

Mohan Vs. State of Karnataka

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Court : Karnataka

Decided On : Mar-07-1986

Reported in : ILR1986KAR1924

Judge : K.A. Swami, J.

Acts : Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 - Sections 6, 6(2), 6(4), 7, 63 and 96; [Constitution of India](#) - Article 19; Mysore Agricultural Produce Marketing Act, 1939

Appeal No. : W.P. Nos. 2219 of 1986 etc.

Appellant : Mohan

Respondent : State of Karnataka

Advocate for Def. : B.G. Sridharan, APMC for R-3

Advocate for Pet/Ap. : B.T. Parthasarathy, ;B.N. Prasad and ;Pramila M.N., Advs.

Disposition : Writ petition dismissed

Judgement :

ORDER

K.A. Swami, J.

1. In all these petitions, some of the petitioners are engaged in the wholesale trade in fruits, some in flowers and some in vegetables.

2. In all these petitions, under Article 226 of the Constitution, the petitioners have sought for quashing the Notifications dated 24-9-1977, 3-8-1979, 19-12-1985 and the two notifications dated 16-1-1986. In addition to this, in two batches of Writ Petitions filed by Sri B.T. Parthasarathy, Learned Advocate, the notices issued by the Agricultural Produce Market Committee, Bangalore (hereinafter referred to as the 'Market Committee') produced as Annexure-G and G1, have also been challenged.

3(a) The Notification bearing No. RDC 124 MMD 76 dated 24-9-1977 published in the Karnataka Gazette dated 6-10-1977 (hereinafter referred to as 'Notification No. I') produced as Annexure-R2, is issued by the State Government in exercise of the powers conferred by Section 5 read with Section 4 of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (hereinafter referred to as the 'Act') declaring that with effect from the date of publication of the Notification in the Official Gazette, the marketing of vegetables, flowers and fruits specified in the schedule to the said notification (hitherto not regulated), in addition to the agricultural produces already regulated, shall be regulated in the market area of the Market Committee.

3(b) The Notification dated 3-8-1979 bearing No. MD/R & E/CR-575/EM/79-80 published in the Karnataka Gazette dated 7th August 1979 is issued by the Chief Marketing Officer in Karnataka, at Bangalore, in exercise of the powers conferred by Sub-section (2) of Section 6 of the Act, declaring that with effect from 15th August, 1979, the localities specified in the Schedules 'A', 'B', 'C' and 'D' to the Notification shall be 'market sub yards' for regulation of marketing of the notified fruits, flowers and vegetables in the market area of the Market Committee. The vegetables, fruits and flowers are also specified in the Notification. This Notification, which is produced as Annexure-R3, will hereinafter be referred to as 'Notification No, II.' The locality, described in Schedule-A to the Notification with boundaries as Market Sub Yard, is known as 'Krishnarajendra Market.' This is an existing and well known market for vegetables, fruits and flowers.

The locality described with boundaries in Schedule-B to the Notification No. II is 'Russel-Market' which is also an existing old and well known market for fruits, vegetables and flowers. The locality described with boundaries in Schedule-C to the Notification No. II is also an existing market for vegetables, fruits and flowers, known as 'Malleswaram Market.' The locality described with boundaries in Schedule-D to the Notification No. II is known as 'Yeshwantpur Market.' Thus, this notification specifies the items of vegetables, fruits and flowers, the regulation of marketing of which has already been notified in Notification No. I.

3(c). The Notification bearing No. SMD 60 RGN 85 dated 19th December, 1985 published in the Karnataka Gazette dated 20th December, 1985, is issued by the Chief Marketing Officer in Karnataka, Bangalore, in exercise of the powers conferred upon him by Sub-section (2) of Section 6 of the Act, declaring that with effect from the date of publication of the notification in the Karnataka Gazette (i.e., published on 20th December, 1985) the localities specified in Schedules 'E' & 'F' to the notification shall be the 'market sub yards,' in addition to the market sub yards already declared in Notification No. II dated 3rd August, 1979 (Annexure-R3) for regulating the marketing of vegetables, fruits and flowers mentioned in the notification in the market area of the Market Committee. Thus, this notification also specifies the items of vegetables, fruits, and flowers, the regulation of marketing of which has already been notified under Notification No. I. This notification which is produced as Annexure-R4 will hereinafter be referred to as 'Notification No. III.'

The business locality described with boundaries in Schedule-E to Notification-III is known as 'Kalasipalyam Vegetable Market.' It belongs to the Corporation of City of Bangalore. The business locality with boundaries described in Schedule-F belongs to the Bangalore Horticultural Marketing and Processing Co-operative Society Ltd., Lalbagh, Bangalore.

3(d). The Notification bearing No, SMD 168 RGN 85(i) dated 16-1-1986 is also issued by the Chief Marketing Officer in Karnataka at Bangalore under Sub-section (2) of Section 6 of the Act, declaring that with effect from the date of publication of the notification in the Gazette (published in the Karnataka Gazette on 17th January, 1986), the localities specified in the Schedules 'G', 'H' and 'I' to

the notifications shall be the 'market sub-yards' for the regulation of the marketing of the vegetables and fruits specified therein, in the market area of the Market Committee. This notification which is produced as Annexure-5 will hereinafter be referred to as Notification No. IV. The vegetables and fruits specified therein have already been notified in Notification No. I dated 24-9-1977. The business locality described with boundaries in Schedule 'G' is also a known business locality known as 'Rajajinagar Shopping Complex.' It belongs to the Corporation of the City of Bangalore. The business locality described with boundaries in Schedule 'H' is also a known existing business locality known as 'Indiranagar Shopping Complex'. It belongs to Bangalore Development Authority. The area measuring 7 acres of land at Binny Mill Tank described with boundaries in Schedule 'J' to the notification belongs to the market committee. It is yet to be developed. Thus the notification No. IV declares the areas comprised in Schedules 'G', 'H', and 'I', as the market sub yards for regulation of the marketing of only vegetables and fruits specified in it.

3(e) The Notification bearing No. SMD 168 RGN 85 (ii) dated 16th January, 1986 published in the Karnataka Gazette of 17th January, 1986 is also issued by the Chief Marketing Officer in Karnataka, Bangalore, under Sub-section (2) of Section 6 of the Act, declaring that with effect from the date of publication of the Notification in the Karnataka Gazette (i.e. published in the Karnataka Gazette dated 17th January, 1986) the locality specified in Schedule 'J' to the Notification shall be the 'market sub yard' for the regulation of the marketing of the fruits mentioned therein in the market area of the Market Committee. This Notification is produced as Annexure-R6 and it will hereinafter be referred to as 'Notification No. V'. The items of fruits mentioned in the Notification the regulation of marketing of which has already been notified under Notification No. I. The locality specified with boundaries in Schedule-'J' is the existing fruit business area known as 'Gundopanth Street'. This market sub yard is intended to regulate the wholesale marketing in fruits mentioned in the notification.

