
(1969) 01 MAD CK 0029
In the Madras High Court

Thiru Arooran Sugars Ltd.		APPELLANT
	Vs	
Industrial Tribunal and Others		RESPONDENT

Date of Decision : 10-01-1969

Acts Referred:

Constitution of India, 1950 — Article 226, 43
Industrial Disputes Act, 1947 — Section 10, 2, 25A

Citation : (1970) 2 LLJ 249

Hon'ble Judges : Ramakrishnan, J

Bench : Single Bench

Judgement

Ramakrishnan, J.—The petitioner in this writ petition is the management of Thiru Arooran Sugars Ltd, Vadapathimangalam, Tanjore District.

The first respondent is the Industrial Tribunal, Madras. The 2nd respondent is the secretary of the employees' union of the petitioner management.

The third respondent is another labour union and there is also a third union impleaded as the 4th respondent, Arooran Sugar Factory and Farm

Workers Union, Vadapathimangalam. The dispute which has to be considered for decision in this writ petition under Article 226 of the

Constitution for the issue of a writ of certiorari arises under the following circumstances.

2. The petitioner is a public limited company with a capital of rupees one crore, formed in 1954. It acquired a large area of waste land, nearly

5200 acres in extent, in Tanjore District in the neighbourhood of its sugar factory for the purpose of cultivation of sugar-cane to meet the needs of

the factory for production of sugar. Sugar-cane is cultivated in the land acquired by the company as part of the activity of the company, though

separately organised as a department called farm-section.

3. The questions that arose for decision by the tribunal were the revision of the dearness allowance as well as the categorisation of the workers and

the staff for the fixation of scales of wages. The Central Wage Board for the Sugar Industry, 1960, had given directions covering both the points.

But it was assumed that the recommendation of the Central Wage Board would apply only to the employees in the factory or mill, but not to the

employees in the farm section of the petitioner, which deals with the cultivation of sugar-cane on the management's extensive cultivable lands. The

union of the workers in the farm section, therefore, wanted an adjudication on the two questions, (1) of revision of dearness allowance and (2) the

categorisation of the staff for fixation of the scales of wages, by treating the issues as an industrial dispute. The management would not agree to the

claim that the workers in the farm section were workers employed in an industry, to whom the provisions of the Industrial Disputes Act would

apply. This dispute was referred by the State Government u/s 10(1) of the Industrial Disputes Act to the Industrial Tribunal, Madras, for

adjudication. That tribunal numbered the reference as Industrial Dispute No. 21 of 1963 and passed an award on 31st December, 1963.

4. The tribunal held that the workers in the farm section of the petitioner-management are employees in an industry to whom the Industrial Disputes

Act would apply and, therefore, the reference to the Industrial Tribunal for adjudication was one which the Industrial Tribunal had jurisdiction to

dispose of. Thereafter, it gave specific recommendations in regard to the revision of the dearness allowance and in regard to the categorisation of

the farm workers and the staff with appropriate scales of wages, these two being the points referred to the Industrial Tribunal for adjudication.

5. Though in the grounds of the writ petition filed by the management against the above award, the findings of the Industrial Tribunal both regarding

the question of jurisdiction and regarding the quantum of relief afforded by it were disputed, at the time when the writ petition came on for hearing,

learned Counsel Sri M.R. Narayanaswami, appearing for the management, fairly conceded that with the passage of time and bearing in mind the

exigencies of the increase in the cost of living, the relief which the management has subsequently afforded to the workers in the farm section at the

present moment, is really more than what the Industrial Tribunal has itself awarded. Therefore, learned Counsel contended that there is no point in

examining the merits of the decision of the Tribunal in regard to the quantum of benefit by way of dearness allowance and the scale of wages. But

he presses for a decision by this Court on the question of the jurisdiction of the Tribunal under the Industrial Disputes Act to decide a dispute of the

present kind in regard to farm workers so that, in future at least, there may be a proper guidance in this regard. So, I shall address myself in the

rest of this order to this brief question, whether the employees in the farm section of the petitioner management can be considered as workmen

employed in an industry to whom the provisions of the Industrial Disputes Act will apply.

6. Evidence was adduced before the Industrial Tribunal about the nature of the work in the farm section both from the point of view of the

administrative organisation, as well as the nature of the duties. We have reference to it in the award of the Tribunal and the correctness of the

finding of the Tribunal on this question of fact is not disputed before me. This is what the Tribunal has recorded about the facts established by the

evidence.

