

(1993) 09 SC CK 0097

In the Supreme Court Of India

Case No : C.A. No's. 4871/84 and 2232, 2233-34, 2235, 2571 and 4235 of 1985 and C.A. No's. 5131 and 11690/85

T.V. Balakrishnan

APPELLANT

Vs

State of T.N. and Others

RESPONDENT

Date of Decision : 15-09-1993

Acts Referred:

Constitution of India, 1950 — Article 19, 301, 302, 303, 304

Citation : (1994) 2 SCALE 661 : (1995) 4 SCC 236 Supp

Hon'ble Judges : Yogeshwar Dayal, J;Kuldip Singh, J

Bench : Division Bench

Final Decision : dismissed

Judgement

1. The appellants-petitioners sought a declaration from the High Court that Rules 1-A(3)(b), 2, 3(ii) and 7(4) of the Tamil Nadu Timber Transit Rules, 1968 (the Rules) were void, unconstitutional and as such unenforceable against the appellants- petitioners. The Rules have been framed by the State Government under Sections 35 and 36 of the Tamil Nadu Forest Act, 1882. A Division Bench of the High Court by its judgment dated June 14, 1984 dismissed the bunch-petitions rejecting all the points raised by the petitioners. These appeals by way of special leave are against the judgment of the High Court.

2. The legality of the Rules was challenged before the High Court on the following grounds :

(i) The impugned Rules were beyond the rule making power of the State Government under Sections 35 and 36 of the Act.

(ii) The Rules impose an unreasonable restriction on the fundamental rights of the petitioners guaranteed under Article 19(i)(g) of the Constitution of India.

(iii) The Rules obstruct the trade, commerce and intercourse through at the territory of India and as such were violative of Articles 301-304 of the Constitution of India,

(iv) That the increase in fees for grant of permits could not be justified on the principle of quid pro quo.

3. So far as the first point is concerned, the precise argument was that the Rules can be framed only in respect of certain local area and not for the entire State. The High Court rejected the argument on the following reasoning :

When a tree is cut at one end of the State and transported to the other end of the State, it would be anomalous to think of different rules being made applicable, depending upon localities through which it passes, instead of uniform rules to be applied. It is only when necessity exists to limit the applicability of certain rules in respect of certain classes of timber within limited areas, the State is empowered to make such rules so that it may not be contended that within certain local limits alone differential treatment cannot be applied. Hence, the later portion of the sentence which envisages a different situation of peculiar nature, cannot be read in the manner done by petitioners as to take away the power of the State of make rules applicable to the entire State. When such statewide rules are made, no obligation rests on the State to show that necessity exists for framing them. Hence, the Tamil Nadu Timber Transit Rules, 1968, have been validly made u/s 35(d) and (k) read with Section 36 and 63(c).

Even otherwise a bare reading of Sections 35 and 36 make it clear that there is ample authority with the State Government to make rules imposing regulatory measures on the movement of timber within the State.

4. The High Court further found that the impugned Rules were only regulatory and did not in any manner infract the right of the petitioners guaranteed under Article 19(1)(g) of the Constitution of India. The High Court rejected the argument on the following reasoning:

When the rules as framed are intended to subserve the aims of the Act which was meant to consolidate the law relating to the forest produce, the transit thereof and the duty leviable thereon; and hence those rules were meant to effectuate same of all of these objects. Having noticed the uphill task faced by the Government in preventing illicit felling of trees, over large extents with limited man power, and checking at check-posts at forest frontiers having been found to be insufficient, ineffective and being no match to the swift manner in which they are carried away by lorries; and on raids conducted in places like Mettupalayam, Tambaram and elsewhere large stocks of illicit timber having been found in saw-mills and with dealers, the impugned rules, which insist on a Form II pass to accompany during every movement of timber, and hammer mark being affixed on the transported timber, are absolutely necessary for the protection and management of forest wealth in the State of Tamil Nadu, Hence, the impugned rules are not violative of Article 19(1)(g).

5. Having found that the rules were regulatory and not prohibitive, the High Court also rejected the argument based on Articles 301-304 of the Constitution of India. So far as the enhancement of fee is concerned, the High Court

examined the scheme and operation of the rules and came to the conclusion that the State Government was providing sufficient services to the timber merchants at every check-point and as such the principle of quid pro quo was satisfied.

6. The learned Counsel for the parties have taken us through the judgment of the High Court. We see no infirmity in the said judgment. We entirely agree with the reasoning and the conclusions reached therein. We, therefore, dismiss the appeals and the writ petitions. No costs.