4. It is contended on behalf of the petitioners that after the Notification No. I was published on 6-10-1977 declaring that with effect from 6-10-1977 marketing of vegetables, flowers and fruits specified therein will be regulated in the market area

of the Market Committee, no market and market yard or market sub yard are declared afresh therefore the notification Nos. II to V issued by the Chief Marketing Officer declaring the localities comprised in Schedules 'A' to 'J' to the aforesaid notifications shall be the Market Sub Yards, are illegal and impermissible ; that the notification Nos. I to VI are issued without being satisfied that it is necessary in the interest of trade to regulate the marketing of vegetables, flowers and fruits ; that without being satisfied that all the necessary facilities which are required to be provided to a trader, are provided by the Market Committee. In other words, it is contended that the Chief Marketing Officer without being satisfied that necessary facilities, in order to ensure smooth conduct of trade in vegetables, flowers and fruits, are provided, has arbitrarily issued Notifications II to V; that even the objections filed to the Draft Notifications are not taken into consideration; that vegetables, flowers and fruits fall in a special category, therefore Special Markets are required to be established ; hence recourse to Chapter III is not warranted ; that Special Markets ought to have been established as per Section 96 of the Act. It is alternatively contended that even if Special Markets are not established, at least the considerations which are mentioned in Section 96 of the Act ought to have been taken into account before declaring the localities described in the Schedules 'A' to 'J' as Market Sub Yards for regulating the marketing of vegetables, flowers and fruits ; that the market yard or market sub yard, as the case may be, must be under the complete control of the Market Committee and such control is possible only if the area or locality declared as market yard or market sub yard belongs to it and the areas or localities that are now declared as market sub yards are not vested in the Market Committee except the locality comprised in Schedule-I declared as Market Sub Yard under Notification No. IV ; that the localities comprised in Schedules 'D' & 'J' are the private business localities and they do not belong to any single individual or authority ; and the other localities comprised in Schedules 'A' to 'C' & 'D' to 'H' either belong to the Corporation of the City of Bangalore or Bangalore Development Authority or a Co-operative Society. It is submitted that having regard to the provisions contained in Section 63 of the Act, the market committee is required to maintain and manage the market yard or market sub yard and provide certain facilities as enumerated in Section 63 of the Act and that is possible only if the locality declared as market

yard or market sub yard exclusively belongs to it or at any rate the market committee has complete control over it. Therefore, it is submitted that it is impermissible to declare an area or locality which neither belongs to the Market Committee nor it has control over it as market yard or market sub yard. It is further contended that the declaration of market sub yards and addition of items of agricultural produces to the existing list of notified agricultural produces affect the producers and the traders ; therefore before issuing the notifications, principles of natural justice ought to have been complied with or at least such of those who have filed the objections ought to have been heard ; that as the hearing has not been given even to those who have filed the objections, the notifications are null and void. It is further contended that the facilities that are required to be provided in a market yard are also required to be provided in a market sub yard and as there are no facilities provided by the Market Committee in the market sub yards in question, it is not open to the Market Committee to regulate the marketing of notified agricultural produces namely, vegetables, flowers and fruits ; that once the market sub yards are established for the purpose of marketing vegetables, flowers and fruits, the traders, commission agents who have to conduct their wholesale business in the market sub yards become liable to pay market fee ; that the market fee cannot be collected by the market committee unless it renders service; that there is no service rendered by the market committee, hence the establishment of market sub yards for marketing vegetables, flowers and fruits is impermissible ; that the marketing of several varieties of fruits is declared to be regulated in the market sub yards wherein the marketing of vegetables, flowers and fruits, will be regulated even though they require to be separately dealt with; that the wholesale marketing of vegetables, flowers and fruits cannot be regulated in one market sub yard as the same will seriously affect the trade ; that the impugned notifications seriously affect and impose unreasonable restrictions on the fundamental right to trade as such the same are violative of Article 19(1)(g) of the Constitution.

5. On the contrary, it is contended on behalf of the respondents that the market area has been declared long back under the Mysore Act and thereafter, the market comprising the area lying within the Corporation of the City of Bangalore has also been declared and subsequently Old Tharagupet and the New Tharagupet were declared as the market yard; that the trade went on in the said

market yard for some time in respect of notified agricultural produces ; then the market committee decided to establish a new market yard at Yeshwantpur in lieu of the existing market yard at Old and New Tharagupet; that accordingly, a new market yard at Yeshwantpur was established ; that subsequently the market committee has thought it necessary to regulate marketing of vegetables, flowers and fruits; therefore, in the year 1977 as per Notification No. I, the State Government declared that with effect from 6-10-1977 the marketing of vegetables, flowers and fruits specified in the Schedule to that notification (hitherto not regulated) in addition to the agricultural produces already regulated shall be regulated in the market area of the marketing committee; that pursuant to that, the Chief Marketing Officer issued notification No. II dated 3-8-1979 as per Annexure-R2 declaring that the localities specified in Schedules 'A' 'B' 'C' and 'D' shall be the market sub yards for the purpose of regulation of marketing of fruits, flowers and vegetables specified in the said notification. This notification was challenged before this Court in the Writ Petition No. 2912 of 1978, in which an interim order was sought and it was refused by the learned Single Judge and in the Writ Appeal No. 1004 of 1979, there was no interim order passed but in the meanwhile the petitioners therein approached the State Government and the State Government granted an interim order. This fact was brought to the notice of the Court and on that basis, the Writ Appeal was disposed of on 5-10-1979 in the following terms :

'By consent of Learned Counsel, this appeal is treated as having been posted for hearing and we have heard them.

This is an appeal from the order of Swami, J., dated 30-8-1979 dismissing I.A. No. I in W.P. No. 2912 of 1978. That was an application for stay of the enforcement of the notifications of the Government in Notification No. RDC 124 MMD 16 dated 24-9-1977 (produced as Exhibit-G in the Writ Petition) and the Notification No. KRNA 25 dated 3-8-1979 (produced as Exhibit H in the Writ-Petition).

