

Mohan Singh Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-23-1994

Reported in : 1995CriLJ1196

Judge : U.L. Bhatt, C.J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 2, 9, 16(1), 23 and 24

Appeal No. : Cri. Revn. No. 390 of 1990

Appellant : Mohan Singh

Respondent : The State of Madhya Pradesh

Advocate for Def. : Dilip Naik, D.A.G.

Advocate for Pet/Ap. : S.C. Pandey, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

U.L. Bhatt, C.J.

1. Revision petitioner has been convicted under Section 16(1)(a)(i) of the [Prevention of Food Adulteration Act, 1954](#) (hereinafter referred to as 'the Act' for short) and sentenced to undergo R. I. for six months and to pay fine of Rs. 1000/-

with default sentence. The conviction and sentence have been affirmed by the Sessions Court in appeal. Hence this revision.

2. Revision petitioner was running a Kirana Shop. PW3, Food Inspector exercising jurisdiction over Pithora block visited the shop, disclosed his identity and desired to purchase Gur from the shop for the purpose of analysis, purchased the sample of Gur and dealt with the same in accordance with the provisions of the Act and the rules framed thereunder. A part of the sample was sent to the Public Analyst who reported that the sample did not conform to the standards prescribed and was, therefore, adulterer. A copy of the report with intimation was forwarded to revision petitioner, after the Food Inspector lodged a complaint. Revision petitioner denied his guilt. The two Courts below on an appreciation of the evidence produced by PW3 and the two other witnesses and the documentary evidence, upheld the prosecution case.

3. The learned Counsel for the revision petitioner has raised only one contention in the course of his arguments. The contention is that PW3's status as duly appointed Food Inspector has not been established. I may straightway mention that this point was not urged before the Courts below.

4. Ex.P/4 is a notification issued by District Family Planning and Health Officer of the district under Rule 4(3) of the State Rules empowering PW3 to discharge functions as Food Inspector. Ex.P/5 is a notification issued by the Chief Medical Officer of the district under Rule 4(3) of the State Rules empowering the three Sanitary Inspectors mentioned therein to discharge functions as Food Inspectors. No. 2 in the list of Sanitary Inspectors is PW3 and jurisdiction referred to is Pithora. Going by these notifications, the status of PW3 as Food Inspector can admit of no doubt. According to the learned Counsel for the revision petitioner, these documents cannot be acted upon.

5. Section 9 of the Act states, inter alia, that the Central Government or the State Government may by notification in the official gazette appoint such persons as it thinks fit, having the prescribed qualifications, to be Food Inspectors for such local areas as may be assigned to them by the Central Government or the State Government, as the case may be. There has been no contention that PW3 does

not have the qualification prescribed for the office of Food Inspector. Section 23 confers power on Central Government to make rules. Section 24 confers powers on the State Government to make rules for the purpose of giving effect to the provisions of the Act in matters not falling within the purview of Section 23. The State Government has framed rules in 1962. Rule 4 deals with the powers and duties of Local Authority. Local Authority shall be responsible for the proper day to day administration and enforcement of the Act within its jurisdiction. The Local Authority shall appoint a Health Officer or officers for the purpose of the Act having jurisdiction over the whole or part of its areas as it may specify. Sub-rule (3) of Rule 4 states that the Local Authority may appoint persons in such numbers as it may think fit, having qualifications prescribed under the Rules to be Food Inspectors for the purpose of the Act and they shall exercise Powers within such local area as it may assign to them with the approval of the Authority. It is pointed out that the expression 'Local Authority' has not been defined in the Act. 'Local Authority has been defined in Section 2(viii) of the Act. Section 2 (viii) (2) states that 'Local Authority' means in the case of a local area other than a municipality, or a cantonment, or a notified area, such authority as may be prescribed by the Central Government or the State Government under the Act. The expression 'prescribed' has been defined in Section 2(xi) of the Act as meaning 'prescribed by rules made under this Act'. It is, therefore, contended that the prescription by the State Government of 'Local Authority' can only be by rules and not by executive orders.

6. My attention has been invited to notifications dated 19-8-1958 and 13-1-1966 issued by the State Government and referred to at pages 79 and 80 of the Law Relating to the Prevention of Food Adulteration in India by N. P. Shrivastava, Seventh Edition. By these notifications, the State Government has declared Civil Surgeons of the Districts as Local Authority for the area within the jurisdiction of the Panchayats or Janpadas within the districts. According to notification dated 18-2-1967 issued by the State Government. District Family Planning and Health Officer is the Local Authority within his jurisdiction. There is a further notification appointing all Civil Surgeons to be Local Authorities. The post of Civil Surgeon has been redesign Ted as Chief Medical Officer. There can, therefore, be no doubt that the authorities who issued Exs. P/4 and P/5 are Local Authorities as

contemplated under the Act and PW3 who was initially appointed as Sanitary Inspector has been appointed Food Inspector by the Local Authority. There can also be no doubt about the status and power of PW3 to act as Food Inspector.

