courtkutchehry.com
Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 11/11/2025

(1987) 08 MP CK 0003

Madhya Pradesh High Court

Case No: Miscellaneous Petition No. 3327 of 1986

Adat Association, Dr. Katju Mandi Prangan, Jaora and others		APPELLANT
	Vs	
State of Madhya Pradesh and others		RESPONDENT

Date of Decision: Aug. 11, 1987

Acts Referred:

- Constitution of India, 1950 - Article 19(1)(g)
- Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 - Section 32(5)

Citation: (1988) MPLJ 290

Hon'ble Judges: N.D. Ojha, C.J; C.P. Sen, J

Bench: Division Bench

Advocate: Y.S. Dharmadhikari, for the Appellant; M.V. Tamaskar, Advocate General, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

C.P. Sen, J.

By this Order, MPs. Nos, 2660/86, 2667/86,2924/86, 2968/86, 3049/86,3194/86,3216/86,3323/86,3489/86 and 3660/86 are also disposed of as in all these petitions validity of MP. Krishi Upaj Mandi Sanshodhan Adhiniyam, 1986 (Act No. 24/86) (hereinafter referred, to as the amending Act No. 24/86) is under challenge, making amendments in the Principal Act i.e. MP. Krishi Upaj Mandi Adhiniyam, 1973 (hereinafter referred to as the Act). In the course of arguments, M.P. Krishi Upaj Mandi Sanshodhan Adhiniyam (No. 26/87) (hereinafter referred to as the Amending Act No. 26/87) has also been assailed though there is no plea raised by way of amendment in any of these petitions.

The present petition and M.Ps. Nos. 2660/86,2667/86,2968/86,3194/86 and 3489/86 have been filed by the respective Adat Associations or by commission agents and traders, while M.Ps. Nos. 3049/86 and 3216/86 have been filed by auctioneers who have been auctioning agricultural produce in the market yards, and M.Ps. Nos. 2924/86, 3323/86 and 3660/86 are by agriculturists. Under MP, Agricultural Produce Act, 1960, which was repealed by the present Act, a provision was made for allowing commission agent to act on behalf of agriculturists and traders both. The challenge is mainly to the following amendment brought about by amending Act No. 24/86. The definition of Section 2(e) has been amended so as to make comission agent for traders only. Definition of ''notified agricultural produce'' in Section 2(m) has been amended to mean all such produce specified in the Schedule. Section 4 has been amended so that the market to be established shall be in respect, of the agricultural produce specified in the Schedule. Earlier, the market established had to be for such agricultural produce as may have been specified in a notification issued in respect of that market. A third proviso bas been added in sub-section (2) of Section 19 providing that no fee shall be levied up to 31st March 1990 on such agricultural produce as may be specified by the State Government if such produce has been sold outside the market yard or sub-market yard by an agriculturist to a Co-operative Society of which he is a member. A new sub-section (3) has been substituted in Section 19 providing that the market fee shall not be leviabnle more than once if the notified agricultural produce is resold in the market area but outside the market yard, provided that if the same notified agricultural produce is transacted again within the same market yard, there shall be charged market fee at the rate of one-half of the normal rate and thereafter for every subsequent transaction of such notified agricultural produce at the rate of one-fourth of the normal rate fixed therefor. Section 32(5) has been omitted which empowered Krishi Upaj Mandis to pass resolution for doing away with commission agents in their respective Mandis. In sub-section (3) of Section 36 a proviso has been added that in market yard the price of such notified agricultural produce of which support price has been declared by the State Government, shall not be settled below the price so declared and no bid shall be permitted to start, in the market yard, below the rate so fixed. In Section 37, a new sub-section (2) has been substituted providing (a) that the price of agricultural produce shall be paid on the same-day to the seller at the market yard, (b) in case the payment is not made on the same day, then interest has to be paid at the rate of 1 per cent per day at the total price, (c) incase the purchaser does not make payment with interest to the seller within 5 days, his licence shall be cancelled on the sixth day and he or his relative shall not be granted any licence for a period of one year. Relative means as specified in explanation to clause (a) of sub-section (1) of Section 11. Under sub-section (4), commission agent has to recover as commission and other charges from the trader only. Earlier the price of agricultural produce had to be paid within 24 hours to the seller and there was no provision for payment of interest and the commission agent could recover his commission and other dues from agriculturist also. In spite of these amendments, a Division Bench of this Court (Indore Bench) in M/s Hardeo Shrinath vs. State of M.P. anothers, M.P. No. 1863/86 decided on 8-4-1987, held that since definition of trader in Section 2 (p) has not been amended, an agriculturist selling or buying agricultural produce came within that definition of trader and, as such, a commission agent could continue to act on behalf of agriculturists also. Thereafter amending Act No. 26/87 has been introduced amending the definition of ''trader'' in Section 2(p) to exclude agriculturist. A new sub-section (5) has been introduced to Section 32 providing that no commission agent shall act in any transaction between agriculturist seller or trader-purchaser on behalf of agriculturist, nor he shall deduct any commission from the sale proceeds payable to the agriculturist.

