

SUPREME COURT OF INDIA

Laxmi Narain

Vs.

State of Haryana

(V.N. Khare and S.N. Phukan JJ.)

05.09.2000

ORDER

1. The appellant holds licence granted under Section 10 of the Punjab Agricultural Produce Markets Act, 1961 (hereinafter referred to as 'the Act') and is carrying on business in the market area declared under Section 6 of the Act.

2. By a notification, dated 1.9.87, the State of Haryana amended the Schedule to the Act by including 'bura' as an agricultural produce in the Schedule to the Act. The appellant challenged the aforesaid amendment to the Schedule on the ground that the procedure laid down under Sections 5 and 6 of the Act were not followed and, therefore, the impugned amendment to the Schedule is illegal and void. The High Court of Punjab and Haryana, by the impugned judgment, dismissed this petition and that is how the appellants are in appeal before us.

3. Learned Counsel reiterated the arguments advanced before the High Court by arguing that amendment to the Schedule without following the procedure as laid down under Sections 5 and 6 of the Act, is illegal and void and the market committee is not entitled to levy any market fee on sale and purchase of bura within market area on the basis of the said amendment to the Schedule. To appreciate the argument of learned Counsel for the appellant, it is necessary to look into the provisions of the Act. Sections 2(a), 5, 6 and 38 of the Act reads as under:

Section 2(a) :

'agricultural produce' means all produce, whether processed or not, of agriculture, horticulture, animal husbandry or forest as specified in the Schedule to this Act;

Section 5:

The State Government may, by notification, declare its intention of exercising control over the purchase, sale, storage and processing of such agricultural produce, and in such area as may be specified in the notification. Such notification shall state that any objections or suggestions which may be received by the State Government within a period of not less than thirty days to be specified in the notification, will be considered.

Section 6:

Declaration of notified market area.

(1) After the expiry of the period specified in the notification under Section 5 and after considering such objections and suggestions as may be received before the expiry of such period, the State Government may, by notification and in any other manner that may be prescribed, declare the area notified under Section 5 or any portion thereof to be a notified market area for the purposes of this Act in respect of the agricultural produce notified under Section 5 or any part thereof.

Section 38:

Power of State Government to amend the Schedule.

The State Government may by notification, add to the Schedule to this Act any other item of agricultural produce or amend or omit any item of such produce specified therein.

4. A perusal of Section 5 and 6 of the Act shows that whenever the State Government intends to issue notification, declaring a particular area to be a notified area for purposes of exercising control over the purchase, sale, storage and processing of such agricultural produce, it may declare the area as notified area under Section 6 of the Act by giving opportunity of filing objection to the public. Thus Sections 5 and 6 relate to the procedure which is required to be followed when any area is to be declared as notified area. Under Section 38, the State Government is empowered to amend the Schedule to the Act by adding or omitting any item of agricultural produce specified therein. Section 38 further shows that amendment to the Schedule to the Act can be effected by issue of a notification and no further procedure is required to be undergone. If Sections 5 and 38 are read together, it will be found that the said provisions operate on different fields. The purpose for enacting Sections 5 and 6 are entirely different than the purpose behind Section 38 of the Act. In view that there was no requirement of law to invite objection while amending the Schedule to the Act, we do not find any infirmity in the judgment under appeal.

5. The appeal fails and is, accordingly, dismissed. There shall be no order as to