

[2024] 3 S.C.R. 174 : 2024 INSC 174

Sangam Milk Producer Company Ltd.
v.
The Agricultural Market Committee & Ors.

(Civil Appeal No. 6493 of 2014)

05 March 2024

[Sudhanshu Dhulia* and S.V.N. Bhatti, JJ.]

Issue for Consideration

Whether “ghee” is a “product of livestock” under the provisions of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 and; whether the Government 1994 notification, which inter alia notified “ghee” as one of the products of livestock for the purpose of regulation of purchase and sale of “ghee” in all notified market areas was published after due compliance of the procedure contemplated under the provisions of the Act.

Headnotes

Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 – “Ghee” if a “product of livestock”:

Held: Yes – The argument that “ghee” is not a product of livestock is baseless, and bereft of any logic – The contrary argument that “ghee” is indeed a product of livestock is logically sound – Livestock has been defined u/s.2(v) of the Act, where Cows and buffalos are the livestock – Undisputedly, “ghee” is a product of milk which is a product of the livestock – Reasoning adopted by the Full Bench of the High Court that ‘Ghee’ is derived out of ‘milk’ by undergoing a process, yet it still remains a product of livestock, for the purposes of the Act and payment of “market fee”, agreed with – Further, there was nothing wrong in the 1994 notification and the challenge to the notification was rightly turned down by the Full Bench of the High Court – The argument of the appellants that the procedure given u/s.3 of the Act was not followed, is not correct – There is a basic difference between the notification which has to be made u/s.3 of the Act and the notification made subsequently u/s.4 of the Act – Majority opinion in the Full Bench concluded that procedural compliance is only necessary when there is a declaration or later a merger/de-merger of a notified area and there is no requirement of following any particular procedure

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while issuing a notification u/s.4 (4) of the Act notifying/de-notifying any already notified products for the purpose of regulation by any respective Agricultural Market Committee – Thus, a prior hearing or prior publication of the draft notification is not a requirement u/s.4 of the Act, since the notification of the year 1994 is a notification u/s.4 and not of s.3 of the Act – Therefore, the argument that the process u/s.3, was not followed is totally misconceived – No prior process was required to be followed as contemplated u/s.3 of the Act for working the scheme u/s.4 of the Act – Majority decision of the High Court upheld. [Paras 10 ,11 and 14]

Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 – Issue as regards market fee – 1994 notification had an effect which made ‘Ghee’ a product that could be regulated under provisions of the Act, Market Committees were empowered to levy fee on the sale and purchase of ‘ghee’ as per s.12 of the Act:

Held: Appellants’ argument that the Market Committees did not provide any facilities, rejected – Appellants availed the facility given by the Market Committee and hence are liable to pay the fee – There may also be a question of unjust enrichment here – Thus, this market fee should be paid as well – Appellants’ prayer that respondent Market Committees should be restrained from collecting market fees prior to the date of the High Court Judgment not accepted. [Para 13]

Case Law Cited

Kommisetty Nammalwar & Co. Guntur v. Agricultural Market Committee, Tenali & Ors., (2009) SCC OnLine AP 317 – approved.

Park Leather Industry (P) Ltd. v. State of U.P., [2001] 1 SCR 1035 : (2001) 3 SCC 135; Kishan Lal v. State of Rajasthan, [1990] 2 SCR 142 : AIR 1990 SC 2269; Ram Chandra Kailash Kumar v. State of U.P., : (1980) Supp (1) SCC 27; Smt. Sita Devi (Dead) by LRs. v. State of Bihar & Ors., [1994] Suppl. 5 SCR 682 : (1995) Supp (1) SCC 670 – referred to.

List of Acts

The Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966.

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List of Keywords

“Ghee”; Livestock; “Product of livestock”; Agricultural Market Committee; Unjust enrichment; Market Committees; Market fee.

Case Arising From

CIVIL APPELLATE JURISDICTION : Civil Appeal No.6493 of 2014

From the Judgment and Order dated 24.09.2009 of the High Court of A.P. at Hyderabad in WP No.1897 of 2007

With

C.A. Nos. 6494, 6495, 6496, 6497 and 6498 of 2014

Appearances for Parties

Ajit Bhasme, Sr. Adv., Byrapaneni Suyodhan, Ms. Nitipriya Kar, Bharat J Joshi, Kumar Shashank, Rupesh Kumar, Mukesh Kumar Pandey, Ms. Himani Bhatnagar, Sanjay Kumar Visen, Ms. Tatini Basu, Ms. Pankhuri Shrivastava, Atreya G.C., Advs. for the Appellant.

