs

Inspector of Factories

RESPONDENT

Date of Decision : 16-03-1962

Acts Referred:

Constitution of India, 1950 — Article 226
Factories Act, 1948 — Section 2

Citation : (1962) 1 LLJ 697

Hon'ble Judges : A.P. Srivastava, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A.P. Srivastava, J.—This is a petition under Article 226 of the Constitution.

2. The petitioner is a limited company and carries on the business of manufacturing paper. One of the materials used by it for manufacturing paper is bankas grass. This grass is obtained by the petitioner from the forests of Nepal and brought to the rail heads within the Indian territory. One of such rail heads is Nepalganj road in the district of Bahraich. At the rail head the grass is packed into bundles with the help of manually operated baling presses. The bundles are then loaded in railway wagons for transport and taken to the company's mills at Yamuna Nagar in the Punjab where they are converted into paper. On 13 March 1961, the Inspector of Factories, who is impleaded in the petition as the sole respondent, issued a notice to the managing agents of the petitioner saying that

a manufacturing process was being carried on at the bankas depot at Nepalganj road railway station and that the said premises and precincts constituted a factory within the meaning of Section 2(m)(2) of the Factories Act, 1948,

3. The notice required that the particulars necessary under the Factories Act be supplied and licence be obtained for working the depot as a factory. Objection was taken to that notice on the ground that what was being done at the bankas depot at Nepalganj road did not amount to manufacturing process as defined in

the Factories Act. This contention was, however, not accepted by the respondent who insisted that the requirements of the Factories Act should be complied with. Several notices have been issued by him in that connexion. By the present petition, the petitioner wants a writ of mandamus to be issued directing the respondent to withdraw all those notices, dated 13 March 1961, 6 May 1961, 28 October 1961 and 30 November 1961. Another writ of mandamus is prayed for directing the respondent not to take any proceedings against the petitioning company consequent upon the aforesaid notices.

4. The question thus raised by the petition is a short one and is whether what is done by the petitioner at the Nepalganj road in its bankas depot, amounts to "manufacturing process" within the meaning of the terms as defined in Clause (k) of Section 2. If it does, the premises where that work is carried on will fall within the definition of "factory" as given in Clause (m) of that section. If it does not, it will fall outside that definition and it will not be necessary for the petitioner to comply with the provisions of the Factories Act.

5. The definition of "manufacturing process" given in Clause (k) of Section 2 of the Factories Act reads:

Clause (k) "manufacturing process" means any process for--

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(ii) pumping oil, water or sewage; or

(iii) generating, transforming or transmitting power; or

(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding;

(v) Constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels.

6. Admittedly what is done at the bankas depot of the petitioner at Nepalganj road rail head is that the bankas grass is put together into bundles with the help of manually operated baling presses, and such bundles are put into railway wagons for transporting from the rail heads to the petitioning company's paper mills at Yamuna Nagar in the Punjab. The packing of the grass into such bundles is effected as it facilitates convenient handling and economic transport (vide Para. 3 of the petition). It is further admitted that the packed grass after it reaches the company's mills at Yamuna Nagar is then subjected to various processes and ultimately paper is manufactured out of it.

7. According to the first clause of the definition of "manufacturing process," if we leave out the words which are not material for our purposes any process will amount to manufacturing process if it is process for "packing any article or substance with a view to its use, transport or disposal." The words of the

definition must be given their natural meaning. If that is done it cannot be denied that what is done at the bankas depot is packing. What is packed is bankas grass which is an article or substance. The packing of that article or substance is done with a view to the use of that article or its transport. All the essential ingredients of the definition are, therefore, fulfilled and it is difficult to see how the petitioner can get out of that definition and contend that what it does at its bankas depot does not amount to a manufacturing process.

8. Learned Counsel for the petitioner urged that while interpreting the definition the doctrine of *noscitur a sociis* should be employed. The cognate words used should be deemed to get their colour from the other words used in the definition, with the help of this doctrine learned Counsel wanted to Urge that the word "article" or "substance" used in the definition referred to the article or substance ultimately manufactured, in this case paper. He also wanted to argue that the word "use" or "transport" should be interpreted keeping in mind the other words used along with them, i.e., "sale," "delivery" or "disposal."