7. The company was incorporated in July, 1954, with the primary object of manufacturing sugar from sugar-cane. The factory was put up at

Vadapathimangalam in Tanjavur district. The area where the factory is situated was predominantly, if not exclusively, a paddy producing area. A

large area of nanja lands was acquired by the company for the purpose of raising sugar-cane to feed the factory. This became necessary because

sugar-cane cultivation was not carried on in the locality in and around Vadapathimangalam at the time when the factory was put up. To start with, a

seed nursery was raised over an area of 600 acres in the latter part of 1954, and the seed obtained therefrom was transplanted in about 3,000

acres early in 1955, and the sugarcane harvested therefrom during the year 1956 was crushed in the factory from February, 1956, onwards, The

production of sugar started with regular crushing in December, 1955. It is true the sugarcane produced in the farm belonging to the company is not

sufficient to meet all the requirements of the sugar factory and the management is obliged to buy some quantities of sugar-cane from ryots who

produce them in their own fields. Exhibit M-1 gives the figures of such purchases. In respect of sugar-cane purchased from ryots, the government

of Madras levy a purchase tax while the cane produced in the farm owned by the company and consumed by the factory is not liable for such levy.

8. This farm section is put in charge of a Chief Sugarcane Officer, No separate balance sheet or profit and loss account is prepared for the farm

section and the only balance sheet published is that of the limited company wherein expenditure incurred for the farm section by way of salaries,

wages and other expenses of working the farm is included. In the balance sheet of the company under the heading ""assets"", one finds mention of

6,200 acres of land on which sugar-cane is cultivated. It is also clear that there is only one provident fund for all the workmen employed in all the

various sections of the company, i.e., in the farm, factory or office. There is only one medical officer attending to the medical needs of all the

workmen of the company including those employed in the farm section. Besides, there is only one staff regulation which governs the staff matters of

the employees of the company, barring the factory workers who are governed by separate standing orders. Orders of employment of the

workmen attached to the farm section are issued by the Administrative Manager of the company. It is also in evidence that there have been

transfers from farm section to the factory and there is nothing in the staff regulations which prevents the management from transferring an employee

from one section to another, Coconut trees standing on the farm are leased out by the Administrative Manager and the income comes into the

profit and loss account of the company.

9. From the above facts, the Tribunal concluded that the farm section crushing sugar-cane is integrated with the sugar production section in the

factory and both form an industry. There is no room to view the farm section independently as involving only an agricultural activity in

contradistinction with an industrial activity or to treat the workers in the farm section as agricultural workmen and not as industrial workmen to

whom the provisions of the Industrial Disputes Act would not apply. It is this finding which is the finding of jurisdiction which is attacked in this writ

proceeding.

10. There has been a long catena of decisions of the Supreme Court relating to the question, how the definition of ""industry"" found in Section 2(j)

of the Industrial Disputes Act has to be construed. The principle laid down in the

decisions have now become crystallised. There is no substantial difficulty in my judgment for applying the principles of those decisions to the facts of the present case. The definition in Section 2(j) is that:

"Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.

This definition prima facie is in two parts. The first part referring to business, trade, undertaking, manufacture or calling appears to have been intended to consider the nature of the activity, from the point of view of the employers, and the second part referring to calling, service, employment, handicraft or industrial occupation or avocation of workmen is intended to deal with the activity from the point of view of the workmen. But this does not mean that the two parts of the definition are water-tight compartments. They are intended only to amplify by means of a clear definition the nature of the activity which is to be called as an industry. A decision of the Supreme Court, namely, *Madras Gymkhana Club Employees' Union v. Madras Gymkhana Club* (1967) 33 F.J.R. 157 has laid it down that the cardinal test is to find out whether there is an industry according to the denotation of the word in the first part and that the second part will then show what will be included from the angle of the employees. The two parts of the definition are interrelated and are obviously to be knit together.

11. Several antecedent decisions were cited before me at the hearing of the case; but it is sufficient to refer to the latest decision of the Supreme court in *Madras Gymkhana Club Employees' Union v. Madras Gymkhana Club* (1967) 33 F.J.R. 157, for the purpose of explaining the principles involved in the definition, because that decision has referred to the important earlier decisions bearing on the subject. There were early decisions which distinguished between a regal function and a municipal function, when dealing with the activity from the point of view of the employer. But that distinction is not relevant for the present case. What is relevant is a summary contained in the decision cited above and which is described as new tests established by later Supreme Court decisions, namely, *State of Bombay v. Hospital Mazdoor Sabha* (1960) 17 F.J.R. 423, *Ahmedabad Textile Industry Research Association v. State of Bombay* (1960) 19 F.J.R. 329,

National Union of Commercial Employees v. M.R. Meher

(1962) 22 F.J.R. 25, Harinagar Cane Farm v. State of Bihar (1963) 24 F.J.R. 485, and University of Delhi v. Ram Nath (1963) 24 F.J.R. 509.

