

State of U.P.

Vs

Janta In. Udyog

Civil Appeal Nos.4066-72 of 1985 etc.

(B. C. Ray, M. N. Venkatachaliah JJ)

04.09.1990

JUDGMENT

1. The only question that falls for decision in this case is whether the Government of U.P. is competent to insist that the Brick Manufacturers should take out licence for using coal for the purpose of manufacturing bricks. The licence is insisted upon under U.P. Coal Control Order, 1977. When the manufacturers of the bricks did not take licences, they were sought to be prosecuted by the State authorities. They, therefore, moved the High Court challenging the action of the Government. The High Court held that the Coal Control Order "in so far as it relates to regulating the manufacture, distribution and fixation of price etc. in respect of bricks, cannot be upheld and deserves to be struck down to that extent." The High Court further held that the prosecution of the petitioners of the said Writ Petition who are respondents in these appeals proposed to be launched for contravention of the provisions of the Coal Control Order cannot be sustained and the first information reports lodged in that behalf deserve to be quashed. This judgment of the high Court is challenged before us.

2. Having heard counsel on both sides and perused the relevant provisions of the Essential Commodities Act and the Coal Control Order, we are satisfied that the judgment of the High Court cannot be interfered with. The State Government has power under S. 3 read with S. 5 of the Essential Commodities Act, 1955 to make notified orders in respect of the essential commodities as referred to in S. 2 of the Act. But S. 2(a)(xi) of the Essential Commodities Act does not specify 'brick' as one of the essential commodities. Therefore, the High Court is justified in holding that the State Govt. cannot impose licence on the manufacturers of bricks for the purpose of using coal for firing bricks. All the appeals/SLPs/Writ Petitions are, therefore, dismissed without any order as to costs.

3. The other S.L.Ps. are delinked and they be listed after two weeks.

Order accordingly.

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