Sri B. G. Sridharan, Learned Counsel for Respondent-3, has produced before us a copy of the letter of the Government dated 30 8-1979 addressed to the Chief Marketing Officer and intimating that the Government has stayed the implementation of the aforesaid Notifications.

Since the Government itself has stayed the implementation of the aforesaid notifications, there is no need for granting any stay as prayed for by the appellant-petitioner.

In the result, this appeal is dismissed. Parties will bear their own costs.

The Learned Government Advocate is granted five weeks' time to file his memorandum of appearance.'

That thereafter, it is the case of the market committee that the State Government has vacated the interim order ; consequently, the notifications are being enforced ; that in the meanwhile the market committee thought it necessary to declare the other localities as market sub yards for the purpose of regulating the marketing of the notified fruits, flowers and vegetables. Accordingly, the Notification No. III dated 19th December 1985 produced as Annexure-4 and the last two Notifications Nos. IV and V dated 16th January 1986 as per Annexures R5 and R6 were issued. It is the case of the market committee that the existing market area, market and the market yard continue to be the market area, market and market yard for the purpose of market sub yards that are now declared ; that for the purpose of regulating marketing of additional agricultural produces i.e., vegetables flowers and fruits that have been notified under the Notification No. I dated 24-9-1977 no fresh declaration of the market area or market or establishment of fresh market yard is necessary and that this question is no more res integra as it is covered by a Division Bench decision of this Court and also of the Supreme Court ; that it is not necessary to afford an opportunity of personal hearing ; that an act of issuing the notifications in question is a Legislative act as it is necessary to enforce the Act ; therefore the question of affording an opportunity of hearing does not arise; that Section 96 of the Act, is not applicable, and it is only when the State Government is of the opinion that the existing market Committee functioning in the market area is unable to or cannot possibly provide facilities for the regulated trading in such commodities such as cattle, sheep, fish, fruits and any other specified commodity notified by it (Government), it is open to the State Government to establish special Market Committee for that, and the present case does not fall under Section 96 of the Act ; that it is not necessary that the locality declared as market yard or market

sub yard should exclusively vest in the Market Committee ; that the locality consisting of private properties can also be declared as a market yard or market sub yard ; that this question also is no more res integra, as it is covered by a decision of this Court as well as of the Supreme Court ; that the market committee has provided adequate facilities and in that regard the market committee has filed statement on oath of the Secretary of the market committee stating the facilities and conveniences provided in each of the market sub yards. In this regard, it is also necessary to mention that the petitioners have also filed their objections disputing the correctness of the statement made by the Secretary to the Market Committee. It is the contention of the petitioners that no facilities are provided. In addition to this, they have filed an application for appointment of a Commission for local investigation to find out whether the facilities are provided by the market committee.

6. Having regard to the aforesaid contentions, the points that arise for consideration are as follows ;

i) Whether it is necessary to issue a fresh notification for establishing a market and a market yard as and when the new commodities are notified as 'Agricultural produces'?

ii) Whether the locality consisting of private properties over which the market committee has no exclusive control and does not vest in the market committee, can be declared as market yard or market sub-yard ?

iii) Whether before issuing the impugned Notifications, those who filed the objections ought to have been afforded an opportunity of personal hearing ?

iv) Whether the provisions of Section 96 of the Act, are attracted to the market sub-yards established under the impugned notifications ?

v) Whether any service is rendered and facilities and conveniences are provided by the Market Committee in the market sub-yards in question ?

7. Point No. (i) : I am of the view that this point is fully covered by a Division Bench decision of this Court in Vasavi Traders -v.- State of Karnataka, 1982(2) KLJ 357=

ILR (Karnataka) 1982(2) 961. This point was specifically raised as Point No. 15 in that decision and answered at para 121 in the negative. The Division Bench followed the view expressed by another Division Bench of this Court in the year 1975, in Secretary, APMC -v.- Appayya Shanbogue & Co, 1975(2) KLJ 132. The decision in Vasavi Traders' case¹ is affirmed by the Supreme Court in I.T.C. Ltd., -v.- State of Karnataka A Ors., 1985(2) SCALE 515. Even then it is contended by the petitioners that vegetables, fruits and flowers form a different category and they cannot be placed along with other notified agricultural produces ; therefore the aforesaid decisions cannot be applied to these cases. I do not find any force in the contention. The 'market area' and the 'market' declared for the Agricultural Market Committee, Bangalore, hold good for the items of vegetables, fruits and flowers notified as agricultural produces. As stated in para 113 of the decision in Vasavi Traders' case¹, on 1-6-1959 under Section 5 of the then Mysore Agricultural Produce Marketing Act, 1939, Government of Mysore declared whole of Bangalore District as 'market area'. By another notification of the same date in exercise of power conferred by Section 4 of the then Mysore Agricultural Produce Marketing Act, 1939, the City of Bangalore was declared to be the 'market' in respect of the market area. The operation of these notifications was expressly saved by the Act. After coming into force of the Act, i.e., the Act of 1966, the Chief Marketing Officer issued notification dated 7-12-1968 declaring the three places- 'Old-Tharagupet', 'New Tharagupet' and 'City Market' as together constituting the 'Market Yard' for APMC Bangalore. By another notification dated 13-11-1975 issued under Sub-section (3) of Section 6 of the Act, an extent of 38. 09 guntas in Yeshwantpura was declared as 'Market Yard' in lieu of the market yard earlier declared on 7-12-1968 It was this notification dated 13-11-1975 which was challenged in Vasavi Traders' case¹ and was upheld. In addition to this, the point is placed beyond the pale of controversy by retrospectively amending Section 6 of the Act, by inserting Sub-section (4). While dealing with Sub-section (4) of Section 6 of the Act, the Division Bench of this Court, in Vasavi Traders' case¹, has held thus :

'The clear intendment and effect of the amendment is to continue the 'market' and the 'Market-yard' declared for a 'market-area' notwithstanding the alteration of the market-area. Such continuance is, however, made subject to the opinion of the

Chief Marketing Officer, in that, if he decides to change the 'Market' or 'Market-yard', he could do so. In view of this amendment, the edge of the argument of the petitioners against the validity of notification dated 13-11-1975 on the ground that no market had been declared afresh gets greatly blunted. The declaration of the 'Market' earlier made before the alteration must be deemed to have continued as such even in respect of the altered 'Market-area'. The argument of Shri Srinivasan that the provisions of Section 6(4) are available only where the Chief Marketing Officer does not intend to change the 'Market' or the 'Market-yard' and whenever he desires to change them, operation of Section 6(4) is excluded cannot be accepted as it proceeds on a wholly impermissible construction of Section 6(4). That clause relied upon by Shri Srinivasan, on the contrary, merely saves the power of the Chief Marketing Officer to alter the 'Market' or 'Market-yard'.

