

Hindustan Feed Manufacturers

Vs

State of Punjab and Others

Civil Appeal No. 2625 of 1989 With No. 2624 of 1989

(Kuldip Singh, Yogeshwar Dayal JJ)

29.03.1994

ORDER

1. The State of Punjab, in exercise of the powers delegated to it under Section 5 of the Essential Commodities Act, 1955 (the Act), promulgated the Punjab Regulation of Compounded Feed Concentrates and Mineral Mixtures Order, 1988 (the Order). The validity of the Order was challenged before the Punjab and Haryana High Court by way of writ petitions under Article 226 of the Constitution of India. The High Court dismissed the writ petitions and upheld the validity of the Order. These appeals by way of special leave are against the judgment of the High Court.

2. To appreciate the challenge to the validity of the Order, it is necessary to have a look at the relevant Sections 2(a) and 5 of the Act which are reproduced hereunder :

"2. (a) 'essential commodity' means any of the following classes of commodities -

(i) cattle fodder, including oilcakes and other concentrates;

##(ii) \* \* \*(iii) \* \* \*(iv) \* \* \*(v) \* \* \*##

5. Delegation of powers. - The Central Government may, by notified order, direct that the power to make orders or issue notifications under Section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by -

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to a State Government,

as may be specified in the direction."

3. It is not disputed that by the notification dated 9-6-1978 under Section 5 of the Act, the Central Government empowered the State Government to exercise the powers of the Central Government under sub-section (1) of Section 3 of the Act in relation to "foodstuffs" which is a commodity specified in Section 2(a) (v) of the Act. The contention of the learned counsel for the appellant is that there is no delegation in favour of the State Government in respect of essential commodities specified in Section 2(a) (i) and as such the Punjab Government had no power to promulgate the Order in respect of a commodity which is admittedly "cattle fodder" and comes within Section 2(a) (i) and not in Section 2(a) (v). In other words, the contention is that the powers to make orders

under the Act having been delegated only in respect of foodstuffs, the State Government had no power to promulgate the Order which admittedly relates to the "cattle fodder". We do not agree with the learned counsel. The High Court, relying on its earlier judgment in *Sat Pal Gupta v. State of Haryana* (1972 PLR 30 (P&H)) took the view that the "foodstuffs" as known in ordinary parlance would include all types of foods which are consumed for giving life to human beings and other living creatures. It would be useful to quote a paragraph from *Sat Pal* case (1972 PLR 30 (P&H)) :

"Animals also have life and whatever they eat is food, though in a very narrow sense it is said 'food for animals' whereas similarly whatever human beings eat is said 'food for human beings' but that does not mean that the expression 'foodstuff' merely means that which is only consumed by human beings. In this view of the matter, we are constrained to hold that the learned counsel is not right in his contention that the expression 'foodstuff' as used in the Order dated 24-7-1967, is merely restricted to human beings. We, therefore, repel the first contention."

4. Appeal filed in this Court against the judgment of the High Court in *Sat Pal* case (1972 PLR 30 (P&H)) was dismissed. While upholding the judgment of the Punjab and Haryana High Court in *Sat Pal* case (*Sat Pal Gupta v. State of Haryana*, (1982) 1 SCC 610 : 1982 SCC (Cri) 327 : (1982) 3 SCR 196.), this Court observed as under :

"Coming first to the question argued by Shri Maheshwari as to whether rice bran is a 'foodstuff', it is well known that rice bran is commonly used as poultry feed and not uncommonly as cattle feed. This is undisputed. ... Any stuff which is commonly used as food by the generality of living beings is foodstuff: It is not legitimate to restrict the meaning of that word to things which are used as food by human beings. The animal kingdom is not any the less important in the cosmic scheme than the human empire and it is a distortion to say that it is a matter of little or no concern to the State whether the cattle and the poultry get their due ration of the means of their subsistence. Cattle feed and poultry feed are food to the cattle and the poultry, and therefore they are foodstuffs.

The word 'foodstuffs' which occurs in clause (v) of Section 2(a) is not defined in the Act and therefore it must receive its ordinary and natural meaning, that is to say, a meaning which takes account of and accords with the day-to-day affairs of life. Cattle and poultry are living components of the natural environment and there is no reason to exclude that which they eat or feed upon, from the meaning of the word 'foodstuffs. If, what the human beings eat is food, so is what the other living beings eat. ...

By 'foodstuffs' is meant food of any kind. The Shorter Oxford English Dictionary (Third Edition) says that 'food' is "what one takes into the system to maintain life and growth". According to Webster's Third New International Dictionary, 'food' means "material consisting of carbohydrates, fats, proteins and supplementary substances, that is taken or absorbed into the body of an organism in Order to sustain growth, repair, and all vital processes and to furnish energy for all activity of the organism; something that nourishes or develops or sustains". These dictionary meanings of the word 'food' are not restricted to what is eaten by human beings for nourishment and sustenance. According to them, what one takes into the system to maintain life and growth or what is taken into the body of an organism in Order to sustain growth is

food."

5. Learned counsel for the appellant, however, contends that the precise question raised in these appeals was not before this Court in Sat Pal case (Sat Pal Gupta v. State of Haryana, (1982) 1 SCC 610 : 1982 SCC (Cri) 327 : (1982) 3 SCR 196.). According to him the question before this Court in Sat Pal case (Sat Pal Gupta v. State of Haryana, (1982) 1 SCC 610 : 1982 SCC (Cri) 327 : (1982) 3 SCR 196.) was whether 'rice bran' was an essential commodity under the Act. This Court by giving wider meaning to the expression 'foodstuffs' came to the conclusion that 'rice bran' would be included in the said expression and as such was an essential commodity under the Act. The learned counsel has contended that both 'foodstuffs' and 'cattle fodder' have been included in the definition of essential commodity under Section 2(a) of the Act. As such unless there is a specific delegation in favour of the State Government under Section 5 of the Act, the Order relating to "cattle fodder" could not be issued. The argument sounds attractive but has no substance. The expression "essential commodity" has been defined under Section 2(a) of the Act wherein the commodities have been mentioned in generic sense. Even the general expressions like 'foodstuffs' and 'cattle fodder' have been given inclusive-definitions. The purpose sought to be achieved by the definition is to bring all essential commodities within the purview of the Act. Various classes of commodities enumerated in Section 2(a) of the Act cannot, therefore, be confined in watertight compartments. They overlap and one class may be inclusive of another. In any case, the notification dated 9-6-1978 issued by the Central Government in exercise of the powers under Section 5 of the Act relates to "foodstuffs" in general. The said notification did not specifically mention any of the clauses (i) to (v) under Section 2(a) of the Act. Since expression "foodstuffs" covers more than one clauses under Section 2(a) there is no justification in restricting the same only to one clause.

6. We see no ground to interfere with the reasoning and the conclusions reached by the High Court. We dismiss the appeals with no order as to costs.

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