

RAJASTHAN HIGH COURT

Food Corpn. of India

Vs.

M/s. Laxmi Traders

Civil First Appeal No. 18 of 2003

(N.P. Gupta, J.)

27.01.2003

JUDGEMENT

N. P. Gupta, J.

1. Heard learned counsel for the appellant.
2. Two contentions have been raised by the learned counsel for the appellants to assail the impugned judgment. The first one being that the price of Rs. 4300/- per metric tone was rightly charged as *Hanumangarh* fell under the administrative subordination of Jaipur, and the plaintiff could not claim to be liable to pay the price on the basis of the price payable at Chandigarh, merely on the basis of geographical nearness.
3. The other contention raised is that the plaintiff had purchased the wheat with eyes open, and was under no pressure to purchase it at a higher price, consequently, he could not maintain the present suit after three years.
4. I have heard learned counsel, perused the impugned judgment, and have been taken through the relevant scheme floated by the Food Corporation for open sale of wheat, so also the statement of the defendant's witness, Punamchand Dua.
5. In my view, it is clear that according to the scheme, the price chargeable is the one prevailing at the nearest major centre.
6. The defendant's witness, Punamchand Dua has clearly deposed that the distance between *Hanumangarh* and Chandigarh is shorter as compared to the one between *Hanumangarh* and Jaipur. On the other hand, in his statement, he has come forward with this theory that the price chargeable was the one, under which, the particular

place falls in administrative subordination, and since *Hanumangarh* falls within the administrative subordination of Jaipur, therefore, the price was rightly charged.

7. Suffice it to say that the contention raised is wholly untenable on the face of the scheme, and, as such, the learned trial Court has rightly held that the price chargeable was only at Rs. 4150/- per metric tonne. The finding is, therefore, affirmed.

8. Coming to the second contention, it is clear on record that from evidence including Exs. 2, 1 and 7 that the plaintiff has been protesting for the price excessively charged. He has also produced the wheat release order on 28-12- 1995 whereupon, he again wrote a letter to the Senior Regional Manager registering his protest in detail. In these circumstances, it cannot be said that the plaintiff had in any manner acquiesced in the price charged by the defendant.

9. Admittedly, the scheme floated was one for the entire country, and no separate scheme of open sale of wheat was floated for Rajasthan. In that view of the matter, the defendant being a statutory corporation, which cannot be allowed to play fast and loose with the public at large, and charge price of the goods arbitrarily, or on the basis of self-developed logics, from place to place, which may not be supportable by the uniform policy, or scheme framed by the head office/department.

10. In that view of the matter, I am in full agreement with the finding recorded by the learned trial Court, and do not find any force in the present appeal. The same is, therefore, dismissed summarily.

Appeal dismissed.