It is also relevant to notice that as per Sub-section (4) of Section 6 of the Act, the existing market, sub-market, market yard and market sub-yard hold good even after the alteration by way of addition to, or deletion in, the list of already notified items of agricultural produce. Even in such a case, it is not necessary to make any declaration declaring any area other than the existing-market, sub-market, market yard and market sub-yard as market, sub-market, market yard and market sub-yard, as the case may be, unless the Chief Marketing Officer is of the opinion that it is necessary to do so.

For the reasons stated above, Point No. (i) is answered in the negative.

8. POINT NO. (ii) : This point is also no more res integra. Under the provisions of the Madras Commercial Crops Markets Act, 1933 (hereinafter referred to as the 'Madras Act'), markets were established in Virudhunagar, Rajapalayam and Sattur and other places for regulating the trade in notified commercial crops. Several Writ Petitions were filed in the High Court of Madras challenging the validity of the Madras Act as well as regulating the trade in the notified commercial crops in several notified areas. The High Court of Madras upheld the provisions of the Madras Act except declaring as void the provisions of Section 5(4)(a) of the Madras Act ; and Rule 37 of the Rules framed thereunder ; and dismissed the petitions (See Kutti Keya -v.- The State of Madras : AIR1954 Mad621). The

matter was carried to the Supreme Court, and the Supreme Court reversed the judgment of the Madras High Court in so far it held that Section 5(4)(a) of the Madras Act was void ; and approved the decision of the Madras High Court in other respects. (See Arunachala Nadar -v.- State of Madras, : AIR 1959 SC300)

In Mohd. Hussain Gulam Mohammad -v.- State of Bombay, : [1962]2SCR659 among other things the validity of the notification issued in 1959 declaring a locality known as Kalupur Market in the Thelia Mill compound near the Railway Station, Ahmedabad, as a sub-market yard for the purpose of Bombay Agricultural Produce Markets Act, 1939 (for short, the 'Bombay Act') was challenged. The Supreme Court upholding the provisions contained in Sections 4, 4A, 5, 5A and 5AA, of the Bombay Act as valid, also upheld the notification declaring the private locality as sub-market yard. The provisions of the Bombay Act are pari materia with the provisions of the Act. The decision in Arunachala Nadar's case⁵ was followed.

Again in Lakhan Lal -v.- State of Bihar, : [1968]3SCR534 the licence fees under the provisions of the Bihar Agricultural Produce Markets Act, 1960 was upheld. Notification declaring the entire area under the jurisdiction of the Gaya Municipality and several villages as the 'market proper' and the locality of Mahallah Parani Godown within Gaya Police Station as the principal market yard and the locality known as Kedarnath Market within Gaya Police Station as the sub-market yard, under the provisions of the Bihar Agricultural Produce Markets Act, 1960, were upheld by the Supreme Court.

Under the provisions of the Bombay Act, the Government of Bombay declared the town of Sirsi and various surrounding villages 59 in number, as a market area (Town of Sirsi now forms part of State of Karnataka) in respect of arecanut, pepper and cardamom and the localities composing Channapatnagalli, Bastigalli and Nadigedgalli as the 'market yard' in the year 1951. Subsequently on 31-8-1954 the aforesaid three gallis were declared as 'principal market yard'. Subsequently, Government of Mysore on 5-1-1965 issued a notification declaring another area measuring-35 acres 29 guntas of Sirsi Thotgar's Co-operative Society Ltd., Sirsi, comprised in R. S. No. 116, 117, 59 and 60 of Sirsi Taluk as the 'Principal Market

yard'. It was held by the Supreme Court that while the Government had the power to issue notification in public interest and to declare the areas specified in the impugned notifications as the 'principal market area' without necessarily declaring other areas simultaneously as 'sub-market area' ; but sufficient time should have been given for the appellants and others doing business in the area of the three aforesaid gallis to shift their business to the new Principal Market Yard. (See R. H. Hegde & Anr., -v.- The Market Committee, Sirsi & Ors, : [1971]3SCR370 .

These decisions establish beyond doubt that the localities consisting of private properties over which the market committee has no exclusive control and which do not vest in the Market Committee, can be declared as market sub yard. In addition to this, it is also relevant to notice the definitions of the words 'market yard' and 'market sub-yard' as defined under clauses (23) and (22) respectively of Section 2 of the Act. 'Market Yard' means, a specified place declared or deemed to be declared to be a 'market yard' Under Sub-section (2) of Section 6 of the Act. 'Market sub yard' means, a specified place declared or deemed to the declared to be a market sub yard under Sub-section (2) of Section 6 of the Act. Section 6(2)(b) of the Act, also empowers the Chief Marketing Officer to declare a specified place in the market to be market yard, and any other specified place or places as the case may be in the market to be a market sub yard or sub-yards for regulating the notified agricultural produces specified in the notification. For the purpose of Section 6 of the Act, the expression 'place' has been explained to include any structure, enclosure, open place, locality or street, whether vested in the Market Committee of the market area or not (See ; Explanation to Section 6 of the Act). Thus, the aforesaid provisions of the Act, also make it abundantly clear that it is open to the Chief Marketing Officer to declare any structure, enclosure, open place, locality or street whether vested in the market committee of the market area or not as 'market yard' or 'market sub-yard.'

However, Learned Counsels for the petitioners have placed reliance on the two decisions of this Court reported in C. Nagaiah Setty -v.- Market Committee, 1965(1) KLJ 766 and Bindraj Surajmal -v.- State of Mysore, 1968(2) KLJ 57. Both the decisions were rendered under the provisions of the Hyderabad Agricultural Markets Act, 1950 (for short, 'Hyderabad Act'). The provisions of the Hyderabad

Act are not in pari materia with the Karnataka Act. The decision in Bindraj Surajmal's case¹⁰ follows the decision in Nagaiah Setty's case⁹. Both the decisions were rendered on the basis of the provisions contained in Rules 2 and 5 of the Hyderabad Agricultural Market Rules framed under the Hyderabad Act. It was held that the words 'land', 'yard', and 'enclosure' occurring in Rule 2 suggested exclusive use of the market yard for the trading operations statutorily regulated. It was also further held that Rule 5 directed the Market Committee to lay roads, sink wells, erect buildings and provide other amenities within the market yard and to manage it as if it was its 'private property'. It was also further held that obedience to Rule 5 necessarily involved acquisition of exclusive ownership or possession of the area comprising the market yard in which the scheme of the Hyderabad Act envisaged a course of the scattered trading activities for effective statutory regulation. It is already pointed out that the explanation to Section 6 of the Act, specifically enables the Chief Marketing Officer to declare any structure, enclosure, open place, locality or street whether vested in the market committee or not as a market yard or market sub yard. Therefore, these two decisions are not applicable to a case where the area or place or locality is declared as market yard or market sub-yard under the provisions of the Act. For the reasons stated above, point No. (ii) is answered in the affirmative and against the petitioners.

