

Krishan Lal Praveen Kumar and Others

Vs

State of Rajasthan and Others

Writ Petitions Nos. 4839 to 4845 and 3833-3834 of 1981

(O. Chinnappa Reddy, A.P. Sen, Baharul Islam JJ)

04.09.1981

JUDGMENT

CHINNAPPA REDDY, J. –

1. In these petitions under Article 32 of the Constitution of India the petitioners seek to question the validity of the Rajasthan Wheat (Export Control) Order, 1981 and that of a notification issued under the Rajasthan Trade Articles (Licencing and Control) Order, 1980.
2. The Rajasthan Wheat (Export Control) Order purports to prohibit the export of wheat from any place within the State of Rajasthan to any place outside the state except under and in accordance with a permit issued by the State Government or any officer authorised by the State Government in that behalf. The submission of the learned counsel for the petitioners was that the Control Order banned the export of wheat from a place within the State of Rajasthan to a place outside the State of Rajasthan and, therefore, it contravened the provisions of the Constitution which guaranteed freedom of trade, commerce and intercourse throughout the territory of India. According to the learned counsel it might be open to Parliament to make a law banning such export from one State to other States but it could not be done by the State Government in the exercise of a delegated power under the Essential Commodities Act. Reliance was placed on a decision of this Court in *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan* [(1963) 1 SCR 491 : AIR 1962 SC 1406]. In any case it was argued that the Control Order was not authorised by the terms of the Essential Commodities Act. It was also submitted that there was an infringement of the fundamental right guaranteed by Article 19(1)(g) of the Constitution.
3. The Notification banning a dealer from possessing more than 200 quintals of wheat at any one time, issued under Clause 18 of the Rajasthan Trade Articles (Licencing and Control) Order, 1980, was questioned on the ground that it infringed the fundamental right guaranteed by Article 19(1)(g) of the Constitution. It was also urged that the officers of the State of Rajasthan were misinterpreting the notification and preventing the dealers from purchasing any wheat in the course of a day if at some point of time in the course of the day the dealer was in possession of 200 quintals though, later in the day the quantity in his possession might have gone far below 200 quintals as a result of the transactions of the day.
4. We do not find any substance in any of the submissions made before us except in regard to the interpretation of the notification fixing the maximum quantity of wheat permitted to be possessed by a dealer at any one time.
5. In the first place it is not correct to say that the Rajasthan Wheat (Export Control) Order, 1981

imposes a total ban on export of wheat from the State of Rajasthan. What it does is to regulate the export of wheat by prohibiting it except under and in accordance with a permit issued by the State Government. We do not mean to say that regulation may not under certain circumstances include a total ban having regard to the exigencies of production, demand and distribution. In the present case the aim and object of the Control Order is apparent. It is obviously to conserve the wheat produced in the State of Rajasthan for effective distribution to the people of the State who need them, at reasonable price and to prevent the skyrocketing of the price of wheat within the State of Rajasthan. The restriction on the export of wheat from Rajasthan is clearly a reasonable restriction within the meaning of Article 19(6) of the Constitution and is required in the public interest as contemplated by Article 302 of the Constitution. Under Article 302 of the Constitution Parliament may by law impose such restriction on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest. The Essential Commodities Act which is an Act to provide, in the interests of the general public, for the control of production, supply and distribution of trade and commerce in certain commodities is, without doubt, such a law as contemplated by Article 302 of the Constitution. If the Rajasthan Wheat (Export Control) Order, 1981 is authorised by the provisions of the Essential Commodities Act, it has to be held perfectly valid. Section 3(2)(d) enables the Central Government to make an order providing "for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of, any essential commodity". Section 5 empowers the Central Government to delegate its power under Section 3 to the State Government. By various orders made from time to time, the Central Government has delegated such power to the State Government. By Notification G.S.R. No. 800 dated June 9, 1979, the Central Government has delegated to the State Government its powers to make orders to provide for the matters specified in clauses (a), (b), (c), (d), (e), (f), (h), (i), (ii) and (j) of Section 3(2) in and relation to foodstuffs subject to certain conditions. One of the conditions is that in regard to distribution or disposal of foodstuffs to places outside the State or in regard to regulation of transport of any foodstuffs under clause (d) the State Government should obtain prior concurrence of the Central Government. In our view the Rajasthan Wheat (Export Control) Order 1981 is an Order which regulates the transport, distribution, disposal of an essential commodity, clearly falling within and authorised by clause (d) of Section 3(2) of the Essential Commodities Act. The Preamble to the Order recites that the prior concurrence of the Central Government had been obtained. Nothing has been shown to us to indicate that the concurrence of the Central Government had not been so obtained. It was also submitted that the Control Order did not provide for a machinery for obtaining a permit. That it not correct. The Control Order provides that a permit for export of wheat should be obtained from a State Government or any officer authorised by the State Government in this behalf. In our view the Rajasthan Wheat (Export Control) Order is not open to challenge on any of the grounds raised by the petitioners.

6. The Notification providing for the maximum quantity of wheat which may be possessed by any dealer at any one time is clearly designed to prevent hoarding of foodgrains and is certainly a reasonable restriction within the meaning of Article 19(6) of the Constitution. It is authorised by Clause 18 of the Rajasthan Trade Articles (Licencing and Control) Order, 1980, made in exercise of the powers conferred by Section 3 of the Essential Commodities Act. This Notification also had the prior concurrence of the Central Government. The learned counsel for the petitioners urged that the Notification was being misinterpreted in the manner mentioned earlier. The Notification merely fixes "a maximum limit of 200 quintals of wheat to be possessed by a dealer at any one time. "At any one time" can only mean at only given point of time. It does not mean than if a dealer was in possession of 200 quintals at 10 a.m. and sold 120 quintals between 10 a.m. and 12 noon, he is

barred from purchasing 120 quintals after 12 noon so as to make up the 200 quintals. All that is necessary is that he should not have in his possession at any one time more than 200 quintals. With this clarification the writ petitions are dismissed.

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