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**SooperKanoon Citation :** [sooperkanoon.com/803003](http://sooperkanoon.com/803003)

**Court :** Chennai

**Decided On :** Jul-06-1978

**Reported in :** AIR1979Mad191

**Judge :** Ramaprasada Rao, C.J. and ;Ramanujam, J.

**Appeal No. :** Writ Petn. No. 6078 of 1973

**Appellant :** Sunsine Co.

**Respondent :** Chief Controller of Imports and Exports, New Delhi and ors.

**Judgement :**

ORDER

1. The petitioner seeks for a writ of mandamus or any other appropriate writ directing the respondents to issue an additional licence for the value of Rs. 72,444, for the import of dates on the basis that the main licence should be for the value of Rs. 1,56,000 and for ancillary reliefs.

2. On the basis of past imports the petitioner obtained what is known as quota certificate which enables him to import dates from Iraq. As is usual, public notices were issued in the year 1971, prescribing the circumstances under which various quota certificates can be obtained by established importers in relations to their previous imports. We are here concerned with a public notice dealing with two distinct items. This public notice is dated 25-10-1971. It provided that the basic period for the purpose of calculating the quota of established importers would be

from 1951-52 to 1966-1967, for all items unless otherwise provided. But in respect of dates the public notice provided that the quota certificate would be calculated on the basis of past imports of dates from Iraq during the period from 1956-57 to 1965-66.

So far as fresh fruits were concerned, quota certificates would be issued on the basis of past imports during the period from 1951-52 to 1966-67. The petitioner claims that he is aggrieved by such discrimination in the matter of adoption of the basis period which formed the foundation for evaluating the quota certificate. In fact, the petitioner's case is that, if the ordinary basic period provided for other articles, namely, 1951-52 to 1966-67, is adopted he would be entitled to quota certificate of the value of Rs. 1,54,246, and that by reason of bringing dates within the shorter basic period he was granted a quota certificate only for the value of Rs. 83,556. This was obviously based on the fact that the basic period was taken as 1956-57 to 1965-66. The complaint is that the basic period should be taken as 1951-52 to 1966-67.

3. The petitioner honestly refers to the fact that there would not be any extra strain on foreign exchange by extending the basic period of 1951-52 to 1966-67 to established importers of dates from Iraq on a par with established importers for dry fruits and fresh fruits from other countries, as the available foreign exchange among the eligible established importers would not be depleted by such adoption.

4. In these circumstances, claiming that he has been discriminated, the petitioner seeks for a writ of mandamus. We do not find a counter-affidavit in our papers, but learned counsel for the respondents read out a copy of the counter affidavit said to have been filed in this court, and would say that the fixation of two basic periods for two distinct subjects of import would not amount to discrimination, that even otherwise such basic periods are fixed with reference to the totality of national economy and the availability of foreign exchange and that such decisions being the products of policy cannot be lightly interfered with by civil courts. He would add that there is no public duty on the part of the respondents to issue such quota certificates as asked for by the petitioner.

5. We are entirely in agreement with learned counsel for the respondents; firstly the fixation of two basic periods for the different and separate subjects of importation does not pose any differentiation and therefore it does not result in discrimination. Discrimination can be attributed only in cases where similar products and similar persons are given differential treatment without any reasonable basis for making such discrimination. Here, in this case, the two basic periods which are now in challenge, related to two different commodities. One such commodity is dates and the other is fresh fruits. In the case of fresh fruits, the basic period was fixed as 1951-52 to 1966-67. In the case of dates the basic periods was fixed as 1956-57 to 1965-66. There may be valid reasons for fixing such different basic periods. We are not, however, called upon to discover what the reason is. As the fixation of two different basic periods for two different commodities does not present a situation wherefrom discrimination can arise, we are unable to accept the contention that such a discrimination has resulted and that the petitioner is entitled to relief.

6. Even otherwise, public policy, which is the creation of the administrative machinery of the State, depends upon myriad objectives, which are sought to be achieved with the aid of special knowledge and expertise at the State's command. The petitioner himself is aware that the fixation of the value of the quota certificates based upon basic periods, etc., involves an impact on foreign exchange. Obviously, this was in the mind of the authorities who were responsible for the issue of the public notice fixing different basic periods for different products.

7. Lastly, we have not been shown any rule of law which would compel the respondents to issue quota certificates as asked for by the petitioner. Only if there is a violation of public duty by a public officer in the normal discharge of his duties, a writ of Mandamus, which is an extraordinary remedy, will be issued. In the absence of any proof of such violation of public duty on the part of the respondents, we, in our discretion, are not inclined to issue a writ of mandamus, which is the relief asked for. For the reasons stated above, the writ petition fails and is accordingly dismissed. There will be no order as to costs.

8. Petition dismissed.