9. POINT NO. (iii) : This point also has to be answered in the negative and against the petitioners as it is covered by a decision of the Supreme Court in R.K. Porwal - v.- State of Maharashtra, : [1981]2SCR866 against the petitioners. The relevant portion of the judgment is as follows ;

'.....In one of the Bihar cases it was further submitted that when a market yard was disestablished at one place and established at another place, it was the duty of the concerned authority to invite and hear objections. Failure to do so was a violation of the principles of natural justice and the notification dis-establishing the market yard at one place and establishing it elsewhere was therefore, bad. It was said that even as there was express provision for inviting and hearing objections before a 'market area' was declared under the Act, so should objections be invited and heard before a 'market yard' was established at any particular place. The principles of natural justice demanded it. We are unable to agree. We are here not

concerned with the exercise of a judicial or quasi-judicial function where the very nature of the function involves the application of the rules of natural justice, or of an administrative function affecting the rights of persons, wherefore, a duty to act fairly. We are concerned with legislative activity ; we are concerned, with the making of a legislative instrument, the declaration by notification of the Government that a certain place shall be a principal market yard for a market area, upon which declaration certain statutory provisions at once spring into action and certain consequences prescribed by statute follow forthwith. The making of the declaration in the context, is certainly an act of legislative in character and does not oblige the observance of the rules of natural justice. In *Bates v. Lord Hailsham*, (1972) 1 WLR 1373, Megarry, J., pointed out that the rules of natural justice do not run in the sphere of legislation, primary or delegated, and in *Tulsipur Sugar Co. v. Notified Area Committee*, : [1980]2SCR1111 , our brothers Desai and Venkataramaiah, JJ., approved what was said by Megarry, J., and applied it to the field of conditional legislation too. In Paul Jackson's *Natural Justice* (Second Edn.), it has been pointed out (at p. 169):

'There is no doubt that a Minister or any other body, in making legislation, for example, by statutory instrument or by-law, is not subject to the rules of natural justice -- *Bates v. Lord Hailsham of St. Marylebone* (1972) 1 WLR 1373 -- any more than is Parliament itself; *Edinburgh and Dalkeith Ry Co. v. Wauchope*(1842)8Cl & Fin 710, 720 per Lord Brougham, *British Railways Board v. Pickin* 1974 AC 765'. Prof. H. W. R. Wade has similarly pointed out in his *Administrative Law* (4th Edn,) : There is no right to be heard before the making of legislation, whether primary or delegated, unless it is provided by statutes.' There is, therefore, no substance in the invocation of the rules of natural justice.'

However, Sri B.T. Parthasarathy, Learned Counsel for the petitioners, has relied upon several decisions i.e., (1863) 14 CB(NN 180), 1964 A.C. 40, 1967(2) A.C. 337; and 1971 A.C. 287 ; and a passage from Wade on *Administrative Law* (V Edn.) at page 448. In view of the aforesaid decision of the Supreme Court in *Porwal's case*¹¹ directly covering the point in question, it is not necessary to consider the relevancy or otherwise of the aforesaid decisions relied upon by the Learned Counsel for the petitioners. Accordingly, Point No. (iii) is answered in the

negative and against the petitioners.

10. POINT NO. (iv) : Section 96 of the Act, provides for establishment of independent markets and market committees for special commodities. Under this Section, it is open to the State Government to establish an independent market and market committee in the market area of the existing market committee for regulating the marketing of cattle, sheep, fruits and any other special commodity that may be notified by the State Government; provided the Government on conducting the survey in this regard is satisfied that on account of - (i) the nature of assemblage or storage of such commodity ; (ii) the problem of marketing of such commodity ; (iii) the technical and special features of trading in such commodity ; and (iv) the incompatibility of combining the regulation of trade in such commodity with that of other agricultural produce the existing market committee or committees functioning in the existing marketing area is or are unable or cannot possibly provide facilities for the regulated trading in such commodity and it is also further satisfied that there are facilities for organised trading in such commodity in such area, and the volume of trading of such commodity in such area is fairly large and the benefits to the traders and the probable income to the market committee by separately regulating the trade in that commodity, alone would be commensurate with the efforts involved in, and sufficient for discharging the duties and responsibilities of such regulation and the trading in such commodity in such area can be efficiently regulated only if an independent market and a special market committee for the purpose are established.

Thus, there is no question of application of Section 96 of the Act, to the market sub yards in question. Section 96 is an enabling provision which enables the State Government to establish special market and market committee within existing area of the existing market committee for special commodities provided the State Government is satisfied that in the interest of the trade in the special commodities it is necessary to establish special market and a special market committee. The Section lays down the norms for establishing special market and special market committee for special commodity or commodities. Thus, it is clear that it has nothing to do with the establishment of the market sub yards in question.

In Abdul Wajid -v.- Agricultural Produce Market Committee, Sira & Anr., W.P. No. 490 of 1984 DD 12th February 1974 this Court was called upon to consider the validity of the notification issued under Sections 4 and 5 of the Act, regulating the marketing of mangoes, tomato, green chillies, brinjals in the market area of Sira. In that connection, Section 96 of the Act, also was pressed into service. It was held by this Court as follows :

'Two contentions were urged by Sri Hegde against the validity of the said notification :

(i) that the Government have no power to issue a notification under Section 5 of the Act, when there is a special provision provided for the purpose under Section 96 of the Act ; and (ii) that the Government have not yet notified under Section 2(1)(iii) of the Act, notifying that the jackfruits, mangoes, tommato, green chillies etc., are the agricultural produce.