Mrs. D. Bharathi Reddy, Guntur Prabhakar, Sahil Bhalaiik, Tushar Giri, Siddharth Anil Khanna, Ms. Gulshan Jahan, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Sudhanshu Dhulia, J.

1. Two questions arise in these appeals for our determination. The first question is whether “ghee” is a “product of livestock” under the provisions of The Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (hereinafter referred to as “the Act”) and the second would be whether the Government notification (G.O. Ms. No.286 dated 05.07.1994), which *inter alia* notifies “ghee” as one of the products of livestock for the purpose of regulation of purchase and sale of “ghee” in all notified market areas was published after due compliance of the procedure contemplated under the provisions of the Act?
2. In the erstwhile State of Andhra Pradesh, the above Act was brought with the purpose to consolidate and amend the laws regulating the purchase and sale of agricultural produce, livestock and products of livestock, along with establishment of markets in connection

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therewith. The aim was to secure effective and remunerative price of commodities by bringing producers and traders face to face thereby eliminating middlemen and do away with some other earlier unethical trade practices, which were exploiting agriculturists and farmers. In other words, it was a farmer friendly legislation. The commodities which were to be regulated were not only agricultural produce but also livestock as well as products of livestock. Whereas livestock has been defined under Section 2(v) and products of livestock has been defined under Section 2(xv). Both the Sections are reproduced below:

*(v) ‘**livestock**’ means cows, buffaloes, bullocks, bulls, goats and sheep, and includes poultry, fish and such other animals as may be declared by the Government by notification to be livestock for the purposes of this Act;*
*(xv) ‘**products of livestock**’ means such products of livestock as may be declared by the Government by notification, to be products of livestock for the purposes of this Act.*

3. Under sub-Section (1) of Section 3 of the Act, the Government has to initially publish a draft notification declaring its intention of regulating purchase and sale of proposed notified agricultural produce, livestock or products of livestock in an area. It is only after hearing objections from public, it finally publishes its notification under sub-Section (3) of Section 3 declaring the area to be a ‘notified area’ in respect of such agricultural produce, livestock and products of livestock. Under Sub-Section (4) of Section 3 the Government also has a power to exclude from a notified area, any area earlier included in it.
4. After a notification is made under Section 3, there comes the process of notification under Section 4 of the Act. Under Section 4 (1) of the Act, a process is given wherein the Government further notifies a market committee for every notified area. Under Sub Section (3) of Section 4, the market committee is empowered to establish markets for the purchase and sale of any notified agricultural produce, livestock or products of livestock. After the establishment of markets by the market committee under Section 4 (3), the Government declares by a notification under Section 4 (4)¹,

¹ Section 4 (4) stands omitted vide the Andhra Pradesh (Agricultural Produce and Livestock) Markets (Amendment) Act, 2015.

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the 'notified market area' for the purposes of the Act in respect of the notified products.

In short, the above provisions provide that first there will be a larger physical unit called "notified area" wherein the market committee shall establish markets and thereafter, through a notification u/s 4 (4), the Govt. declares a "notified market area" in respect of the notified products.

5. In the year 1968, the State of Andhra Pradesh had issued a notification u/s 3 (3) of the Act declaring "notified areas" in the State where "ghee" was included in Schedule II of the said notification as a livestock product. Thereafter, in the year 1971, a notification u/s 4 (4) was published, which declared the 'notified market areas' in respect of the respondent-committee, i.e. Agricultural Market Committee, Guntur and "ghee" was specified as a notified product. However, in 1972 the 1971 notification was amended and "ghee" was taken out of the list of notified livestock products in respect of the respondent-committee, and it remained so for a considerable period of time. We must clarify here that both these notifications i.e., notifications of 1971 & 1972 were issued u/s 4 (4) of the Act and not u/s 3 (3) of the Act.
6. Later, on 15.07.1994, the Govt of A.P. published a general notification directing all the notified markets within the State of AP to regulate all the products notified in Schedule II of the 1968 Notification, which also included Ghee.
7. It is this notification of the year 1994 which came to be challenged by the producers of livestock products and which has now before us for determination. This notification was challenged before the Andhra Pradesh High Court on two grounds. The first challenge was that "ghee" is not a "product of livestock" and therefore cannot be regulated and notified. The second ground for challenge was that there is a procedure which is laid down under the law, mainly under Section 3 of the Act which prescribes the process i.e., first a draft notification has to be published, objections are invited against the notification and only after hearing such objections can this notification be made. It was contended that this process has not been followed and therefore the notification is bad.
8. This matter ultimately went to a Full Bench of the Andhra Pradesh High Court in Writ Petition No. 24818 of 2008 titled ***Kommisetty***

