

M/s. Karam Chand Ganga Prasad and Another, Etc.

Vs

Union of India and Others

Civil Appeals Nos. 2191-2192 of 1968

(J. C. Shah, K. S. Hegde, A. N. Grover JJ)

12.10.1970

JUDGMENT

HEGDE, J. -

1. The appellants in these appeals, by certificate, moved the High Court of Delhi under Article 226 of the Constitution for the issuance of writs, directions or orders as the case may be requiring the Union of India to release and deliver to the appellants some consignments of Maize transported from the State of Haryana to Howrah in West Bengal during the month of October, 1967. Their case is that the movements of Maize and been controlled by the provisions of the Essential Commodities Act, 1955, read with Northern Inter-Zonal Maize (Movement Control) Order, 1967 promulgated by the State Government on May 3, 1967. But the restrictions on export imposed by that order were removed by the State of Haryana in October, 1967. That announcement was made by the Chief Minister of that State at Karnal on October 11, 1967 and the same was announced through the Radio and published through newspapers. Relying on those announcements several parties exported Maize, which was surplus in Haryana State to Howrah in West Bengal. But at Howrah the railways authorities refused to deliver the same to the consignees on the ground that the export in question was illegal. It was disclosed at the hearing that the Maize exported was seized by the police and it was subsequently forfeited. Thereafter the persons responsible for the export were prosecuted and those prosecutions were pending.

2. The contention of the Union is that the State of Haryana had not lifted the ban on export and further it had no power to lift the ban. Hence the export was illegal and as such the railway authorities were competent to withhold the delivery of those goods.

3. The principal question that arose for decision before the High Court were : Was the ban on export lifted by the State Government ? If it did lift the ban was it competent to do so ? If the ban is held to have been validly lifted it follows as a necessary corollary that the refusal on the part of the railways to deliver the maize exported is illegal and the authorities were not competent to seize or forfeit the Maize exported. Further the prosecutions launched would become unsustainable.

4. A Division Bench of the Delhi High Court after elaborately hearing the arguments advanced in the case on the various issues arising for decision in the case rejected the writ petitions on the sole ground that in view of the pendency of the criminal proceedings before some Courts in the State of West Bengal, it is inappropriate for the High Court to pronounce on the questions arising for decision in the writ petitions. In out opinion the High Court seriously erred in coming to this conclusion. If the appellants are able to establish their case that the ban on export of maize from the State of Haryana had been validly lifted all the proceedings taken against those who exported the

Maize automatically fall to the ground. Their maintainability depends on the assumption that the exports were made without the authority of law. It is a well-established principle of law that the decisions of the civil courts are binding on the criminal courts. The converse is not true. The High Court after entertaining the writ petitions and hearing arguments on the merits of the case should not have dismissed the petitions merely because certain consequential proceedings had been taken on the basis that the exports in question were illegal. For the decision of the controversy between the parties to the writ petitions neither the presence of the State of West Bengal nor the authorities who took penal action was necessary. The validity of the steps taken by them, as mentioned earlier, would depend upon the validity or otherwise of the export in question.

5. For the reasons mentioned above we allow these appeals, set aside the orders under appeal and remit the cases to the High Court for disposal on merits. We hope that the High Court will be able to dispose of these cases at an early date. The costs of these appeals shall be costs in the case.

</html