

(1992) 08 RAJ CK 0047

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4194 of 1990

Singhal Brothers

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 10-08-1992

Acts Referred:

Citation : (1992) WLN 159

Hon'ble Judges : R. Balia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R. Balia, J.—The petitioner, who is a partnership firm and a license under the Rajasthan Agricultural Produce Markets Act, 1961 (hereinafter referred to as "the Act"), engaged in the business of sale and purchase of foodgrains at Flana; has filed this writ petition against the Krishi Upaj Mandi Semlti, Sumerpur, district-Pali, alleging that it is charging market-fee from the licencees transacting their business at Mandi premises but has not been providing the requisite facilities which the Mandi should provide at its yard and, therefore, the charge of market-fee from the petitioner and his likes is against the principle of quid pro quo.

2. The respondents have filed return alongwith details of expenses incurred by the Agriculture Marketing Committee (hereinafter referred to as "the Committee") during last five years and have also produced a chart (Ex, R. 2) conveying details of last 10 years" budget and actual income. It has also produced maps showing the projects which the Committee intends to taken on.

3. So far as the principle of quid pro quo is concerned, it has now firmly been established that for examining the question whether the market-fee is commensurating with the facilities provided, while it cannot be over-looked that there has to be some co-relation between the fee charged and services rendered, it cannot be subject to a mathematical precision. This Court after taking into

consideration the pronouncement made by their Lordships of Supreme Court in *Sreenivasa General Traders and Others Vs. State of Andhra Pradesh and Others*, and in *Kishan Lal v. State of Rajasthan* 1990 I SVLR 570, in *S.B. Civil Writ Petition No. 4431 of 1989 Gokal Chand v. State of Rajasthan and Anr.* decided alongwith 12 connected cases on December 13, 1990; observed as under:

Thus, the these authoritative pronouncements of the Hon''ble Supreme Court, it appears that it is not possible to establish a mathematical correlation between the fee charged and the services rendered. But in view of the return filed by the respondents, it appears that necessary steps have been taken by the respondents in providing the essential services to the traders who deal in sale and purchase of agricultural produce within the notified market area. Therefore, it can safely be said that the contention of the petitioner that he has not been provided with any facility and on account of the failure of the market committee to extend the services to the Petitioner, they are not entitled to take licence and pay market fee, is not correct. Looking to the budget and the steps taken by the market committee, it can safely be said that the petitioner is likely to be benefited by the services rendered by the market committee and are sought to be provided by the market committee at the principal market yard or at the sub-market yards. It is not possible to establish a sub-market yard at every village but it is certain that the traders who deal in the sale and purchase of agricultural produce are directly or indirectly benefited by the establishment of the market yard as the agricultural produce of every kind are to be purchased and sold within the market area.

In this view of the matter, the contention of the wholesaler that since they are not getting the facilities, at the market area in their villages therefore, they are not liable to take licence cannot be sustained.

4. The present case is not different from the one which was in *Gokol Chand's* case (*supra*).

5. The petition is, accordingly, dismissed. However, it will not restrain the petitioner from approaching the Samiti with its demands for proper facilities and the Samiti will entertain such demand on its merits, if its finance permit.