

(1974) 08 AP CK 0005

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 799 of 1973

State of Andhra Pradesh

APPELLANT

Vs

G. Mastan Rao and Others

RESPONDENT

Date of Decision : 08-08-1974

Acts Referred:

Constitution of India, 1950 — Article 19(1), 19(5)
Essential Commodities Act, 1955 — Section 3

Citation : AIR 1975 AP 206

Hon'ble Judges : S. Obul Reddi, C.J.;Lakshmaiah, J

Bench : Division Bench

Advocate : The Govt. Pleader for Food and Agriculture, for the Appellant; G. Vedanta Rao, for the Respondent

Final Decision : Dismissed

Judgement

S. Obul Reddi, C.J.—This Writ Appeal, preferred by the Government, is directed against the judgment of our learned brother, Chinnappa Reddy. J., in Writ Petition No. 5649 of 1972, striking down Clauses (a) and (b) of the proviso to Clause 3 (2) of the Andhra Pradesh Rice Procurement (Levy) and Restriction on Sale Order, 1967 (hereinafter referred to as the Control Order).

2. The facts leading to the filing of the writ appeal are these: The respondents, some of them agricultural labourers, some of them cultivators and others who had purchased paddy from cultivators, filed the writ petition questioning the restrictions imposed upon the cultivators and agricultural labourers to get paddy milled for their personal consumption. It is the case of the respondents that the Control Order has been promulgated imposing obligations only on millers and dealers in the matter of making available certain percentage of the total quantity of rice produced or manufactured by a miller at his rice-mill and that the Control Order is not intended to fetter the milling of rice for personal consumption by cultivators or agricultural labourers and that, therefore, the restrictions imposed infringe upon their fundamental rights to have the paddy, which they produced

or which they earned, milled as rice as and when necessity arises having regard to the number of members in each of the families of a cultivator or an agricultural labourer.

3. Our learned brother. Chinnappa Reddy, J., was in agreement with the contention advanced on behalf of the respondents viz., that the restriction imposed upon an agricultural labourer or a cultivator in the matter of getting paddy converted into rice at a mill infringe upon their fundamental rights under Article 19(1)(f) of the Constitution.

4. Mr. D. Venkata Reddy. the learned Government Pleader appearing for the appellant-Government, strenuously contended that there is nothing unreasonable in the restrictions imposed upon a cultivator or an agricultural labourer in asking him not to have more than three quintals of paddy or one quintal of paddy, as the case may be. milled at a time in a month or in further asking them to produce a certificate from the Village Karnam in respect of the paddy so milled stating that that was for their personal consumption.

5. The relevant provisions of the Control Order are these:

"3. Levy on rice: (1) Every miller carrying on rice milling operations shall sell to the agent or an officer duly authorised by the Government in this behalf at the notified price and at such percentage of the total quantity of each variety of rice produced or manufactured by him in his rice mill every day as is specified for each district in the schedule.

(2) Every dealer shall sell to the agent or an officer duly authorised by the Government in this behalf at the notified price and at such percentage of the total quantity; of

(a) each variety of rice got milled by him every day out of his stocks of Paddy; and

(b) each variety of rice purchased or otherwise acquired by him for the purpose of sale from persons other than millers or dealers as is specified for each district in the Schedule;

Provided that nothing contained in sub-clauses (1) and (2) shall apply to the rice obtained for personal consumption by a cultivator from the stocks of paddy grown by him or by an agricultural labourer out of the stocks of paddy earned by him as wages subject to the following conditions:

(a) that the cultivator shall not mill more than 3 quintals of paddy and the agricultural labourer not more than 1 quintal of paddy at a time in a month; and

(b) that he shall produce a certificate from the village Karnam that the paddy so milled is for his personal consumption. Such a certificate shall be handed over to the Miller."

This Control Order was promulgated by the Governor in exercise of the powers

conferred upon him under the provisions of the Essential Commodities Act and with the prior concurrence of the Central Government. The object of this clause is to see that every miller, who carries on rice milling operations sells to the Government, at the notified price, such percentage of the total quantity of each variety of rice got milled by him in his rice mill every day out of his stocks of paddy. Whether he purchases or himself produces paddy is immaterial. In other words, this clause is intended to impose certain percentage of levy on rice on every dealer and miller. Cultivators and agricultural labourers are exempt from the operation of this levy subject to the conditions laid down in Clauses (a) and (b) of the proviso.