2. I have perused the said provisions of the Act. Section 96 confers power on the Government to establish an independent market and market committee for the purpose of dealing certain agricultural produce notwithstanding that such area falls within the jurisdiction of market or market committees. The power conferred on the Government under Sections 4 and 5 to establish market area for regulating the agricultural produce, has nothing to do with the power conferred under Section 96 of the Act. The impugned notification issued under Section 5 is therefore valid.'

For the reasons stated above, Point No. (iv) is answered in the negative and against the petitioners.

11. At this stage itself, it is also relevant to consider the contention of Sri B.T. Parthasarathy, Learned Counsel for the petitioners, that a notification under Section 7 of the Act, ought to have been issued and failure to issue such notification renders the impugned notifications invalid. Section 7 of the Act, reads thus :

'Establishment of markets.--As soon as may be after the issue of the notification under Sub-section (2) of Section 3 and the making of the first bye-laws under

Section 149, the Chief Marketing Officer shall, after satisfying himself that the marketing committee has made arrangements for regulating the marketing on notified agricultural produce in the market area by a notification, declare a date not less than thirty days from the date of issue of the notification as the date on which the market and the sub-markets, if any, shall be established. For all purposes of this Act, the market and the sub-markets, if any, shall be deemed to have been established for the market area with effect from the date so notified.

Provided that in the case of a market or sub-market notified under Sub-section (2a) of Section 6, The market or sub-market shall be deemed to be established on the date of the notification of the Chief Marketing Officer.'

From the aforesaid provisions contained in Section 7 of the Act, it is clear that it becomes relevant only when the market and sub-markets are established. It has nothing to do with the establishment of market sub yards and notifying the commodities as agricultural produces ; therefore, it is not possible to accept the contention of learned Counsel for the petitioners based on the provisions contained in Section 7 of the Act, that the Chief Marketing Officer has to satisfy himself that the market committee has made arrangements for regulating marketing of notified agricultural produces in the market area. It has already been pointed out that as far as the market committee of Bangalore is concerned, the market area and the market have been established long back in the year 1959 under the Mysore Agricultural Produce Marketing Act, 1939, and the same have been saved by the Act. Thereafter, 'market yard' was established in the localities consisting of 'Old Tharagupet' 'New Tharagupet' and 'City Market'. Again, in lieu of this market yard, a new market yard is established at Yeshwantapura under the Notification dated 13-11-1975. Thus, when the impugned Notifications were issued, there were in existence "Market area' 'Market' and 'Market yard'. Therefore, there was no question of complying with Section 7 of the Act, when the impugned Notifications were issued. The contention is accordingly rejected.

12.1) POINT NO. (V): The last and the most contested point is the one relating to the facilities and conveniences provided by the Market Committee in the market sub-yards in question, and the services rendered by it. It is already pointed out that

the petitioners have filed the applications for appointment of a commissioner to make local investigation in this regard and report. The Secretary, A P M C, Bangalore, has on oath stated the facilities and conveniences that are provided and the services to be rendered in the market sub-yards, in addition to the averments made in the statement of objections. Except one market sub-yard, all other market sub-yards are the existing business localities in which business in fruits, vegetables and flowers is being carried on for the last several years. Some of the market sub-yards are more than a decade old, such as Krishnarajendra Market, Russel Market, Malleswaram Market and Gundopanth Street. In addition to this, except Gundopanth Street, all other business localities declared as market sub-yards are in one form or the other, under the control of the one local authority or the other. For example, 'Malleswaram Market', 'Krishnarajendra Market' and 'Russel Market', are under the control of the Corporation of the City of Bangalore. The market sub-yard at Indiranagara is recently built by the Bangalore Development Authority. Similarly, the Bangalore Horticultural Marketing and Processing Co-operative Society Ltd., Lalbagh, has constructed the market for the purpose of marketing fruits, vegetables and flowers. Kalasipalyam Vegetable Market is constructed by the Corporation of the City of Bangalore for the purpose of wholesale marketing of vegetables. 'Rajajinagar Shopping Complex is also constructed by the Corporation of the City of Bangalore. As far as Binny Mill Tank area is concerned, no business is going on and the market committee has acquired the land and it is being developed as a market sub-yard. Nobody is compelled to go there and do the business. The other area is the business locality of Yeshwantpur. This is stated to be a shandy maidan wherein shandy is taking place for the last several years. Under these circumstances, when the existing market places are declared as market sub-yards, the Market Committee has to regulate the trade as per the provisions of the Act, further, the commission agents as per Section 78 of the Act, are required to provide storage facilities for storing the notified agricultural produces. In the case of wholesale marketing of vegetables, flowers, fruits, the commission agents are required to provide storage and other facilities in the market sub-yards as they are permitted to charge higher fee as commission. For the reasons stated above, I am of the opinion that it is not necessary to appoint a commissioner. Accordingly, I reject the applications.

12.2) The facilities and conveniences provided and the services that are going to be rendered by the Market Committee in the market sub-yards in question, are as follows :

'Sri Krishnarajendra Market Sub-Yard' : It is stated that it is the oldest market and is provided with all the facilities by the Bangalore City Corporation to carry on wholesale trade in vegetables, fruits and flowers ; that after the construction of Kalasipalyam Market, the whole sale business in fruits, vegetables and flowers has been shifted to that market and only very few traders are carrying on their trade in the premises allotted to them by the Corporation in Krishnarajendra Market. It is also stated that Sri Krishnarajendra Market is having all the facilities such as Telephone, Post & Telegraph Office, Police Station, canteen, open space for auction and storage facilities. In addition to this, the market committee which has established a sub-office at Sethurao Street which is adjacent to this market sub-yard will regulate the trade by employing additional staff depending upon the need. It is also stated that market committee will provide one weighing machine and 25 plastic crates ; and such other facilities that may become necessary from time to time. In this regard, it is contended on behalf of the petitioners that there is no sub-office at Sethurao Street. On the contrary, the Market Committee has stated that a building belonging to Coorg Orange Growers Co-operative Society Ltd., Gonikoppal, situated at Sethurao Street has been taken on lease and the Market Committee has established a sub-office in that building and also one more sub-office at Srinivasa Building, 1 Floor near Sethurao Street. I do not see any ground to disbelieve the statement of the Market Committee in this regard. However, the petitioners submit that there is a litigation going on in respect of this building and there is a suit filed and an order of temporary injunction has been issued against the Market Committee. This appears to have taken place during the pendency of these Writ Petitions. However, the fact remains that the market committee has established its sub offices at Sethurao Street. The case of the Market Committee is that after the market committee obtained possession pursuant to the lease, the suit has been filed. Even otherwise, it is possible for the market committee to secure another building and establish its sub office. It is submitted on behalf of the market committee that in case the market committee is prevented to use Coorg Orange Growers Co-operative Society building at

Sethurao Street, by reason of the order passed in the suit, it will obtain another premises and establish its sub office there for regulating marketing of vegetables, fruits and flowers in Krishnarajendra Market.

