

Muniswamappa and anr. Vs. the State of Mysore and anr.

Muniswamappa and anr. Vs. the State of Mysore and anr.

SooperKanoon Citation : sooperkanoon.com/376955

Court : Karnataka

Decided On : Mar-24-1971

Reported in : AIR1971Kant354; AIR1971Mys354; (1971)1MysLJ431

Judge : A. Narayana Pai, C.J. and ;B. Venkataswami, J.

Acts : Mysore Silkworm Seed and Cocoon (Regulation of Production, Supply and Distribution) Act, 1959 - Sections 7 and 10

Appeal No. : Writ Petn. No. 515 of 1971

Appellant : Muniswamappa and anr.

Respondent : The State of Mysore and anr.

Advocate for Def. : R.N. Byra Reddy, High Court Govt. Adv.

Advocate for Pet/Ap. : M.N. Venkatachaliah, Adv.

Disposition : Petition dismissed

Judgement :

A. Narayana Pai, C.J.

The prayers in this Writ petition are for declaration of invalidity of the Mysore Silkworm Seed and Cocoon (Regulation of Production. Supply and Distribution) Act. 1959, as amended by the Mysore Silkworm Seed and Cocoon (Regulation of

Production. Supply and Distribution (Amendment) Act. 1969, with a consequential direction preventing the enforcement thereof, and for declaration of invalidity of two Notifications issued thereunder.

2. So far as the first prayer is concerned. Mr. Venkatachaliah appealing for the petitioners explains that the prayer is limited to the declaration of invalidity of the Amending Act. This matter has been dealt with in our order in Writ Petn.- 45 of 1971 (Mys) pronoun-ed today, wherein we have upheld the validity of the said Act.

3. The Notifications impugned are those marked as Exs. D and F annexed to the Writ petitions, which are Nos. S. O. 799 and 800 dated 1st May 1968. The former has to be related to clause (a) of Sub-section (i) of Section 10 and the latter to Clause (c). These clauses read:--

'10 (i) The Government may, from time to time, by notification (a) specify the places at which cocoon markets, cocoon market yards and cocoon stores shall be located.

** **

(c) specify the sericulture areas in the State to be served by each cocoon market where silkworm cocoon produced within such areas shall be sold.' The same is a machinery for giving effect to the control imposed by Section 7 of the Act, The new Section 7 substituted by the Amending Act spates that --in any area in which a cocoon market is established under the Act, no person shall sell or agree to sell and no person shall purchase or agree to purchase silkworm cocoons except in such cocoon market and except in accordance with such conditions and in such manner as may be prescribed.

4. The clear meaning of Section is that if a cocoon market is established and an area is attached thereto, the prohibitions contained therein come into operation. If no market is established or no area is attached to any market established any rearer within such area does not come within the scope of the control under Section 7.

5. Now, one of the petitioners is a rearer in a village called Solur and the other a rearer in a village called Byaderhalli. both of which are situated in Devanahalli Taluk. It is stated in the affidavit filed on behalf of the State Government (Para 21) that Byadarahalli and Solur have been denotified from the purview of the seed zone and that therefore they are free to dispose of their cocoons in any one of the 45 notified cocoon markets established in the crossbreed cocoon producing zone. The reference obviously is to the deletion of these and other villages of Devanahalli Taluk from the Schedule annexed to Notification No. CI-61-SAD 60 dated 14-7-1960 issued under sub-section (2) of Section 4 of the Act fixing an area for breeding or cultivating what is called pure Mysore Race silk-worm. In the notifications under Section 10 (i) establishing cocoon markets and attaching areas thereto describing the areas as sericulture areas (sic). It is apparently on this basis that the contention is put forward that the villages of Devanahalli including Solur and Byadarahalli stand deleted from the sericulture area described in column 2 of Notification No. S. O. 800 dated 1st May 1968.

6. We accept the argument as correctly representing the understanding of the Department in this regard, although it would be conducive to clearer understanding of the position if separate steps are taken to delete the same villages from Notification No. S. O. 800 also.

7. Proceeding on the said statement of fact, viz that Solur and Byaderhalli are now placed beyond the scope of S. O. No. 800, the result is that they cannot be held as obliged by law to sell their cocoons only in the markets specified in S. O. 799 and repeated in S. O. 800.

8. We find that in another notification No. S. O. 1535, there is a village by name Byadarahalli in the long list of villages attached to 45 named cocoon markets one of which is Devenahalli which is according to the averments in the affidavit within the walking distance of Byaderahalli.

9. On these facts, both the petitioners who are residing in Solur and Byaderhalli must be held to be beyond the control of Notifications of S. O Nos. 799 and 800 of 1st May 1968 mentioned above, but that the petitioner in Byaderhalli may come within the scope of S. O. No. 1535 and cannot on the distances mentioned above

have any grievance.

10. The Writ petition is therefore dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com