According to the traders and commission agents, they have been carrying on activities (i) to unload agricultural produce of the agriculturists and keep the same-in safe custody. (ii) To make effort to sell agricultural produce at a reasonable price and till such time to keep the produce in their safe custody. (iii) In case of sale, the price was paid immediately after produce was duly weighed and receipt to collect the price from the traders later on. (iv) In off-season, they used to supply seeds, fertilisers, manures etc. and, if needed, loan to the agriculturists for carrying on agricultural operations. In case no reasonable price could be fetched, advances used to be given to the agriculturist to meet his expenses and, as such, there was no scope for any underhand dealing or evasion of any tax. So the commission agents were link between agriculturists and traders and were rendering useful services. By these amendments and the amendments introduced by amending Act No. 26/87, now commission agents have been totally prohibited to act as commission agents of agriculturists and to charge commission fee from them. These amendments have adversely affected the business and activities of the commission agents and traders and totally upset the working of the trade agricultural produce, thereby me very object of the Act for better Regulation of buying and setting of agricultural produce and proper administration of markets for agricultural produce has been defeated. The Director, Krishi Upaj Mandi, also issued a circular dated 1-8-1986 in pursuance of the amendment prohibiting commission agents from acting on behalf of agriculturists or charge any fee from them.
Submissions of the traders and commission agents are (a) as a result of the amendments, market committee will be able to regulate trade in the agricultural produce brought inside the market area, from outside for sale i.e. not grown within the market area, there by affecting Inter-State Trade & Commerce in contravention of Articles 296 and 301 of the Constitution. No fee can be charged by the market committee on an agricultural produce which is not grown within the market area, (b) New definition of ''commission agent'' and the restrictions placed on commission agents is unreasonable and impinge upon titer fundamental rights guaranteed under Article 19(1)(g) of the Constitution, (c) The amendment in Section 4 is arbitrary and unintelligible inasmuch as Gur and edible oil which are not strictly agricultural produce are brought within its definition but not sugar and hydrogenated oil. (d) A

favoured treatment has been given to the co-operative societies in which agriculturist is a member, from paying any fee, which is highly discriminatory and (e) for no fault on the part of a relative of a trader, he is to be debarred from getting a licence because of non-payment of price of agricultural produce by the trader. The petitioners in M.Ps. Nos. 3049 and 3216 of 86 claimed them selves to be auctioneers and not commission agents. According to them, by auctioning agricultural produce which comes for sale in market yard, they get 20 to 35 paise per quintal from agriculturists as per the bye-laws. They are not commission agents and yet they have, been prohibited from carrying on their profession of auctioneers by the circular of the Director dated 1-8-1986 without amending the bye-laws. Accordin to the petitioners in M.Ps. 2924, 3323 and 3660 of 1986, who claimed themselves to be agriculturists, by abolishing commission agents, agriculturists have been deprived of their services. It is difficult for agriculturists to carry on the agricultural operations and disposal of agricultural produce without their help and assistance. Commission agents used to keep goods in their safe cecover the pay the price as soon as goods were sold. Now in view of the amendments, trader need not immediately pay the price and on non-payment of price only his licence is liable to be cancelled but no remedy has been provided to the agriculturists to recover the price, which means they will have to seek remedy of a civil suit. In view of the amendments, commission agents have become agents of the traders and they refused to look after the interest of agriculturist Though trade has to execute an agreement while purchasing agricultural produce from agriculturists, who are mostly illiterate persons, and so cannot understand the import of such agreements. These restrictions have interfered with the fundamental right of the petitioners to carry on their profession as agriculturists.