'Russel Market' : It is stated in para-4 of the affidavit as follows :

'In so far as the Market Sub Yard established in the Russel Market described as Schedule-B is concerned, it is submitted as follows :

This is a well built compact market with entry and exit gates. This is one of the oldest markets within the area of the market All facilities are available for carrying on wholesale trade in fruits, vegetables and flowers. The wholesale traders and commission agents are having their shops and storage facilities in the 1st floor of the building and auctions are conducted in 20 guntas of open space situated in the market sub yard known as 'Dallali Market Richard Square'. The market sub yard has got facilities such as Telephone, Post & Telegraph, Canteen, Police Station and sanitary blocks. The Corporation authorities have maintained sweepers for removing the garbage and clean the market sub yard. The Market Committee will establish its sub office in the 1st floor very shortly. B Traders have obtained licence from the Market Committee and remaining traders are yet to take licence. The Market Committee has employed Market Supervisors, Weighmen-Supervisors, Auctioneers and Peons. The Market Committee will provide plastic crates and weighing machines and additional staff as and when required.'

In this regard, it is the contention of the petitioners that the area available for auction is not sufficient and it is not possible for the lorries to carry the vegetable into the market sub yard. The fact remains that the wholesale marketing has been going on in the Russel Market for the last several years. Merely because the market committee decides to regulate the trade, it cannot all of a sudden become inconvenient and inadequate to cope up with the requirements of trade. In addition to this, there are facilities provided by the market committee such as telephone, post and telegraph, canteen, police station and sanitary blocks. The Corporation authorities have maintained sweepers for removing the garbage and cleaning the market sub yard. The market committee will establish its sub office very shortly. The market committee has employed supervisors, weighmen, auctioneers and

peons.

'Malleswaram Market sub-yard' : It is not in dispute that it is constructed by the Corporation of the City of Bangalore. There are, as stated by the market committee only six commission agents/traders and there are six auction platforms where auctions are being conducted. The market committee has also provided necessary staff, auctioneers and weighmen Supervisors etc. As for as the cleaning is concerned, the Corporation which collects the stall age fee, has maintained the sweepers to clean the premises in the market sub yard. The market committee has also provided weighing machine and 100 plastic crates, and one check post and a sub office is being established.

'Yeswanthpur Market Sub Yard' : It is a Shandy Maidan measuring one acre, where the wholesale trade in vegetables takes place once in a week i.e., on Sunday. There are about 15 temporary sheds for traders and commission agents. The arrivals on other days are very meagre. The market committee has stated that it is not at all difficult to manage the market sub-yard at Yeshwantpur. It has employed market supervisors, weighmen supervisors, auctioneers etc., for the purpose of regulating the marketing of vegetables, fruits and flowers at Yeshwantpur market sub-yard.

'Kalasipalyam Market Sub-Yard': It is already pointed out that it is also built by the Corporation of the City of Bangalore. It is covered by the compound wall and consists of 361 shops constructed in the basement, ground-floor and 1st floor. In addition to this, there is plenty of open space where auctions are held daily. The facilities such as Telephone, Police outpost, Canteen, Urinals and Sanitary blocks are provided by the Corporation. Accommodation is reserved for Bank, Post and Telegraph office. The wholesale trade is going on from April 1985 and most of the wholesale traders and commission agents are carrying on business in their respective premises allotted to them by the Corporation of the City of Bangalore. 125 commission agents, 62 'A' Class traders, 26 'B' Class traders, 9 importers and 8 exporters are carrying on the trade in this market sub yard. They have already obtained licences and the remaining merchants are yet to obtain licences. The market committee has established sub office on the 1st floor and has installed five

wooden check posts at each one of the gates and there is adequate staff appointed by the market committee. Two electronic weighing machines, 4 A very Platform Scales and 500 plastic crates have been provided. The Corporation of the City of Bangalore has employed 54 Sweepers to remove the garbage from the premises. The market-committee has resolved to purchase 10 lorries for the purpose of providing quick transport facilities. There is sufficient open space for conducting auctions. There is enough facility for storing. Thus, there can be no doubt that adequate facilities are provided in Kalasipalyam market sub-yard.

'Lalbagh Market Sub-Yard": This area belongs to the Bangalore Horticultural Marketing and Processing Cooperative Society Ltd., Lalbagh, Bangalore. It is stated by the market committee that the aforesaid Society has provided all the facilities which are necessary for carrying on wholesale trade in fruits and vegetables. It is also stated that the society has the membership of more than 2000 who are all growers. The average turn-over per day is about rupees one lakh. It is also stated that the Society has maintained ten vehicles. In addition to this, the market committee has provided one lorry for quick transporting, and has agreed to provide one more lorry. It has already provided 500 plastic crates and one electronic weighing - machine. The market committee has also employed Market Supervisors, Weighmen Supervisors and Auctioneers, it is prepared to provide such other facilities that may become necessary.

'Rahajinagar Market Sub Yard' : The Corporation of the City of Bangalore has built this market complex at Rajajinagar. The facilities that are required for wholesale trade in fruits and vegetables, such as storage, shops, open space for auctions etc., are provided. It is stated by the market committee that the Corporation has also agreed to provide sufficient space for sub office and storage.

'Market Sub-Yard at Indiranagara : It is established at Indiranagar Shopping Complex. It is constructed by the Bangalore Development Authority on a vast area adjacent to Old Madras Road with all the facilities for wholesale trade such as storage, open space for auction etc. In. addition to this, the B. D. A. has agreed to provide further storage facilities and space for auction. It has got the facilities of Telephone, Bank, Post and Telegraph office, Canteen, Sanitary Block and Police

Station. The market committee is prepared to provide weighing machine and sufficient number of plastic crates. It has employed necessary staff such as market supervisors, weighmen supervisors and auctioneers.

'Market sub-yard at Binny Mill Tank' : It exclusively belongs to the Market Committee. It is under construction and no one is compelled to shift over there and do the business ; therefore, it is not necessary to consider the same.