7. The contention advanced on behalf of the revision petitioner is that the aforesaid empowerment is by way of Government notification and not by Rules and such empowerment cannot stand as 'Local Authority' as defined in Section 2(viii)(2) must be authority as prescribed by the State Government under the Act, and 'prescribed' means 'prescribed by the Rules'. Learned Counsel also placed reliance on the decision of the Patna High Court in Verendra Singh v. State, 1977 Cri LJ 1185. In this case, the Patna High Court held that notification issued by the State Government appointing Chief Medical Officer as Local Authority is not valid since such appointment can be made only by Rules. This decision is rendered without considering the opening words of the definition clause i.e. 'unless the context otherwise requires'.

8. Section 2 is the definition clause in the Act. Section 2 commences with the words 'In this Act unless the context otherwise requires'. Thus, the definition of a Local Authority in Section 2(viii)(2) must be read as follows: 'Unless the context otherwise requires 'Local Authority' means in the case of any other local area, such authority as may be prescribed by the Central Government or the State Government under this Act.' This definition will apply unless in the context otherwise requires. Whether the context otherwise requires has not been considered in the aforesaid decision.

9. A definition clause does not necessarily apply to all possible contexts in which the word may be found in a particular statute. A rigid adherence to the definition may lead to anomaly or at times even repugnancy. In Vanguard Fire and General Insurance Co. Ltd., Madras v. M/s. Praser and Rose, AIR 1960 SC 971, the Supreme Court observed:

It is well settled that all statutory definitions or abbreviations must be read subject to the qualification variously expressed in the definition clauses which created them and it may be that even where the definition is exhaustive inasmuch as the word defined is said to mean a certain thing, it is possible for the word to have a

somewhat different meaning in different sections of the Act depending upon the subject or the context. That is why all definitions in statutes generally begin with the qualifying words similar to the words used in the present case namely, unless there is anything repugnant in the subject or context. Therefore, in finding out the meaning of the word 'insurer' in various sections of the Act, the meaning to be ordinarily given to it is that given in the definition clause. But this is not inflexible and there may be sections in the Act where the meaning may have to be departed from on account of the subject or context in which the word has been used that will be giving effect to the opening sentence in the definition 'section, namely, unless there is anything repugnant in the subject or context. I view of this qualification, the Court has not only to look at the words but also to look at the context, the collocation and the object of such words relating to such matter and interpret the meaning intended to be conveyed by the use of the words under the circumstances.

The Supreme Court held that the word 'in-surer' includes a person who has closed his business of insurance also.

10. In the Commissioner of Expenditure Tax Gujarat v. Darshan Surendra Parekh, AIR 1968 SC 1125, the Court, considering the definition of the expression 'defendant' in the Expenditure Tax Act, 1957, observed:

It is a settled rule of interpretation that in arriving at a true meaning of any particular phrase in a statute, the phrase is not to be viewed isolated from its context it must be viewed in its whole context, the title, the preamble and all the other enacting parts of the statute. It follows therefrom that all statutory definitions must be read subject to the qualifications expressed in the definition clauses which create them, such as 'unless the context otherwise requires' or 'if not inconsistent with the context or subject matter'.

(See also page 129 of Principles of Statutory Interpretation by Justice G. P. Singh Fifth Edition.)

11. Normally, whenever, a word is defined a statute and that word occurs in the succeeding sections, the meaning given in the definition clause must be applied in

construing the sections concerned. However, if in the subject or context of a particular section, it appears that there is something different or repugnant so that the definition cannot be fitted in, the Court is at liberty to construe the word occurring in the section in a manner in which it has been defined and to give it the ordinary meaning or some other meaning Opposite to the context or the subject. The ordinary meaning of the word 'prescribe' is 'lay down or impose authoritatively' (See The Concise Oxford Dictionary Fifth Edition.) Section 2(viii) which deals with the definition of 'Local Authority' is in two parts. In the first part, the statute itself locates the Local Authority in relation to Municipality, Cantonment or Notified Area. In the second part, it is stated that Local Authority in any other local area is such authority as may be prescribed by the Government under the Act. If rules are required to prescribe Local Authority in such cases also the exercise will become too rigid since rules are required to be laid before the State Legislature. Such a rigid meaning for the word 'prescribe' is not indicated by the context of the definition of 'Local Authority'. Therefore, the Government notification prescribing District Family Planning and Health, Officer or Civil Surgeon (redesign Ted as Chief Medical Officer) as Local' Authority has to be regarded as a valid prescription though it is not made by way of rules. That being so, Ex. P/4 notification issued by the District Family Planning and Health Officer and Ex. P/5 notification issued by Chief Medical Officer constitute valid appointment empowering PW3 to act as Food Inspector.

12. Exs. P/4 and P/5 are in printed sheets and, do not bear the signatures of the notification) authorities. It is, therefore, contended that these; documents cannot be relied on. This contention! was not raised before the trial Court or appellate Court. PW3 was not cross-examined in that regard. Had a challenge been raised, the prosecution would have had an opportunity of producing the relevant documents or other evidence. There fore, this contention cannot be permitted to be raised, PW3 stated that he is the Food Inspector of that area. This statement was never challenged.

13. For the reasons indicated above, I reject the contention that PW3 was not duly appointed or empowered to discharge the functions of Food Inspector in Pithora local area. No other contention has been urged before me. The revision petition is

dismissed.

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