In the return field by the respondents it is submitted that the Act is a social piece of legislation and has to be construed liberally so as to advance the object of the Act. The aims, objects and purpose of the Act is to secure an arrangement for storage, sale and distribution of agricultural produce and cut out as for as possible middleman''s profit. The Act contains provisions of a beneficial nature, preventing profiteering by middleman. There may be some hardship to some of the functionaries within the market area but the hardship by itself does not render the provisions as Unconstitutional, on the ground of being arbitrary or unreasonable. Where large public interest is involved, there is bound to be some restrictions on the traders and that by itself does not render the provisions ultra vires. The amendments have been necessitated because during working of the Act certain deficiencies and shortcomings were noticed. The amendments have been made to remove certain practical and procedural defects which were found while working the Act which came into force in 1973. The practice of commission agents had several drawbacks and it did not serve the purpose of ensuring a fair and proper price to agriculturists. In the unamended Act, the market committees were empowered to do away with commission agents by passing suitable resolution and validity of such resolutions have been upheld by this Court in several cases. The amendments have been introduced after careful consideration by the Cabinet Sub-Committee and suggestions received from various institutions, organisations and individuals. The Supreme Court had also considered validity of similar legislations and upheld the same including doing away with commission agents so far as agriculturists are concerned Commission agents have not been totally deprived of their source of livelihood. They can still act as commission agent between trader and trader. Only restriction is of their acting as commission agent between agriculturist and a trader. So the amendments do not impinge on the fundamental rights of the petitioners under Article 19(1)(g) of the Constitution. In the unamended Act, sale price to agriculturist was payable on the same day but in practice it has been found that it was rarely followed and there used to be unnecessary delay in payment of the price, so the trader has been charged with a liability to pay interest in case the price is not paid on the same day. It is ensured that only solvent persons are given licences as traders and they have to furnish securities for getting a licence. On a complaint being received about non-payment of the price certainly the price can be recovered otherwise the trader will lose his licence and face prosecution. In fact, the enactments and the amendments have been made for the benefit of agriculturists and they would be the last persons to make a grievance about the provisions. So those agriculturists who have filed some of the petitions are nothing but proxis of the traders.

The Supreme Court in Narendra Kumar and Others Vs. The Union of India (UOI) and Others, has held:--

In applying the test of reasonableness, the Court has to consider the question in the background of the facts and circumstances under which the order was made, taking into account the nature of the evil that was sought to be remedied by such law, and the ratio of the harm caused to individual citizens, by the proposed remedy, to the beneficial effect reasonably expected to result to the general public. It will also be necessary to consider in that connection whether the restraint caused by the law is more than was necessary in the interests of me general public.

Recently the Supreme Court in Utkal Contractors, AIR 1987 SC 1455, held as under:--

A statute is best understood if one knows the reason for it. The reason for a statute is the safest guide to its interpretation. The words of a statute take their colour from the reason for it. There are external and internal aids to discover the reason for a statute. The external aids are Statement of Objects and Reasons when the bill is presented to Parliament the reports of Committees which preceded the Bill and the reports of Parliamentary Committees. Occasional excursions into the debates of Parliament are permitted. Internal aids are the preamble, the scheme and the provisions of the Act No provision in the statute and no word of the statute may be construed in isolation. Every provision and every word must be looked at generally before any provision or word is attempted to be construed.

M.P. Krishi Upaj Mandi Adhiniyam, 1973, was enacted to provide for better Regulation of buying and selling of agricultural produce and the establishment of proper administration of markets for agricultural produce in the State of M.P. As per the statements of objects and reasons of the enactment, ours is a mainly agricultural economy and much stress is laid on the increased agricultural production. The success of increased agricultural production depends upon, to a great extent, on proper Marketing of agricultural produce and avoidance of exploitation in any form whatsoever. It is, therefore, necessary to devise a machinery which would regulate marketing of agricultural production efficiently and also secure better and remunerative prices to cultivators. As per statements of objects and reasons of the amending Act No. 24/86, during the working of the M.P. Krishi Upaj Mandi Adhiniyam, 1972, certain practical and procedural difficulties have been experienced. To remove these difficulties certain amendments are being proposed as recommended by the various Cabinet Sub-committees and finally approved by the Cabinet As per statement of objects and reasons of the amending Act No. 26/87, in M/s Hardeo Shrinath vs. State and others case (supra) M.P. High Court has held that an agriculturist carrying on business of buying and selling notified agricultural produce occasionally is also covered by the definition of ''trader''. Therefore, the amendments have been made to exclude agriculturist from the purview of ''trader''.
The Supreme Court in M.C.V.S. Arunachala Nadar etc. Vs. The State of Madras and Others, , held as under:--

