

S. Chandra Sekharan and Others

Vs

Govt. of Tamil Nadu and Others

Writ Petitions Nos. 190-198, 309-314/73 & 1231-1239/73

(CJI A. N. Ray, K. K. Mathew, R. S. Sarkaria, A. Alagiriswami, P. K. Goswami JJ)

25.04.1974

JUDGMENT

RAY, C.J. –

1. These writ petitions under Article 32 were dismissed on April 5, 1974. Reasons were to be given later on. These are as follows.
2. The petitioners asked for a writ of mandamus restraining the respondents from denying the petitioners their quota of levy sugar which they had been receiving under the Levy Sugar (Supply Control) Order, 1972.
3. Upto 1967 production, price, and distribution of sugar were controlled by the Government of India in exercise of the powers conferred on it by the Essential Commodities Act, 1955 and the orders made thereunder.
4. Every dealer in sugar was required by the Sugar Dealers Licensing Order, 1962 to obtain a licence for trading in sugar. The licences were required for any person who stored more than 10 quintals of sugar at a time for purposes of sale. The licences were issued annually. They were renewable.
5. In 1971 the Central Government provided for partial decontrol of sugar by which producers were required to sell a part of the total production at the price fixed by the Government under the Sugar Control Order, 1966. The rest of the production could be sold by the producers in what is called "free market".
6. The Central Government kept free market sugar separate from levy sugar. A dealer was prohibited from selling both levy and free market sugar in order to prevent any abuse.
7. The petitioners were dealing in levy sugar. They never traded in free market sugar.
8. On June 15, 1972 the Central Government promulgated Levy Sugar (Supply Control) Order, 1972. The order provided for requisitioning of sugar from producers and for producers to supply the same to such persons or organisations or to such State Governments as the Central Government might specify at a price not exceeding the price determined in the Sugar Price (Determination) Order, 1972.
9. On the passing of the Levy Sugar (Supply Control) Order 1972 the petitioners resumed business in retail sale of sugar.

10. The State of Tamil Nadu required the petitioners dealing in controlled sugar and levy sugar to enter into agreements.
11. The petitioners were appointed retailers for certain localities in Tiruchirapalli. The Collector appointed the petitioners as retailers for distribution of levy sugar. The agreements which were entered into by the petitioners provided for termination of agency on one month's notice. The petitioners were authorised distributors. The State appointed the petitioners agents for such distribution. The contract of agency provided for termination. The rights of the parties were purely contractual.
12. The State of Tamil Nadu announced the policy of elimination of retail sellers dealing in controlled sugar. The order dated February 17, 1973 which is impeached by the petitioners states that pursuant to Condition 11 of the agreement, their agreement was cancelled and the ration card holders who were allotted to the shops were told that they would not be entitled to supply sugar from their shops.
13. Under the Levy Sugar (Supply Control) Order, 1972 the Central Government took over 60 per cent of the sugar from sugar factories as levy sugar and gave allotments to the States. The levy sugar so allotted was utilised for domestic consumption and was issued on family cards. The petitioners were appointed retailers for distribution of levy sugar. They were appointed for certain localities in Tiruchirapalli. The petitioners were appointed under agreements with the State.
14. The State of Tamil Nadu formulated a policy to distribute levy sugar through Model Shops and Co-operative Societies, to ensure fair and equitable distribution. The Model Shops were opened by Tamil Nadu Civil Supplies Corporation. The appointment of the petitioners for distribution of levy sugar was under agreement. The State of Tamil Nadu terminated the agreement. The agreement also provided for such termination. The relationship between the State and the petitioners is purely contractual.
15. The petitioners contended that there were 160 dealers selling levy sugar and out of the 160, 24 dealers like the petitioners have been discriminated. The State issued instructions that preference should be given to Co-operatives. The State is taking steps to replace the private retailers wherever Co-operatives are available and Government retail shops can be established. In Tiruchirapalli Town two model shops have been opened by the Tamil Nadu Civil Supplies Corporation. Some of the private retailers in that town were replaced. As and when more shops are opened, the private retailers in other places will be eliminated. There is no discrimination. The agency agreements have been terminated.
16. The petitioners have no legal right to trade in levy sugar.
17. For these reasons the petitions are dismissed. Parties will pay and bear their own costs.

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