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Nammalwar & Co. Guntur v. Agricultural Market Committee, Tenali & Ors. (2009) SCC OnLine AP 317 and by a 2:1 majority, the Andhra Pradesh High Court rejected the argument of the appellants and upheld the notification of the year 1994, holding that the notification under challenge is not under Section 3 but under Section 4 of the Act, and is valid and moreover “ghee” is a livestock product. Based on the said judgment the Writ Petitions filed by the appellants in Civil Appeal Nos. 6493 of 2014 (M/s Guntur District Milk Production²), 6494 of 2014 (M/s. Lakshmi Das Premji Ghee Merchants), 6496 of 2014 (M/s Durga Dairy Ltd.), 6497 of 2014 (The Krishna District Milk Producers Co-operative Union Ltd., Vijaywada) & 6498 of 2014 (M/s. Karnataka Co-operative Milk Producers Federation Limited) were also dismissed by the Andhra Pradesh High Court. The decision of the Full Bench in ***Kommisetty Nammalwar*** (supra) upholding the validity of the 1994 notification is also under challenge before us in C.A No.6495 of 2014.

9. We have heard learned counsel for the parties at length and have perused the material on record.
10. The argument that “ghee” is not a product of livestock is baseless, and bereft of any logic. The contrary argument that “ghee” is indeed a product of livestock is logically sound. Livestock has been defined under Section 2(v) of the Act, where Cows and buffalos are the livestock. Undisputedly, “ghee” is a product of milk which is a product of the livestock. The majority opinion of the Full Bench decision in ***Kommisetty Nammalwar*** (supra) while referring to the judgments of this Court in ***Park Leather Industry (P) Ltd. v. State of U.P. (2001) 3 SCC 135***; ***Kishan Lal v. State of Rajasthan, AIR 1990 SC 2269***; ***Ram Chandra Kailash Kumar v. State of U.P. 1980 Supp (1) SCC 27*** and ***Smt. Sita Devi (Dead) by LRs. v. State of Bihar & Ors. (1995) Supp (1) SCC 670*** held that all animal husbandry products would fall within the meaning of ‘products of livestock’ as defined under Section 2 (xv) of the Act. Further, the majority decision has also held that the inclusion of “ghee” as a livestock product cannot be faulted merely because it is derived from another dairy product. It was observed by the High Court that even though “ghee” is not directly obtained from milk, which is a product of livestock, it would

² Vide Order dated 02.01.2024 passed by this Court in IA No.241663 of 2023 in CA No.6493 of 2014 name of appellant is amended as Sangam Milk Producer Company Ltd.

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still be a “*product of a product of livestock*”. The relevant portion of the judgment of the High Court is as under:

“Scientifically or common sense point of view, even though ghee is not directly obtained from milk (which is certainly a product of cow/buffalo), it is certainly a product of a product of livestock i.e., cow or buffalo. It would be rather illogical or irrational to say that ghee is not a milk/dairy product or to say that it is not a product of livestock. Ghee is certainly a product of livestock. It is, therefore, to be seen whether ghee comes within the definition of product of livestock or within the meaning of notified product of livestock. Section 2(x) and 2(xv) of the Act used the plural ‘products of livestock’. The legislative intention is very clear that not only a product of livestock like milk (when notified by the Government), butter etc., are products of livestock but even derivative items (derived from a product of livestock) are intended to be product of livestock for the purpose of the Act. We are convinced that the term ‘ghee’ has to be interpreted on the basis of expression ‘products of livestock’ as defined in Section 2(xv) of the Act. Whatever products are declared as such by the Government by notification, they become products of livestock for purposes of the Act.”

