

Hindustan Feed Manufacturers Vs State of Punjab and Others

Court: Supreme Court of India

Date of Decision: March 29, 1994

Citation: AIR 1995 SC 84 : (1994) 2 JT 295 : (1994) 3 SCR 136

Hon'ble Judges: Yogeshwar Dayal, J; Kuldip Singh, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-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 her 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* 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:

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 was dismissed. While upholding the judgment of the Punjab and

Haryana High Court in *Sat Pal* case, 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.

According to him the question before this Court in Sat Pal case 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 been 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.