The Madras Commercial Crops Markets Act 20 of 1933, was the result of a long exploratory investigation by experts in the field, conceived and enacted to regulate the buying and selling of commercial crops by providing suitable and regulated market by eliminating middlemen and bringing face to face the producer and the buyer so that they may meet on equal terms, thereby eradicating or at any rate reducing the scope for exploitation in dealings. Such a statute cannot be said to create unreasonable restrictions on the citizen''s right to do business unless it is clearly established that the provisions, are too drastic, unnecessarily harsh and overreach the scope of the object to achieve for which it is enacted.

The Supreme Court in Karan Singh and Another Vs. State of M.P. and Others, , has held as follows:--

The abolition of the ''Kachhi Adhat System'' (Commission agency) by Market Committee u/s 32 (5) of the Act is not in any way violative of Article 19(1)(g) of the Constitution of India or unconstitutional. It cannot be said that Article 19(1)(g) of the Constitution will be violated if no commission agent shall act in the manner prohibited by Section 32(5) of the Act or he cannot deduct any commission or dalali from the sale proceeds payable to the producer or that he cannot act both for the buyer as also for the seller. In prohibiting such practices Article 19(1)(g) of the Constitution cannot be said to be violated in any manner. Such restrictions being in the interests of the general public are protected by Article 19(6) of the Constitution.""

This Court in Vimal Kumar and others vs. State of M.P.& others, M.P. No. 398/80 decided on 27-2-1981, upheld validity of sub-section (5) of Section 32 before its deletion empowering Mandi Committees to abolish commission agents by passing resolutions. It has been observed that the scheme seeks to eliminate as far as possible a middleman so that the profits which usually go to middleman are saved to cultivator. Commission agent is not precluded from buying or selling on his own account It is only to guard against malpractices of getting middleman''s profit mat the restrictions have been imposed. There is no total ban on the business of commission agents. The restrictions are reasonable and protect the interests of the cultivators, particularly, when the cultivators are unsophisticated and needy, and likely to sell their goods at less than the market price. So in view of what has been laid down by the Supreme Court and by the decision of this Court, it is clear that me object of me enactment is to secure better price to cultivators and the same is sought to be achieved by doing away middleman between agriculturist and trader so that agriculturist gets proper price for his produce. Commission agents are not totally prohibited from carrying on their profession. It is still open to them to work as commission agent between traders and traders, the only prohibition being to act as a commission agent between agriculturist and a trader. It is true that in M/s Hardeo Shrinath vs. State (supra), this Court had held that agriculturist came within the definition of ''trader'' and, therefore, in spite of amendments commission agent can still act on behalf of agriculturist. Now there is a total prohibition on the commission agent acting on behalf of agriculturist or getting commission from him. This has been made clear by the amending Act No. 26/87 by totally excluding agriculturist form the definition of ''trader'' and prohibiting commission agent from charging any commission from agriculturist. The Supreme Court in Smt. Indira Nehru Gandhi Vs. Shri Raj Narain and Another, , held that the legislature cannot declare any judicial proceeding to be invalid or directly overrule a judicial decision. What it is competent to do is to render ineffective the judgment of a competent court by changing the basis of legislative enactment upon which the judgment has been founded and then remove the causes of ineffectiveness of the proceedings m which the decision has been made. In the present case, the amendments have not overruled the decision of tins Court in the aforesaid case. The amendments only removed the lacunae found in the Act by this Court and though it was permissible the amendments have not been made retrospective.