Another case of which a reference must be made here is the decision taken by this Court in [***Park Leather Industry \(P\) LTD. v. State of U.P. and Others* \(2001\) 3 SCC 135**](#). In this case, the Supreme Court was dealing with the provisions of U.P. Krishi Utpadan Mandi Adhiniyam, 1964, which has a provision dealing with similar issues as are there before this Court. In the U.P. Act, “agricultural produce” was widely defined and it included *inter alia* produce of animal husbandry which were specified in the schedule. In the schedule, one of the items was prescribed under the head “animal husbandry products” was “hides and skins”. The question was whether tanned leather would come within the term “hides and skins” or not? This Court held that the term “tanned leather” can be included under “hides and skins”, for the purposes of the Act and more importantly for the purposes of payment of “market fee”. The reason being that although while making a leather into “tanned leather” a process of cleaning, curing and adding preservatives may be adopted, yet the finished product which is “tanned leather” though different in physical appearance or

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even chemical combination and even commercially a different item still remains “leather” and would come under the definition of “hides and skins”. The same reasoning has been adopted by the Full Bench of Andhra Pradesh High Court that ‘Ghee’ is derived out of ‘milk’ by undergoing a process, yet it still remains a product of livestock, for the purposes of the Act and payment of “market fee”.

We are absolutely in agreement with the above reasoning.

11. The second argument of the appellant that the procedure given under Section 3 of the Act has not been followed, is also not correct. There is a basic difference between the notification which has to be made under Section 3 of the Act and the notification which has to be made subsequently under Section 4 of the Act. What has to be done under Section 3 is a one-time measure where the Government notifies an area where purchase and sale of agricultural produce, livestock and products of livestock can be made. This is a one-time exercise. What happens under Section 4 of the Act is that the Govt. declares the ‘notified market area’ in respect of any notified product (products which have already been notified under section 3 of the Act). A perusal of Sections 3 and 4 of the Act clearly shows that whereas a draft notification is mandatory under Section 3 and so is the hearing of objections to the draft notification, there is no similar provision under Section 4 of the Act.

The two Sections of the Act Section 3 and Section 4 are being reproduced below for a comparative analysis :

Section 3	Section 4
<p>3. Declaration of notified area :-</p> <p>(1) The Government may publish in such manner as may be prescribed a draft notification declaring their intention of regulating the purchase and sale of such agricultural produce, livestock or products of livestock in such area as may be specified in such notification.</p>	<p>4. Constitution of Market Committee and declaration of notified market area :-</p> <p>(1) The Government shall constitute, by notification, a market committee for every notified area from such date as may be specified in the notification and the market committee so constituted shall be a body corporate by such name as the Government may specify in the said notification, having perpetual succession and a common seal with power to acquire, hold and dispose of property and may, by its corporate name, sue and be sued:</p>

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(2) Such notification shall state that any objections or suggestions which may be received by the Government from any person within a period to be specified therein will be considered by them.

(3) After the expiration of the period specified in the draft notification and after considering such objections and suggestions as may be received before such expiration, the Government may publish in such manner as may be prescribed a final notification declaring the area specified in the draft notification or any portion thereof, to be a notified area for the purposes of this Act in respect of any agricultural produce, livestock and products of livestock specified in the draft notification.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the Government may, by notification –

(a) exclude from a notified area, any area comprised therein; or

(b) include in any notified area, any area specified in such notification; or

(c) declare a new notified area by separation of area from any notified area or by uniting two or more notified areas or parts thereof or by uniting any area to a part of any notified area;

Provided that where, as result of declaration of a new notified area under this clause, the entire area comprised in an existing notified area is united to one or more notified areas, the said existing notified are shall stand abolished.

Provided that any market committee functioning immediately before such constitution in respect of a notified area abolished under the proviso to clause(c) of sub-section (4) of section 3 shall stand abolished.

(1-A) Any notification made under sub-section (1) for the constitution of a new market committee in respect of any new notified are declared under clause (c) of sub-section (4) of section 3, may contain such supplemental, incidental and consequential provisions, including provisions as to the composition of the new market committee or new and existing market committees and the apportionment of the assets and liabilities between the market committees affected thereby].

[(1-B) Notwithstanding anything contained in Section 3 and in sub-section (1) and (1-A) of Section 4 of the Act, the Government, may, by notification, also constitution a separate market committee to a special market in a notified area.]

(2) It shall be the duty of the market committee to enforce the provisions of this Act and rules and bye-laws made thereunder in the notified area

(3) (a) Every market committee shall establish in the notified area excluding the scheduled areas such number of markets as the Government may, from time to time, direct for the purchase and sale of any notified agricultural produce, livestock or products of livestock and shall provide such facilities in the market as may be specified by the Government, from time to time, by a general or special order.

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(b) Every market committee shall also establish in the notified area such number of markets as the Government may, from time to time, direct for the purchase and sale, solely of vegetables or fruits and shall provide such facilities in the market as may be specified by the Government, from time to time, by a general or special order.

