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**(1968) 01 AHC CK 0019**  
**In the Allahabad High Court**  
**Case No : Special Appeal No. 374 of 1962**

Shree Gopal Paper Mills Ltd.

APPELLANT

Vs

Inspector of Factories, U.P.

RESPONDENT

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**Date of Decision :** 05-01-1968

**Acts Referred:**

Factories Act, 1948 — Section 2

**Citation :** AIR 1969 All 547 : (1968) 16 FLR 415

**Hon'ble Judges :** W. Broome, J;B.D. Gupta, J

**Bench :** Division Bench

**Advocate :** R.S. Pathak, for the Appellant;

**Final Decision :** Allowed

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## Judgement

Broome, J.—This special appeal is directed against an order of A. P. Srivastava, J., dismissing Civil Miscellaneous Writ Petition No. 714 of 1962.

2. The writ petition was filed by the Shree Gopal Paper Mills Limited, which manufactures paper at Yamuna Nagar in the Punjab. Raw material for this paper manufacture is obtained in the shape of "bankas" grass from the forests of Nepal. The grass is brought to various rail heads, including Nepalganj Road in the district of Bahraich, where it is compressed into bales with the aid of manually operated bailing presses and is then loaded on railway wagons, to be transported to the paper mills at Yamuna Nagar.

3. The Inspector of Factories, U. P., has issued a series of notices to the petitioner, asserting that a "manufacturing process" is being carried on at the Nepalganj Road Dept., and that consequently this depot constitutes a factory within the meaning of Section 2(m)(ii) of the Factories Act, 1948. The petitioner has accordingly been required to take out a licence for operating a factory at the place in question.

4. The petitioner sought to have these notices quashed on the ground that the operation of baling the grass carried out at Nepalganj Road did not constitute a

"manufacturing process", so as to make the depot a factory within the meaning of the Act. The learned Single Judge, however, has held that the packing of the grass for the purpose of transport by rail comes within the definition of manufacturing process given in Section 2(k)(i) of the Factories Act. which runs as follows:--

"(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."

He has pointed out that "bankas" grass is undoubtedly an article or substance, that this grass is admittedly packed at the Nepalganj Road Depot, and that the packing is done with a view to the transport and use of the grass.

5. At first sight, it is true, the process carried out at the petitioner's Nepalganj Road Depot would seem, to come within the above-quoted definition of "manufacturing process" given in Section 2(k)(i) of the Act, since it is the packing of an article or substance with a view to its use or transport. But a closer examination of the wording of this section leads us to conclude that the word "packing" used therein is not meant to cover a case like the present.

6. Packing, in the widest sense, means any kind of wrapping up or tying up of goods. But we are satisfied that the packing referred to in Section 2(k)(i) is not meant to be interpreted so widely. In *E. Hare v. State*, ILR (1955) 2 All 683 for example, it has been held not to cover the re-packing in large packing cases of cigarettes that have already been packed in cartons or tins; the argument being that for packing to constitute the kind of packing referred to in Section 2(k)(i), the article packed must be an article that is the subject of a manufacturing process, not a finished article that has already been packed and has already reached the stage of being saleable to customers without any further addition.

7. It seems to us that the packing that is aimed at in Section 2(k)(i) is the packing of the finished manufactured article, which is done to facilitate or make possible its sale or transport for sale to customers. This form of packing is in effect the last operation in the series of operations that taken together constitute the manufacture of the article for sale. In the present case, however, the packing is not of a finished article but of the raw material, and this packing i.e., the baling of the grass, has nothing to do with making the article fit or convenient for sale. Many kinds of raw material have to be packed for delivery to the factory by being placed in sacks, baskets or packing cases or by being tied into bundles: but we do not think it was the Legislature's intention that such preliminary packing of the raw material should be treated as a "manufacturing process". It is significant that in the list of processes set forth in Section 2(k)(i), "packing" comes immediately after "finishing": a circumstance which lends support to the contention that the packing referred to is the process undertaken after the article has been manufactured and finished.

8. It is important to note, moreover, that the mere transport of the raw material to the factory is not in itself a "manufacturing process", as defined in the section, for it finds no place in the list of processes set forth therein. And it is difficult to believe that the packing that is only incidental to such transport of raw material was meant to be covered by the definition. In the present case the baling of the grass has nothing whatsoever to do with the processes whereby the grass is converted into paper, but is resorted to in order to reduce the volume purely for the purposes of rail transport, for if the grass were to be placed in the wagons loose and uncompressed, it would take up much more room and the freight charges would be enhanced. We are satisfied that baling or packing of this kind, which is carried out in respect of the raw materials before they reach the factory and which does not in any way facilitate the actual manufacturing process for which the raw materials are intended, is not "packing" in the sense that this word is used in Section 2(k)(i) of the Factories Act and does not constitute a "manufacturing process" as defined therein.

9. We therefore hold that the Inspector of Factories was not justified in treating the petitioner's Nepalganj Road Depot as a factory and in asking the petitioner to take out a licence in respect thereof. This special appeal is accordingly allowed, the order of the learned Single Judge is set aside and a mandamus is granted directing the Inspector of Factories to withdraw the impugned notices dated 13-3-1961, 6-5-1961, 28/10/1961 and 30-11-1961.