These tests, as summarised in the decision of the Supreme Court in Gymkhana case (1967) 33 F.J.R. 157, are the following : (1) The activity must

be organised as business or trade as ordinarily organised. (2) The activity need not necessarily be preceded by procurement of capital in the

business sense, nor must profit be a motive. So long as the relationship of employer and workmen is established with a view to production of

material goods, or material services the activity must be regarded as an undertaking analogous to trade or business. (3) The association of capital

and labour must be direct and essential. In the decision which gave rise to this particular test, namely, National Union of Commercial Employees v.

M.R. Meher (1962) 22 F.J.R. 25, the services of a solicitor were regarded as individual depending upon his personal qualifications and ability, to

which the employees did not contribute and that therefore a solicitor's office is not an industry. (4) It may be possible to have a work or operation

which is incidentally connected with the main industry of the employer and the workmen in that incidental activity may also come within the scope of

the Industrial Disputes Act. Vide J.K. Cotton Spinning and Weaving Mills Co. Ltd. v. Labour Appellate Tribunal (1963) 25 F.J.R. 93.

12. There is one other decision of the Supreme Court where the facts are very analogous to the facts of the present case. This is the decision of the

Supreme Court in Harinagar Cane Farm v. State of Bihar (1963) 24 F.J.R. 485. The Supreme Court itself in the Gymkhana case at page 165 of

the report has made reference to this decision as representing a case where the difficulty of laying down tests from case to case was felt. The

Supreme Court observed that agricultural operations were held to be an industry on the facts of the case, the Harinagar Cane Farm but at the same

time agriculture under all circumstances could not be called an industry. This decision in Harinagar Cane Farm v. State of Bihar (1963) 24 F.J.R.

485, is one in which the Tribunal below placed a great deal of reliance and is therefore necessary to consider it more fully. There were two

managements in that case. The Motipur Zamindari Company, appellant in Civil Appeal No. 31 of 1961, which produced sugar-cane for sale to

Motipur Sugar Factory in pursuance of an agreement, also undertook certain contract work for other activity. But we are not concerned, for the

purpose of the present case, with the finding of the Supreme Court in regard to the Motipur Zamindari Company. The other management

concerned in that decision was Harinagar Cane Farm, the appellant in Civil Appeal No. 349 of 1962. The judgment mentions the fact that

Harinagar Cane Farm had been purchased by the Harinagar Sugar Mills and since then was functioning as a department of the said mills. It was a

subsidised concern of the mills and a part of the organisation of the mills itself. The mills through this section produced sugar-cane (the word sugar

in the report appears to be a mistake for sugar-cane) for its own purpose. It is in the background of this character of the activity of the respective

appellants that the question raised by the appeals had to be determined. After observing the necessity to take care not to lay down an unduly

general or broad proposition which may affect facts and circumstances which are not before industrial adjudication in the particular case with which

it is concerned, the Supreme Court, with reference to the facts of the Harinagar Cane Farm case, (1963) 24 F.J.R. 485 observed:

Bearing in mind the importance of adopting this approach in dealing with industrial matters, we propose to deal with the narrow question as to

whether agricultural operation carried on by the two appellants constitute an industry u/s 2(j) or not. There is no doubt that for carrying on the

agricultural operations, the appellants have invested a large amount of capital, and it is not disputed that the appellants have invested capital for

carrying on their agricultural operations for the purpose of making profits. It is also common ground that the workmen employed by the appellants

in their respective operations contribute to the production of agricultural commodities which bring in profit to the appellants. Therefore, even the

narrow traditional requirements of the concept of trade or business are, in that sense, satisfied by the agricultural operations of the appellants.

What is more important in the present appeals is that the appellants are limited companies which have been formed, inter alia, for the express

purpose of carrying on agricultural trade or business. We have noticed how the agricultural operations carried on by the appellants are within their

objects, and so there is no difficulty whatever in holding that the said operations are organised by the appellants and carried on by them as a trade

or business would be carried on by any trader or businessman. When a company is formed for the purpose of carrying on an agricultural

operation, it is carrying on trade or business and a plea raised by it that this organised trade or business does not fall within Section 2(j) simply and

solely for the reason that it is an agricultural operation, cannot be sustained.