6. What the learned Government Pleader contends is that millers are taking advantage of the fact that Clauses (a) and (b) of the proviso are struck down by this Court to fabricate false accounts showing that the Paddy milled at their mill belongs to cultivators or agricultural labourers and selling the resultant rice obtained from paddy in blackmarket. It is his case that to achieve the object viz, to see that the millers or dealers do not indulge in blackmarketing or maintain false accounts that the conditions have been imposed upon the cultivators and agricultural labourers who seek to have their paddy milled for their personal consumption and, therefore the conditions imposed are reasonable having nexus with the object sought to be achieved by the Control Order.

7. The two conditions imposed are; (1) that a cultivator shall not get more than three quintals of paddy milled at a time in a month; and (2) that an agricultural labourer shall not get more than one quintal of paddy milled at a time in a month. There does not appear to be any basis for fixing three quintals of paddy for being milled by a cultivator and one quintal of paddy by an agricultural labourer. It does not appear that, while laying down this condition, the rule-making authority had taken into consideration the number of persons that require to be fed in the family of a cultivator or in the family of an agricultural labourer. Even if one quintal of paddy converted into rice is not sufficient for all the members of the family of an agricultural labourer or cultivator even then it will not be open to him to go to a mill and ask for an additional quantity of paddy being milled, for the limit prescribed is only one quintal or three quintals, as the case may be, at a time in a month. In other words, even if he is in possession of more than one quintal of paddy and one quintal of paddy may not be sufficient to feed all the members of his family for more than a week or two he is prohibited from going to the mill to get his paddy milled. There does not appear to be any rationale behind this classification viz., providing for milling of three quintals of paddy in the case of a cultivator and one quintal of paddy in the case of an agricultural labourer. There is also the further factor viz., there is another class of labourers other than the agricultural labourers, who may purchase paddy from a cultivator provided the cultivator had surrendered his quota of paddy, which he is bound to, under the other Control Orders. If that class of labourers were to purchase from a cultivator, they cannot go to a mill for conversion of paddy into rice, for Clause (a) of the proviso speaks of only agricultural labourers and

cultivators. A labourer, who is not a dealer or a miller, does not come within the purview of Clause 3 of the Control Order at all and even so no provision is made for him for having the paddy purchased by him out of the wages earned by him milled at a rice mill. The other condition laid down in Clause (b) of the proviso is tagged on to the condition in Clause (a). An agricultural labourer or a cultivator has to produce a certificate from the village Samara stating that the paddy so milled is for his personal consumption and that the certificate should be handed over to the miller. It is common knowledge that certain groups of villages have one karnam and it is not every village that has a village karnam, taking sides with one or the other faction, if he refuses to give a certificate to a cultivator or an agricultural labourer without any reason whatsoever, then there does not seem to be any way for a cultivator or an agricultural labourer getting his paddy milled for his personal consumption. In other words, if a Karnam were to act arbitrarily or capriciously, the cultivator or agricultural labourer has no manner of redress against his arbitrariness. Further, a cultivator may like to have more than one quintal of paddy to be milled on account of marriage in his house. Clause (a) of the proviso fetters his discretion to have such quantity of paddy as he may require to be milled at a particular time having regard to his needs and convenience. He is put under the obligation of running up to the village Karnam every month, whether the Karnam is available or not. If, on the day when he requires the paddy to be milled and the need for that arises on that day, the Karnam is not in the village or has gone on official work to the taluk headquarters or somewhere or if no Karnam is appointed for some days on account of his having gone on leave, the cultivator or the agricultural labourer is helpless. There is no authority whom he can approach in the absence of the Karnam for a certificate. Whether a particular restriction imposed on one's freedom under Article 19(1)(f) of the Constitution is reasonable or not depends upon the facts and circumstances of each case. No abstract standards can be laid down. Therefore, taking the facts and circumstances of the case into consideration and also the object sought to be achieved by the Control Order, we are unable to say that the restrictions imposed under Clauses (a) and (b) of the proviso to Clause 3 (2) of the Control Order are reasonable restrictions to stand the test of Article 19(5) of the Constitution.

8. We, therefore, agree with the view expressed by the learned Single Judge and dismiss the appeal with costs. Advocate's fee Rs. 100/-.