

(1964) 04 MAD CK 0066
In the Madras High Court
Case No : Writ Appeal No. 61 of 1963

The Young Men's Indian Association (Regd.)	APPELLANT
Vs	
The Assistant Inspector of Labour	RESPONDENT

Date of Decision : 15-04-1964

Acts Referred:

Tamil Nadu Catering Establishments Act, 1958 — Section 2(1), 2(11), 2(12), 23, 4

Citation : (1965) ILR (Mad) 29

Hon'ble Judges : S. Ramachandra Ayyar, C.J.; Venkatadri, J

Bench : Division Bench

Advocate : N. Venkatarama Ayyar, for the Appellant; V. Ramaswami, Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

S. Ramachandra Ayyar, C.J.—This appeal against the judgment of Jagadisan J., raises the question whether the hostel and canteen by the Young Men's Indian Association at George Town and Mylapore will come within the scope of the Madras Catering Establishments Act, 1958 (hereinafter referred to as the Act). The learned Judge answered that question in the affirmative.

2. The Young Men's Indian Association is a society registered under the Societies Registration Act XXI of 1860. The main object of this Association is to draw together youngmen of all classes and creeds under a common roof with a view to enable them to recognize their common interest as citizens. The activities of the Association are mainly directed towards the physical, mental and moral development of its members. The Association maintains a library, recreational facilities, etc., and its income and property are devoted solely for the above objects. The Association also provides an amenity to its members by running a hostel and canteen both at George Town and Mylapore. Both the hostel and canteen, which are open fully to the members of the Association and to their authorised guests, are run without an intention of making a profit.

In the year 1958, the Madras Legislature enacted the Catering Establishments Act with a view to regulate the conditions of work in catering establishments in the State of Madras. In the statement of Objects and Reasons it is stated:

The question of suitability of the Madras Shops and Establishments Act, 1947, for application to hotels and other catering establishments was discussed by the Commissioner of Labour in 1953 with some hotel owners and labour leaders and it was agreed that separate legislation was necessary. It is, therefore, proposed to enact a separate piece of legislation to regulate the conditions of work in hotels and other catering establishments.

Section 4 of the Act provides that catering establishments, not covered by the exemptions provided for in the Act, will have to register themselves and obtain a certificate therefor. Such registration certificate will have to be obtained every year on payment of the prescribed fees. The employer of the catering establishment has to send a statement in the prescribed form with the prescribed fee within thirty days of the coming into force of the Act, in the case of establishments which were in existence at that time. Contravention of this provision is made punishable u/s 23. The employer has a duty to notify every change in respect of the information specified in Section 4. If he wishes to close the establishment, he can do so only after notifying the Inspector appointed under the Act. Section 7 onwards provide for the conditions of service of the persons employed in catering establishments like the hours of work, intervals for rest, spread over, holidays and extra wages for extra work, leave with wages, advance payment of leave wages, prohibition of the employment of children and prohibition of employment of women and young person during nights, etc. They also provide for machinery to recover wages; and also for notice of discharge and other allied matters. The Act empowers the State Government to exempt permanently or for any specified period any or any class of catering establishments.

3. The Young Men's Indian Association applied for such exemption but did not succeed in that attempt. But that circumstance cannot affect the question whether the provisions of the Act will apply to it or not.

4. Section 4 of the Act requires that a catering establishment should be registered and that every employer should send to the Inspector a statement in the prescribed form. The words catering establishment by themselves convey the idea of purveying food, etc., as a business. Prima facie, they cannot apply to a case where food, refreshments and snacks are provided not as a part of the employer's business but only incidentally.

5. Section 2(1) of the Act which gives the definition of the term catering establishment is even more restrictive than the ordinary meaning of that term. It says:

Catering establishment means a restaurant or residential hotel.

Sub-sections (11) and (12) of Section 2 defines what are residential hotels and restaurants.

6. The former, defining a residential hotel says:

any premises in which the business of providing dwelling accommodation and supply of meals to any member of the public or a class of the public is carried on.

7. The latter says:

Restaurant means any premises in which, is carried on the business of the supply of refreshments or meals to the public or a class of the public for consumption on the premises.

8. A careful reading of these definitions show that unless the providing of dwelling accommodation and the supply of meals or refreshments are done as a business, and that too to the public or to a class of the public it would not be a catering establishment within the meaning of the Act.