13. It appears to me from the findings of fact in the present case that there is no real distinction between the principles referred to above and

adopted by the Supreme Court for dealing with an agricultural operation of the Harinagar Cane Farm in the context of the Harinagar Sugir Mills to

which it supplied sugar-cane for crushing into sugar, and the principles to be adopted for dealing with the activity in the farm section of the

petitioner-company which also likewise produces sugar-cane which is entirely consumed by the factory of the petitioner for being converted into

sugar. Learned Counsel Sri M.R. Narayanaswami appearing for the petitioner said that there is a vital difference in the present case because the

petitioner company buys sugar-cane from other growers also and that sugar-cane so purchased, along with the sugar-cane grown by the company,

is consumed by the factory for production of sugar, This situation is due to the fact that the production capacity of the petitioner's factory, namely

1200 tons, could not be adequately met by the sugar-cane produced from its farm. Therefore to work the sugar mill to full capacity additional

sugar-cane had to be purchased, besides the sugar-cane grown on its own farm. But that will not deprive the activity in the farm section, of its

integral relationship with the activity of the sugar production in the factory. The circumstances of a common organisation, with interchange of staff, a

single union, a single profit and loss account to which the Tribunal has referred and which are also referred to earlier in this order, would show that

the elements of an integrated activity between the cane farm and the factory clearly exists. That the cane farm has got an organisation of an

elaborate nature is also amply made out by the evidence. That there is co-operation between the workmen in the cane farm and the management

which controls the farm as well as the factory for the production of a marketable commodity is also not denied. There is a large investment of

capital. Practically all the tests laid down in the several decisions, and. in substance, in the decision in the Harinagar Cane Farm case (1963) 24

F.J.R. 485, are satisfied in this case. The distinction which the learned Counsel seeks to draw between the present case and the Harinagar Cane

Farm case (1963) 24 F.J.R. 485, seems to be a distinction without a difference.

14. Before the Tribunal and also before me, learned Counsel for the petitioner referred in detail to the several provisions of the Constitution starting

from the directive principles in Article 43 where agricultural workers and industrial workers are separately mentioned. Reference was made to the

entries in the Union Lists as well as the State Lists in the Schedule to the Constitution, where agriculture and industry, agricultural income and non-

agricultural income for the purpose of taxation, succession duty, estate duty and so on are referred to. But these cannot be used in the context of

the Industrial Disputes Act. That much is clear. The Industrial Disputes Act is a special enactment intended for the purpose of bringing about a

harmonious relationship between the employers and labour in consonance with the modern principles of social justice. The provisions of the Act for

the purpose of defining an industry, workmen and so on must be construed with reference to the terms of that Act itself, and not from a priori

inference derived from the classification of industry and agriculture found in the Constitution, which was devised for purposes entirely different from

the purpose for which the Industrial Disputes Act was enacted. Certain other analogies were sought to be drawn by the learned Counsel for the

petitioner from the classification found in the schedule to the Employees' Provident Funds Act between specific industries on the one hand and

establishments on the other. There are similar schedules in the Minimum Wages Act. Thirdly, reference was made to the Industrial Disputes Act

itself where in Section 25-A an industrial establishment has been specifically mentioned, as including a plantation as defined in the Plantations

Labour Act. It is urged that since the sugarcane farm and a plantation involve similar agricultural activities, the fact that in the above explanation it

was found necessary to specify plantation in precise terms to make it an industrial establishment, would show that the framers of the Industrial

Disputes Act also did not want to include an agricultural industry as an industry. This approach appears to me to be farfetched. What is attempted

in the present case is not to bring every sugar-cane farm into the category of an industry, whereas the definition in Section 25-A. Explanation brings

every plantation as defined in the Plantations Labour Act into the category of an industrial establishment. The attempt on the facts of the present case is to find out whether a sugar-cane farm where agricultural operations are no doubt carried out but which is integrated with a sugar-cane producing mill under the same management with a common organisation, should be considered as an industry, and the workmen in the cane farm entitled to the provisions of the Industrial Disputes Act. The nature of the interrelated activities in the present case clearly show that there is no scope for dissociating the agricultural activity in the farm from the main activity carried on in the factory. On the other hand, both are only different units of a single, integrated business activity, which is an industry. From this point of view, the finding of the Industrial Tribunal about the jurisdiction appears to me to be correct and calls for no interference in the writ petition. The petition is dismissed. No order as to costs.