'Market Sub Yard at Gundopanth Street' : The locality comprised in Gundopanth Street area is declared as a market sub yard. In fact, the contest is mainly by the traders who are carrying on business in this locality. It is stated by Sri B.T. Parthasarathy, Learned Counsel for the petitioners, that the exclusive trade in this locality is of Banana and it requires fumigation facility and also enough space for conducting auction and godown for storage. In this regard, the market committee has stated that each of the commission agents is having shop-cum-godown facilities with varying dimensions such as 20' x 10', 40' x 50', 60' x 45' and 100' x 200'. There is also adequate fumigation facility already existing. Auction takes place every day mostly in the individual godowns of the commission agents. It is also further stated that other than banana no wholesale transaction in respect of other fruits takes place in Gundopanth Street and other fruit merchants having business in Sethurao Street or Police Road, are having their own shop-cum-godown facilities. In this regard, it is stated that the market committee has established sub office in Srinivasa Building, 1st floor at Sethu Rao Street and one more office is being established in the upstairs of Coorg Orange Growers Cooperative Society Ltd., GoniKoppal at Sethurao Street, to which reference has already been made. In addition to this, the market committee has also stated that a special sub committee has been constituted for regulation of trade in fruits, vegetables and flowers in all the market sub-yards. It is also stated that adequate staff is employed especially for Gundopanth Street to cope up with the requirement of the trade and to effectively regulate the marketing of fruits, flowers and vegetables. It is further stated thus :

'(4) The Market Committee has employed one Additional Secretary, one Assistant Secretary, 10 Market Supervisors, 5 Weighmen Supervisors, 5 Security guards (by

rotation, round the clock) and 10 sweepers. However, the staff will be increased as and when it becomes necessary. The Market Committee has provided two electronic weighing machines for fruits other than banana, as banana trade takes place by counting ; one four wheeled tempo bearing No. CAA 3790 for lifting the garbage is provided ; one Leyland (Comet) Tipper lorry bearing No. CAA 4517 for lifting the garbage is provided ; 500 plastic crates are provided. The market committee has already resolved to purchase 10 lorries for the purpose of quick transportation of fruits and vegetables into the market sub yard.

(5) The market committee will arrange to display the Boards indicating the market rates, market charges and other market information daily. In the sub-office at schedule- J, the Market Committee will install a Radio with microphone for the purpose of announcing the market rates.

(6) The market committee will permit only the licenced Hamals, licenced weighmen and licenced market functionaries to operate in the market sub yard.'

12.3) Except denying the facilities and services claimed to have been provided and rendered by the market committee, the petitioners have not placed any material before this Court to show that no facilities are provided by the Market Committee. As discussed above, the Market Committee has provided sufficient staff and other facilities in the various market sub-yards. It has also further stated that it is prepared to provide any other facilities that are required to be provided for ensuring effective regulation and smooth conduct of trade in the market sub-yards. In the normal course, the Market Committee renders services by regulating the trade, conducting auction, disseminating market information, ensuring safety, deciding the disputes between the traders and traders ; purchasers and traders eliminating middlemen and mal-practices and ensuring that the trade goes on smoothly and without any obstruction.

13. In R.K. Porwal -v.- State of Maharastra¹¹ which related to the shifting of the market yards in the State of Maharashtra, Bihar and Karnataka, their Lordships have held thus :

'A place ought not to be notified as a market unless it is ready for use as a market with all reasonable facilities and conveniences but it is not the duty of the Court to pursue the matter to the extreme limit of quashing the notification when it is found that all reasonable facilities and conveniences were made available. While a notification may be quashed if nothing has been done beyond publishing the notification, in cases where some facilities and conveniences have been provided but not some others which are necessary the Court may instead of quashing the notification give appropriate time-bound directions for providing necessary facilities and conveniences.'

These observations were in the context of establishment of new market or market yards by shifting the existing trade to the new market or market yard. Definitely when the trade is shifted from one place or from one market or market yard to another new market or market yard, it is the bounden duty of the market Committee to provide all reasonable facilities ; but where the marketing of notified agricultural produces is regulated in an existing business locality declaring it as a market yard or market sub-yard where the wholesale trade in the notified agricultural produces has been going on for the last several years, the same criteria cannot be applied, and it is unreasonable to expect the very same facilities, which are required to be provided in the newly established market yard or market sub-yard to be provided by the market committee. In the instant case, the existing business localities are declared as market sub-yards. The traders of the localities in question which have been declared as market sub-yards must consider themselves to be lucky as they are not required to shift their wholesale trading activities in the notified agricultural produces to other places. In this regard, they are placed in an advantageous position. Hence, taking into consideration of all the facts and circumstances of the case and also that the wholesale trade in fruits, flowers and vegetables is going on for the last several years, the existing facilities provided by commission agents - Corporation or the local authorities -shall have to be taken into consideration. No doubt, it is the duty of the market committee to provide facilities for regulating the trade so that the malpractices that are going on so far are eliminated- In that regard, the Market Committee renders service for the purpose of regulating trade and also eliminating the mal-practices and at the same time ensuring fair price to growers. It renders several other services which have

already been adverted to. Therefore, I do not see any justification to hold that no service is rendered and no facilities and conveniences are provided by the Market Committee. It is also assured by the Market Committee that any other facilities that are required to be provided, the Market Committee is prepared to provide the same. Therefore, there is no justification to quash the impugned notifications. Accordingly, Point No. (v) is answered in the affirmative and against the petitioners.

14. For the reasons stated above, these Writ Petitions fail and the same are dismissed.

15. Before parting with these cases, it is necessary to issue a direction to the Market Committee. No doubt, in the year 1979, the notification was issued declaring the localities described in Schedules A to D, as the Market Sub Yards. The notification was not given effect to, having regard to the proceeding pending before this Court and also before the State Government. Thereafter, three more notifications are issued declaring the areas described in Schedules 'E' to 'J' therein, as Market Sub-Yards. These notifications also were not given effect to until 16th January, 1986. In these Petitions, there is an interim order passed directing the market committee not to prosecute the traders who have been carrying on their trade for these years without licences. It is submitted on behalf of the petitioners that it is likely that the market committee may now resort to prosecution of the petitioners and other similarly situated traders who have been carrying on trade in all the business localities in question which are now declared as 'market sub-yards' as many of them have not obtained the licences. As the matter has been under litigation, it is just and appropriate that the market committee does not resort to prosecution of the traders who have been carrying on trade in the area comprised in the Market sub-yards in question without obtaining licence till this day. The Market Committee is directed accordingly.