It is contended by the petitioners that agricultural produce could be those which are known in common parlance to be so. Gur, edible on, hides and skin etc. cannot strictly be called agricultural produce, they are at best by-products of agricultural produce. There is also no reason why while including edible oil and Gur to be agricultural produce, hydrogenated oil and sugar have been excluded from the schedule. It is also contended that a market committee cannot recover fee in respect of those agricultural produce which are not produced within the market area. Section 2(a) defines ''agricultural produce'' as all produce, whether processed or not of agriculture, horticulture, animal husbandry, apiculture, pisciculture or forest as specified in the Schedule. So the definition is comprehensive enough to include by-products of agriculture, horticulture, animal husbandry etc. etc. ''Notified agricultural produce'' before its amendment meant in relation to a market any produce specified in the notification issued u/s 4. This definition has been amended, so also Section 4 defining ''notified agricultural produce'' in relation to a market means all such produce specified in the Schedule. The Schedule gives a list of agricultural produce including the by-products. It appears that edible oil and Gur have been included while excluding hydragenated oil and sugar, may be because the latter two items are produced after elaborate manufacturing process and so they have been excluded from the Schedule. The Supreme Court in Raja Jagannath Baksh Singh Vs. The State of Uttar Pradesh and Another, has held:--

A taxing statute can be held to contravene Article 14 if it purports to impose on the same class of property similarly situated an incidence of taxation which leads to obvious inequality. There is no doubt that it is for the Legislature to decide on what objects to levy what rate of tax and it is not for the Courts to consider whether some other objects should have been taxed or whether a different rate should have been prescribed for the tax. It is also true that the legislature is competent to classify persons or properties into different categories and tax them differently, and if the classification thus made is rational, the taxing statute cannot be challenged merely because different rates of taxation are prescribed for different categories of persons or objects. But, if in its operation, any taxing statute is found to contravene Article 14, it would be open to Courts to strike it down as denying to the citizens the equality before the law guaranteed by Article 14.

Therefore, it is for the Legislature to decide as to on what articles fee has to be levied and at what rate and it is not for the Court to consider whether some other items should also be brought within the purview of fee. Again the Supreme Court in Mohammadbhai Khudabux Chhipa and Another Vs. The State of Gujarat and Another, has held:--

It is true that the provisions in the Act also affect transactions between traders and traders, and also affect produce not grown within the market area if it is sold in the market area. But if control has to be effective in the interest of. the agricultural producer such incidental control of produce grown outside the market area and brought into the market yard for sale is necessary as otherwise the provisions of the Act would be evaded by alleging that the particular produce sold in the market yard was not grown in me market area. For the same reasons transactions between traders and traders have to be controlled, if the control in the interest of agricultural producers and the general public has to be effective. The Act and the Rules and Bye-laws thereunder cannot be struck down on this ground.

Therefore, there is legislative competence to impose fee on agricultural produce brought from outside the market area for being sold in the market area. Otherwise the provisions of the Act could be evaded by saying that the particular produce sold in the market was not grown in the market area which would be difficult to disprove.

Further contention is that there is multiple taxation under sub-section (3) of Section 19 inasmuch as the section provides that the market fee shall not be levied more. than once on a notified agricultural produce in a market area if it is resold in the market area but outside the market yard, provided that if the same notified agricultural produce is transacted again within the same market yard there shall be charged market fee at the rate of one-half of the normal rate and thereafter for every subsequent transaction of such notified agricultural produce-at the rate of one-fourth of the normal rate fixed therefor. It is true that agricultural produce if resold in the market yard is liable to payment of market fee over again, but not if it is resold outside the market yard but within the market area. There is a reason behind it The purpose of the enactment is to discourage further transactions within the market yard in order to curb speculation and to reduce congestion there. There is legislative competence to impose multiple taxation. The Supreme Court in Jain Bros. and Others Vs. The Union of India (UOI) and Others, , held:--

Moreover it is not disputed that there can be double taxation if the legislature, has distinctly enacted it. It is only when there are general words of taxation and they have to be interpreted they cannot be so interpreted as to tax the subject twice over to the same tax. The Constitution does not contain any prohibition against double taxation even if it be assumed that such a taxation is involved in the case of a firm and its partners after the amendment of Section 23(5) by the Act of 1956. Nor is there any other enactment which interdicts such taxation.

A Division Bench of this Court in Shriram Gulabdas vs. Board of Revenue, 3 STC 343, has held that multiple taxation is an evil which sometimes may be necessary and multiple taxation can be disallowed only if the power to impose tax does not exist.