9. This doctrine was considered by the Supreme Court in two recent decisions. One is reported in *The State of Bombay and Others Vs. The Hospital Mazdoor Sabha and Others*, It was observed there:

It must be borne in mind that *noscitur a sociis* is merely a rule of construction and it cannot prevail in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only where the intention of the legislature in associating wider words with words of narrower significance is doubtful, or otherwise not clear, that the above rule of construction can be usefully applied. It can also be applied where the meaning of the words of wider import is doubtful; but, where the object of the legislature in using wider words is clear and free of ambiguity, the rule of construction in question cannot be pressed into service.

10. The same view was reiterated by their lordships of the Supreme Court in *The Corporation of the City of Nagpur Vs. Its Employees*,

11. It, therefore, becomes necessary to find out what was the object of the legislature in defining the words "manufacturing process" and whether there is any doubt about the meaning which is to be attached to the words in that definition. The object of the Factories Act as disclosed by its provision is twofold. In the first place, It aims at the regulation of employment of labour in factories. Secondly, it seeks to ensure proper working of the factory by providing for various safeguards and amenities for the workers. The legislation being of a beneficial nature, It can be presumed that the intention was to extend the benefit of the provisions of the Act to as many premises as possible. The definitions of the terms "factory," "workmen" and "manufacturing process" were, therefore, intentionally made wide. A perusal of the definition of the words "manufacturing process" will show that a mention is made of almost all the processes which can be employed in connexion with the manufacturing of

articles. Some processes which are normally not considered connected with manufacturing are also included, e.g., "packing," "ornamenting" or "finishing." It cannot, therefore, be said that the intention was that the words given in the definition should be given a narrow meaning. It can also not be said that there is any ambiguity attached to the words "packing" or "article" or "substance" used in Clause (i) of the definition of the term "manufacturing process." These words are not technical words or terms of art. They are expected to bear their natural meaning. If that meaning is wide enough to include the process employed by the petitioner in the present case, he cannot avoid that meaning simply on the ground that there are other words used in the definition which can be interpreted more narrowly. In my opinion, therefore, the petitioner cannot get any help from the doctrine of construction on which the learned Counsel relies.

12. Learned Counsel then referred to a decision of this Court in Criminal References Nos. 189 and 190 of 1953, *F. Hare v. State* through the Chief Inspector of Factories decided on 25 May 1954. The whole judgment is not reported but a head note prepared in respect of it is to be found in AIR 1955, Vol. II, N.U.C. No. 2710. The accused in that case was one of the directors of the Imperial Tobacco Company and was in charge of its Kanpur office. The company carried on the business of handling and selling cigarettes on a large scale. The manufacturing was carried on at another place but the Kanpur office was mainly concerned with receiving large stocks of different kinds of cigarettes and selling them to customers. Attached to this Kanpur office was a section where certain labourers did the work of packing cigarettes which were to be despatched to purchasers. The cigarettes which were received in this section from the place where they were manufactured were not loose cigarettes. They were already packed in containers which were either paper cartons or tin containers. What was done at in the Kanpur section was that these containers were themselves packed in boxes for the purpose of making it convenient for the purchasers to remove the cigarettes to their own places. The question that was raised was whether that process of packing could be included within the definition of "manufacturing process" given in the Factories Act. The question was answered in the negative. It was held that the words "any article" in Section 2(k)(i) could not refer to the finished article packed in bundles or usable by the customers but that it referred to articles which were made the subject of manufacturing process in the sense in which the word "manufacturing" was understood. The decision in that case does not apply directly to the present one because here what is packed at the bankas depot is not the finished article but the raw material. But the interpretation put on the word "substance" or "article" as used in the definition of manufacturing process by Mukherji, J. may be applied to the present case also. Here the grass which is packed at the bankas depot is not a finished article. It is the article which is used for manufacturing the paper and is ultimately converted into paper by employment of various processes. The packing of such materials will, therefore, fall within the definition of manufacturing process because the article or substance used is the article which is to be subject of manufacturing process

and is not the finished article. In the circumstances, the petitioner cannot derive much advantage from this case.

13. No other authority has been cited which can support the narrow meaning which the petitioner wants to attribute to the definition of "manufacturing process" in the Factories Act. I have, therefore, come to the conclusion that the Chief Inspector of Factories was correct in his view that what is done at the petitioner's bankas depot at Nepalganj road is manufacturing process and as the other ingredients of a factory are present, the premises there was a factory to which the provisions of the Factories Act were applicable. The notices requiring the petitioner to comply with the requirements of the Factories Act were, therefore, valid notices and cannot be questioned.

14. The petition fails and is rejected.