

M.A. Farooq and ors. Vs. Selection Grade Secretary, Hyderabad Agricultural Market Committee

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Court : Andhra Pradesh

Decided On : Feb-12-2007

Reported in : AIR2007AP204; 2007(4)ALD123; 2007(3)ALT644

Judge : L. Narasimha Reddy, J.

Acts : Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 - Sections 7 and 12; Easement Act; [Constitution of India](#) - Articles 14 and 19(1)

Appeal No. : Writ Petition No. 236 of 2007

Appellant : M.A. Farooq and ors.

Respondent : Selection Grade Secretary, Hyderabad Agricultural Market Committee

Advocate for Def. : V.V. Narayana Rao, Standing Counsel

Advocate for Pet/Ap. : P. Gangaiah Naidu, Sr. Counsel and ;N. Bharat Babu, Adv.

Judgement :

ORDER

L. Narasimha Reddy, J.

1. Petitioners challenge the tender notice dated 18-12-2006, issued by the respondent, in so far as it relates to the grant of licence for sale of hay in the Gaddiannaram Market Yard, as packing material.

2. Petitioners state that they have been supplying the hay in the fruit market yard, when it was functioning at Mojamjahi Market, and after it was shifted to Gaddiannaram; for the past several decades. According to them, the proposal of the respondent to issue licence for supply of hay is contrary to the provisions of Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (for short 'the Act'), and violative of their fundamental right, under Article 19(1)(g) of the [Constitution of India](#). They complain about discrimination also, in the sense that the respondent has not chosen to regulate the supply of other packing material, such as wooden boxes, cartons, waste paper etc.

3. The respondent filed a counter affidavit. Apart from denying the allegations made by the petitioners, he stated that the necessity to regulate the supply of hay in the market yard arose, on account of the serious obstruction being caused by the petitioners and other persons in illegal stocking of the same in the market yard, leading not only to traffic congestion, but also to fire accidents. It is stated that steps are being taken to regulate the supply of other packing material also.

4. Sri P. Gangaiah Naidu, learned Senior Counsel, appearing for the petitioners, submits that hay is not a notified agricultural produce, and the question of granting licence for the same under Section 7, or to modify market fee, under Section 12 of the Act does not arise. He contends that even if the proposed licence is to be treated as a regulatory measure, the respondent acted in a discriminatory manner in permitting the supply of other packing material, without any restrictions. He had urged certain subsidiary contentions also.

5. Sri V.V. Narayana Rao, learned Standing Counsel for the respondent on the other hand, submits that the licence proposed to be issued for supply of hay is not the one, contemplated under the Act, but a regulatory measure, for proper upkeep of the market yard. He contends that the unregulated supply has brought about unhygienic conditions, and has become a threat to safety. He points out that the petitioners did not have any vested or legal right to supply hay in the market yard.

6. Before examination of legality or otherwise of the action of the respondent, one doubt needs to be clarified. The tender notice contemplates issuance of licence for supply of hay. The Act provides for regulation of trade and business in agriculture produce by issuing licences under Section 7. Admittedly, hay is not a notified agriculture produce. Therefore, the question of granting any licence, in relation to the same, under Section 7 of the Act; does not arise. What the respondent intended through the tender notice is, to regulate the supply of hay in the market yard, by way of issuing licence. This licence is different from the one, contemplated under Section 7 of the Act. It is the one, contemplated under the Easement Act, and broadly comparable to a lease. Therefore, the question of examining the action of the respondent, with reference to Sections 7 and 12 of the Act, does not arise.

7. Being an Authority, which has established the market yard, and vested with the power to regulate the activities therein, the respondent is certainly competent to control the various activities in the market yard by issuing permits, licences, or leases, as the case may be. Item 2 of the tender notice relates to running of a canteen and pan shop. Though the said activities do not come under the provisions of the Act, they are sought to be regulated, to ensure congenial atmosphere in the market yard. Similarly, the matter of supply of hay also is sought to be regulated by granting licences.

8. Learned Senior Counsel, appearing for the petitioners, is not able to satisfy this Court, that the step taken by the respondent to regulate the supply of hay is beyond his competence, or jurisdiction. Therefore, no exception can be taken to the respondent, in issuing the tender notice.

9. One area, in which this Court is impressed by the submissions made on behalf of the petitioners, is, that though there exist several items of packing material such as, wooden boxes or paper cartons, filling material of various categories; licence is being insisted only for supply of hay. In the event of the supply of one packing material being regulated, and others being left unregulated, a clear situation of discrimination emerges, and the persons, who are required to obtain licences for a particular material, would be made to face not only unhealthy competition, but also

a situation lacking level play. The respondent is not able to sustain the classification and the resultant discrimination among equals.

10. There is no nexus between the proposed action, and the object sought to be achieved. If the intention is to regulate the supply of the packing materials, identical steps ought to have been taken, as regards all other material. Choosing the item of hay alone, for the purpose of regulating the supply, leads to discrimination, which is violative of Article 14 of the [Constitution of India](#). Both, from the contents of the counter affidavit and the submissions of the learned Standing Counsel for the respondent, it is evident that the steps are being taken to regulate the supply of other packing material also. If that be so, the licence, in pursuance of the impugned tender notification, even if granted, must be made operative along with the licences, that may be issued, for supply of other materials.

11. For the foregoing reasons, the writ petition is disposed of, upholding the validity of the impugned tender notice, but directing that the respondent shall enforce the resultant licence, as regards supply of hay, along with those, that may be granted in respect of other packing material.

12. There shall be no order to costs.