Further contention is that the Act places unnecessary restriction on the producer and trader to sell notified agricultural produce only in the market yard. They cannot be compelled to sell at a particular place. The producers have to travel long distance to come to the market yard and put to unnecessary expenses by staying on in the market yard till the goods are disposed of. Even then payment of the price is not ensured and at the most non-payment will result in cancellation of the licence of the trader and not issuing a fresh licence for one year. It is not correct to say that there is absolute prohibition on a producer to sell his notified agricultural produce outside the market yard. u/s 6 there is a prohibition from establishment of any market for marketing of any notified agricultural produce by any other authority otherwise than under this Act and no person shall use any place in the market area for marketing of notified agricultural produce other than the market yard. But there are exceptions i.e. (i) producer can sell at any place agricultural produce not exceeding 4

quintals to any person for his domestic use; (ii) which is brought by head loads; (iii) which is purchased or sold by a petty trader; (iv) which is imported from outside and (v) which is purchased by an authorised fair price shop dealer from the Food Corporation of India, the M.P. State Commodities Trading Corporation or any other agency authorised by the State Government for distribution of essential commodities. Under sub-section (1) of Section 36 all notified agricultural produce brought into market proper sale shall be brought into the market yard specified for such produce and shall not be sold at any other place outside such yard. There is a reason behind this restriction, otherwise all notified agricultural produce brought in the market proper would not be brought to the market yard and the very purpose of establishment of such a yard will be defeated. However, under sub-section (2) such notified agricultural produce purchased by the licensed traders from outside the market area may be brought and soled anywhere in the market area. Under sub-section (3) the price of such notified agricultural produce of which support price has been declared by the State Government, shall not be settled below the price so declared. Under sub-section (1) of Section 37 any person buying a notified agricultural produce has to execute an agreement in triplicate in the prescribed form. Under sub-section (2), the price of agricultural produce brought in the market yard shall be paid on the same day but in case the price is not so paid, interest will be charged at the rate of 1% per day and if the price is not paid within 5 days, then on the sixth day licence of the trader would be liable to be cancelled and no licence shall be issued to the trader or his relation for a period of one year. This sub-section (2) has been substituted in place of original sub-section (2). Earlier the price had to be paid on the same day but in actual practice it was found that the traders were not paying the price on the same day. There was also no provision in the unamended section for recovery of the price to the producer. By amendment, the provision has been made more stringent inasmuch as non-payment of price will result in cancellation of licence, besides payment of interest. Further, new licence will not be issued for a period of one year. Since here we are not concerned with the cancellation of licence of any relation of a trader under this provision, the question whether the relation of a trader could be deprived of licence for a period of one year for no fault on his part is kept open to be decided in an appropriate case. Non-compliance of sub-section (2) of Section 37 has been made penal u/s 48 and the trader is also liable to be prosecuted for contravention of this sub-section.
Recentaly, the Supreme Court in Sreenivasa General Traders and Others Vs. State of Andhra Pradesh and Others, , held: --

The traditional view that there must be actural quid pro quo for a fee has undergone a sea of change subsequent to decision in Kewal Krishan Puri and Others Vs. State of Punjab and Another, . Co-relationship between the levy and the services rendered/expected is one of general character and not of mathematical exactitude. All that is necessary is that there should be a ''reasonable relationship'' between the levy of the fee and the services rendered. Moreover, there is no generic difference between a tax and a fee. Both are compulsory exactions of money by public authorities. Compulsion lies in the fact that payment is enforceable by law against a person in spite of his unwillingness or want of consent. A levy in the nature of a fee does not cease to be of that character merely because there is an element of compulsion or coerciveness present in it, nor is it a postulate of a fee that it must have direct relation to the actual service rendered by the authority to each individual who obtains the benefit of the service.

In that case, the Supreme Court upheld sub-section (6) of Section 7 of A.P. (Agricultural Produce and livestock) Markets Act, 1968, prohibiting purchase or sale of notified agricultural produce and products of livestock in notified market area outside market in that area. The Supreme Court held:--

The restriction imposed by sub-section (6) of Section 7 which interdicts that no person shall purchase or sell any notified agricultural produce, livestock and products of livestock in a notified market area, outside the market in that area, cannot be said to be arbitrary or of an excessive nature beyond what is required in the interests of the community. Having regard to the purpose and object of the legislation, it must be said that the restriction imposed by sub-section (6) of Section 7 is a reasonable restriction within the meaning of Clause (6) of Article 19 on the fundamental right of a citizen to carry on trade or business under Article 19(1)(g).