9. The word business had undoubtedly a wider connotation than the word trade. But the business that will come within the definition should consist in supplying articles of food to the public. Reading them together, it is plain that a restricted meaning should be given to the word business. In *Smith v. Anderson* (1880) 15 Ch. D. 247 Jessel M.R., while recognising that the word business will have a large and indefinite import, however, observes at page 258:

That is to say, anything which occupies the time and attention and labour of a man for the purpose of profit is business.

In *A Debtor In re. Debtor Ex parte* (1936) 1 Ch. 237 a question arose as to whether a series of speculative transactions would amount to carrying on of business within the meaning of the Bankruptcy Acts. Lord Wright M.R., said at page 239:

Business is a much wider term than trade. The word "business" at least covers a continuous occupation involving liability to others...

In *Gannon Dunkerley v. State of Madras* ILR (1955) Mad. 832 this Court, while construing the meaning of the word business in the definition of the term dealer under the Madras General Sales Tax Act, has observed at page 865:

"Business" in the definition does not include every activity which in popular sense is called business. The word "business" must be understood in a commercial sense as involving an activity designed to earn profit.

It will be apparent from the foregoing that profit motive would be an essential element in a business.

10. Jagadisan J., however, held that as the Act was a piece of welfare legislation for promoting the interests of labour, to prevent exploitation by employers, a wider meaning should be given to the word business. The learned Judge

referred, in this connection, to several decisions which lay down the principle that the words in a statute should be interpreted in accord with the intention of the legislation. There can be little doubt in regard to the correctness of this proposition. But, at the same time, it must be recognised that the definition given in a statute provides the key to its meaning.

A statute has, therefore, to be understood in the light of the definitions contained in it. Generally the scope and extent of operation of a statute has, to be determined according to the language used therein. That language again has to be understood normally in the light of the definition contained in the Act. There have been instances where an apparently wide meaning imported by the definition has been controlled by the operative words of the statute. But, where there is no such question of conflict between the definition and the operative part of the statute, the normal rule is that the meaning of the statute has to be ascertained only with reference to the definition. It will not, therefore, be open to the Court to enlarge the scope of the statute on any assumed or presumed policy of the Legislature behind the enactment. Except perhaps in cases where the statute is obscure or ambiguous, external aids to interpretation should not be resorted to. It may be that the legislation in the instant case was a welfare legislation. But that is not a reason why its operation should extend beyond its plain intendment. As we have pointed out, the definition of catering establishment imports the idea of a business in supplying articles of food to the public. It is a well-settled rule of interpretation that where two or more words are coupled together and used, they take colour from each other. In *Maxwell on Interpretation of Statutes* (eleventh edition), page 321, it is stated:

When two or more words which are susceptible of analogous meaning are coupled together *noscitur a sociis*, they are understood to be used in their cognate sense. They take, as it were, their colour from each other, that is, the more general is restricted to a sense analogous to the less general.

The limits of this rule was discussed by the Supreme Court in *The State of Bombay and Others Vs. The Hospital Mazdoor Sabha and Others*, where *Gajendragadkar J.*, (as he then was) observed at page 874:

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 present 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.

In the present case the word business though generally of wide import, does acquire a more limited meaning when read with the words of the supply of

refreshments to the public. Having regard to the fact that residential hotel and restaurant have been defined in the Act, and are intended to interpret the words catering establishment, implying as they do a business with a profit motive, we must conclude that the object of the Legislature was to use the word business in its commonly accepted sense, namely, that form of systematic activity prompted by a profit motive. To give a different interpretation would bring within the meaning of the Act annachatrams, private guest houses, etc., it would hardly have been the intention of the Legislature that these institutions should be comprehended by the Act.

11. Further, the words contained in the definition show that the supply of refreshments, etc., should be to the public or to a class of the public. Where such supply is restricted to the members of a hostel or of a registered Association, it cannot be said that there was supply to the public. The public may, no doubt, become members of such an association. But once they do so, they become part of it.

12. There is yet another reason. When such an association supplies food to its members at cost price, it can only be regarded as a case of providing amenity to the members and not that it does as business in the supply of such articles.

13. We are, therefore, unable to share the view of the learned Judge that the Act would apply to the Appellant Association. The appeal succeeds and is allowed with costs.