[(bb) Every market committee may also establish in the notified area such number of special market as the Government may from time to time direct for the purchase and sale of any notified agricultural produce, livestock or products of livestock or fruits and vegetable and may provide such facilities in the special market as may be specified by the Government from time to time, by a general or special order.]

[(bbb) Every Market Committee may also declare in the notified area any warehouse or cold storage or processing unit or any other place as a market by following the procedure as may be prescribed.]³

[(c) The Market Committee shall specify the limits of every market established or declared as a market by it and the Government may notify the market with such limits, to be notified market area for the purposes of this Act.]⁴

3 Added by the Andhra Pradesh (Agricultural Produce and Livestock) Markets (Amendment) Act, 2015.

4 Subs. by *Ibid.*

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[(4) As soon as may be after the establishment of a market under sub-section (3), the Government shall declare by the notification the market area such other area adjoining thereto as may be specified in the notification, to be notified market area for the purpose of this Act in respect of any notified agricultural produce, livestock or products of livestock.

(5) Subject to the provisions of sub-sections (1), (2),(3) and (4), the Government may, by notification –

(a) exclude from a notified market area, any area comprised therein; or

(b) include in any notified market area, any area specified in such notification.]⁵

After discussing provisions of Sections 3 & 4 of the Act, the majority opinion in the Full Bench concluded that procedural compliance is only necessary when there is a declaration or later a merger/de-merger of a notified area and there is no requirement of following any particular procedure while issuing a notification under Section 4 (4) of the Act notifying/de-notifying any already notified products for the purpose of regulation by any respective Agricultural Market Committee (AMC). In other words, a prior hearing or prior publication of the draft notification is not a requirement under Section 4 of the Act, since the notification of the year 1994 is a notification under Section 4 and not of Section 3 of the Act. Therefore, the argument that the process under Section 3, has not been followed is totally misconceived. No prior process was required to be followed as contemplated under Section 3 of the Act for working the scheme under Section 4 of the Act. Consequently, we hold that there was nothing wrong in the 1994 notification and the challenge to the notification has rightly been turned down by the Full Bench of the Andhra Pradesh High Court.

⁵ Omitted vide the Andhra Pradesh (Agricultural Produce and Livestock) Markets (Amendment) Act, 2015.

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12. We are now left with one more issue related to the market fee. Since the 1994 notification had an effect which made 'Ghee' a product that could be regulated under provisions of the Act, Market Committees were empowered to levy fee on the sale and purchase of 'ghee' as per section 12 of the Act. During the pendency of the matter before the High Court, the appellants were not required to pay market fee as they were granted interim protection by the High Court. After the majority decision of the High Court in **Kommissetty Nammalwar (Supra)**, market committees started issuing demand notices to the producers of 'Ghee' asking them to pay fees from the date of the notification in the year 1994 to the date of the High Court judgment i.e. 01.05.2009. This issue was also raised by appellants in the present appeals and it was prayed that they should be exempted from paying the fee to the market committees prior to the High Court judgment. This Court while issuing the notices in present matters, vide interim order, restrained market committees from collecting the market fees for the period prior to the High Court judgment. Even some of the present appeals were heard on this limited question.
13. As per section 4(2) of the Act, the Market Committee has the duty to enforce the provisions of the Act within a notified area. Section 4(3), which empowers Market Committees to establish markets within the notified area, also directs that these Market Committees have to provide facilities in the markets for the purchase and sale of notified products. Appellants' argument that these Market Committees did not provide any facilities has already been dealt with and rejected by the High Court and we are also of the same view as that taken by the High Court. The appellants have availed the facility given by the Market Committee and hence they are liable to pay the fee. There may also be a question of unjust enrichment here. For all these reasons, we are of the opinion that this market fee should be paid as well. The appellants' prayer that Respondent Market Committees should be restrained from collecting market fees prior to the date of the High Court Judgment cannot be accepted. All the same, since this fee which has now accumulated for more than 14 years between 05.07.1994 to 01.05.2009 may entail some hardship on the appellants, they shall be permitted to deposit this fee with the Committee within two years from today, in four equal instalments.
14. Consequently, we dismiss these appeals and uphold the majority decision of the Andhra Pradesh High Court. The interim orders

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passed by this Court in the present batch of cases where we had restrained the respondents from collecting market fees prior to the date of the High Court judgment during the pendency of these appeals, stand vacated.

Headnotes prepared by: Divya Pandey

Result of the case:
Appeals dismissed.