The Supreme Court in Ram Chandra Kailash Kumar and Company and Others Vs. State of U.P. and Another, has held:--

The market fee could be levied on transactions of goods not produced within the limits of a particular market area by the Market Committee of that area even though the goods are produced outside the State of Uttar Pradesh or outside the market area of that particular Market Committee provided the transactions take place within the limits of that Market area. On the other hand, we find no provision in the Act or the Rules to limit the operation of the law in a particular market area only in respect of the agricultural produce produced in that area.

Therefore, the provisions of the present Act are valid restricting purchase or sale of notified agricultural produce only in the market yard subject to such exemptions as have been provided in Section 6. Similarly, market fee could be levied on transaction of goods not produced within the limits of a particular market area provided the transaction takes place within the limits of a particular market area.

A trader is under no restriction to sell any notified agricultural produce which has been purchased by him from outside the market area, at any place within the market area. Market fee is imposed on the actual purchase and sale of notified agricultural produce within the market area and mere is no question of levying any fee on the inter-State sales. Moreover, none of the petitioners has come with the concrete case of levy of market fee on inter-State sales, nor any of the petitioners alleged that he is dealing in inter-State sales in market yards. So there is no question of any contravention of Article 286 or 301 of the Constitution. Market fee is levied on the purchase and sale of notified agricultural produce for maintaining and managing market yards, by constructing roads, shops, godowns, sheds etc., provide water and electricity supply, regulate the marketing, enforce the provisions of the Act and prosecute those contravening the provisions, ensure price stability, collect and maintain information, in default of payment of price to seize the agricultural produce and arrange for resale thereof and in case of loss, recover the same from the original buyer, maintain office and adequate staff etc. etc. It is true that under the proviso to sub-section (2) of Section 19, added by the amending Act No. 24/86, there is exemption from levy of fee if the purchase is outside the market yard by a co-operative society in which the agriculturist is a member. There is no question of any discrimination. It is a beneficial legislation to protect agriculturists from exploitation and so the co-operative societies of the agriculturists have been classified separately for exemption in order to encourage such societies, so that such societies would come forward and purchase notified agricultural produce from small agriculturists who may not be in a position to take their produce to the market yard for sale and then the market fee will be recovered when sold in the market yard. Some Mandi Committees have not renewed the licences of the auctioneers because licences issued to them were for the composite purposes of acting as commission agents and also as auctioneers. Moreover, the Director has given instructions to all the Mandi Committees to employ persons to act as auctioneers, model bye-laws have also been framed for adoption. The bye-laws about the auctioneers have become redundant since commission agency has been done away with under the amended Act and Mandi Committees will have their own auctioneers in their staff. The circular letter of the Director dated 1-8-1986 is in pursuance of the amendments made in the Act The provisions have been made less stringent to traders by permitting them to furnish security instead of cash. It is said that by amending Act No. 24/86, in sub-section (3) the Director has been substituted for the State Government and this will result in arbitrariness. The Director is a high authority and is not expected to act arbitrarily or unreasonably. Under this provision now the Mandi Committee has to take prior permission of the Director for advancing any funds to P.W.D. or other agency for undertaking any work instead of taking prior permission of the State Government This will facilitate early execution of the works. State has also to act through an officer and we fail to see how this will result in arbitrariness. A proviso has been added to sub-section (3) of Section 36 providing that a notified agricultural produce for which support price has been declared by the State Government shall not be settled below that price in the market yard, This is to ensure that agriculturist gets due price for his produce. The price so fixed has to be for the average standard quality and such price certainly will not be payable to sub-standard or adulterated quality of the produce. We fail to see how declaration of support price will result in corruption. The Mandi Committees will have the necessary supervision and control to see that unscrupulous persons do not pass off sub-standard and adulterated goods, as one of the duties of the Mandi

Committee is to prevent adulteration and promote standardisation of the produce.

As a result, all these petitions fail and they are dismissed with costs. Counsel''s fee Rs. 150/- in each case, if so certified. The remaining amount of the security deposit be refunded to the petitioners.