(1981) 07 KAR CK 0038

In the Karnataka High Court

Case No : WP 5841/80

Sri Kandoba Temple Committee, Khanapur — APPELLANT

Vs

A.P.M.C., Bhalki. — RESPONDENT

Date of Decision : 13-07-1981

Acts Referred:
Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 — Section 63

Citation : (1981) 2 KarLJ 347

Hon'ble Judges : K. S. Puttaswamy, J

Judgement

In this petition under Art. 226 of the Constitution, the petitioner has challenged the Notice No. APMC BLK/1723 79-80 dated 22.3.80 (Annexure-A) issued by the Agricultural Produce Market Committee, Bhalki, Bidar Dt. herein after referred to as the APMC.

2. At Khanapur village of Bidar District, there is a Hindu temple called "Khandoba Temple", the affairs of which is managed by a Committee constituted thereto which is the petitioner before me. Prior to 22-11-1979, the petitioner was conducting a cattle fair on every Sunday of the week on lands owned by the Temple by auctioning that right and utilising the proceeds thereof for the maintenance of the said temple.

3. In Notification No. MD EM-CR-493/R & E 79-80 dated 22.11.79, exercising the powers conferred by sub-section (2) of S. 6 of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Kar. Act 27 1966) (hereinafter referred to as the Act), the Chief Marketing Officer in Karnataka State (hereinafter referred to as the CMO) has declared Khanapura village as a sub-market area and the localities specified in the Schedule as a sub-market yard to regulate marketing of notified agricultural produce in the said sub-market area by the APMC. As the petitioner does not challenge this notification, its legal affect on the rights of the petitioner to conduct the cattle fair, if any, on the temple lands as was being done prior to 22.11.79 does not arise and is not decided.

4. But, evidently, on the basis of the aforesaid notification of the CMO the APMC

by its letter dated 22-3-80 (Annexure-A) has called upon the petitioner to hand over the management of the cattle fair to it, with further direction not to collect any fees in future. That letter reads thus:

"I am to inform you that the Government of Karnataka through Notification No. MD/EM-CR 493/R & E/79-80 dated 22-11-1979 has declared the Khanapur village as Sub-Market Yard of A.P.M.C. Bhalki.

Therefore you are requested to hand over the management of the cattle market Khanapur to the A.P.M.C. Bhalki forthwith and the auction of the collection of fees for the year 1980-81 should not be done. The A.P.M.C. Bhalki is fully empowered to manage the cattle market itself only.

A copy of the Notification is herewith enclosed."

The petitioner contends that the impugned letter is without the jurisdiction of the APMC and illegal. In its return, the respondent has justified the same.

5. Sri Mohandas N. Hegde, learned counsel for the petitioner, contends that the APMC has no right to call upon the petitioner to hand over the management of the cattle fair conducted by it or direct it not to collect any fees in future.

6. Sri V.S. Gunjal, learned counsel for the respondent, in justifying the action of the APMC urged that cattle being an agricultural produce, the petitioner cannot conduct the cattle fair or collect any fees.

7. In Notification dated 22.11.79 (Annexure-B), the CMO has declared Khanapur as the sub-market area and the areas specified in the Schedule to the said Notification as a sub-market yard to regulate the marketing produce under the Act. Sri Hegde does not dispute that cattle is agricultural produce under the Act as it stood prior to its amendment by the Karnataka Agricultural Produce Marketing (Regulation) Amendment Act, 1980 or thereafter and the power of the APMC to regulate the marketing of the same in the sub-market areas and the sub-market yard. But, what he contends is the regulation of marketing is entirely distinct and different from taking over the management of the cattle fair and the consequent direction for collection of fees.

8. The Act nowhere empowers the APMC to call upon a trader or the temple to hand over the management of its trade in an agricultural produce. The power to regulate the trade conferred on the APMC by the Act does not comprehend in itself the power to take over the trade itself by the APMC. The Act does not extinguish the trade in an agricultural produce but only regulates the same primarily in the interest of the agriculturists and secondarily in the interest of the trader and the consumer. From this, it follows that the demand made by the APMC is unauthorised, illegal and is liable to be quashed.

9. In the light of my above discussion, I quash the impugned letter issued by the APMC. But, this order does not prevent the APMC from regulating the trade in agriculture produce in the sub-market area and the sub-market yard in

accordance with the Act.

10. Rule issued is made absolute.

11. In the circumstances of the case, I direct the parties to bear their own costs.