(2011) 04 MAD CK 0140

In the Madras High Court

Case No : Writ Petition No''s. 20420 and 20421 of 2010 and M.P. No''s. 1 and 1 of 2010

V.S. Nachimuthu Mudaliar Sons, Sri. Rathinagirieswarar Rice Mill and Sri. Krishna Modern Rice Mill — APPELLANT

Vs

State of Tamil Nadu, The Tamil Nadu State Agricultural Marketing Board, Erode Agricultural Marketing Committee and The Superintendent, Agricultural Marketing Committee — RESPONDENT

Date of Decision : 25-04-2011

Acts Referred:

Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 — Section 2(12), 2(13), 24, 24(1), 3

Citation : (2011) 04 MAD CK 0140

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R.T. Shyamala, for the Appellant; C. Devi, GA for R-1 and R. Murali, GA for R-3, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—Both writ petitions were filed by two different rice mill Proprietors having their mills at Kolinjivadi and Karuvellampallam

respectively in Dharapuram Taluk, Thiruppur District. The prayer made by the Petitioners was for a direction to forbear the Respondents from

enforcing the provisions of the Tamil Nadu Agricultural Produce Marketing (Regulations) Act, 1987 and the rules as well as bylaws made by any

marketing committee in respect of purchase of any notified agricultural produce effected outside the notified market area and sold inside or outside

area issued by the Government vide Government Gazette in G.O.Ms. Nos. 3 and 4, dated 03.01.2003 and to pass such other order as may deem

it fit.

2. When the matter came up on 27.10.2010, this Court directed private notice to be served on the Respondents. On such notice, the Respondents

have entered appearance.

3. The contention of the Petitioners was that they are the owners of the rice mills. They are doing trading in Paddy, Bengal gram, Black gram,

Green Gram and Coconut Kopparai. They are also dealing with various commodities including oil seeds which are purchased from both inside and

outside the notified area either from Farmers or traders and sold to other traders inside and outside notified area as raw materials or after industrial

processing. In such matters of imported goods from outside the notified market area, they do not enjoy any benefit or facility or service from the

concerned markets of marketing committee within whose territorial jurisdiction their places of business were located. Nevertheless the local

markets of various marketing committees levy market fee for dealing with such imported goods in the guise of exercise of power u/s 24(1) of the

Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987. u/s 8 of the Act, it is stipulated that no person shall purchase or sell any

notified agricultural produce in a notified market area outside the market in that area and that the trading of notified produce is governed by the

terms of the licence. Section 2(12) defines the term ""notified agricultural produce"" means any agricultural produce specified in the notification u/s 3.

The notified area is defined u/s 2(13), which means any area notified u/s 4 as altered by any notification in terms of Section 9(1).

4. According to the Petitioners, Section 24 of the Act has to be read with Section 8. Even if any purchase is made with the farmers directly within

the notified area of the marketing committee, then the marketing committee has no power to levy or collect Cess from the traders. In the absence

of any saving clause preserving the earlier action under the old Act, there is no jurisdiction for the Respondents to levy Cess.

5. The learned Counsel for the Petitioners placed heavy reliance upon unreported decisions of this Court to contend that in terms of Section 6(2), if

no notification is issued notifying the market area, then persons who had neither purchased nor sold within the notified area and brought the

produce from outside, can make appropriate representations before the Committee and that the Committee should decide the claim in accordance with law. However, the issue raised herein is no longer res integra. The constitutionality of the Act itself has been upheld by the division bench of

this Court in Raja Palyam Paruthi Panchu Sangam v. State of Tamil Nadu and Ors. reported in AIR 1996 MADRAS 29.

6. Subsequently, the very same division bench while rejecting the similar contentions in W.P. Nos. 6812 and 6813 of 1991, dated 29.06.1994 in

N. Rajan, Proprietor, Lakshmi Trading Company v. The Secretary, Tiruchirappalli Marketing Committee, Tiruchirappalli and Anr. held in

paragraph 2 as follows:

2. It is not disputed that the Petitioners import the notified agricultural produce into the notified market area from outside the State for the purpose

of sale. When the sale of such agricultural produce takes place in the notified area of the market, such sale becomes subject to levy of market fee.

Therefore, we see no ground to grant the relief....

7. The said decision came to be followed by the subsequent division bench of this Court in W.A. No. 1600 of 2002, dated 12.07.2010 in

Thirupathur Paddy and Rice Merchants Association, Thirupathur v. Director of Agricultural Marketing, Tiruchi and Anr. and similar contentions

were rejected.

8. In the light of the above, both writ petitions must fail. Accordingly, both writ petitions will stand dismissed. However, there will be no order as to

costs. Consequently, connected miscellaneous petitions stand closed.

