

A SMT. SITA DEVI (DEAD) BY LRS.

v.

STATE OF BIHAR AND ORS.

NOVEMBER 22, 1994

B [K. RAMASWAMY AND K.S. PARIPOORNAN, JJ.]

C *Bihar Agricultural Produce Markets Act, 1960—Section 27 and Section 2(1)(a) read with item 3 in Classification 8 of Schedule—Agricultural Produce—Definition—Whether cattle is an agricultural produce—Held, Yes—Market Committee is empowered to levy and collect market fee when cattle is bought or sold in notified market or notified market area.*

D The appellants challenged by filing a writ petition before the High Court the power of Market Committee to levy market fee on buffaloes, bullocks and cows bought or sold in Hat. The High Court held that by operation of Section 2(1)(a) r/w Item 3 in Classification 8 of the Schedule under the head 'Animal Husbandry Products' cattle was an agricultural produce for the purpose of levy of the market fee under section 27 of the Bihar Agricultural Produce Markets Act, 1960. This appeal by special leave had been filed against the judgment of the High Court.

E It was contended by the appellants that cattle being not an agricultural produce, the levy and collection of the market fee on the cattle bought or sold in the notified market was without jurisdiction.

F Dismissing the appeal, this Court

G **HELD :** 1.1. In Classification 8 of the Schedule, to the Bihar Agricultural Produce Market Act, Item 3 identifies cattle to be an agricultural produce. The definition is an inclusive definition and is of wide import. The legislature itself has specified diverse items in the schedule which is part of the Act which are amenable to levy and collection of the market fee when the specified item is bought or sold in the notified market yard or sub-market yard or yard or in the notified area. In view of the fact that the legislature itself, on identifying the cattle to be an agricultural produce, laid its policy to subject cattle for levy of market fee, it is not open to the Court to scan its wisdom. The policy and the wisdom of the legislature cannot be tested by taking aid

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of the preamble of the Act particularly when the language of section 2 (1) (a) is inclusive, unambiguous, specific and explicit. Preamble of the Act is the key to open the mind of the legislature when the language of the statute is ambiguous. Absurdity or irrationality of bringing the enumerated items of agricultural produce within the sweep of the legislature is not a principle of interpretation of the statute and the court cannot strike down the Act on that basis. (684 E to H, 685 A) A  
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The inclusive definition in section 2 (1) (a) under the caption animal husbandry products, cattle has been specified as one of the items of agricultural produce for the purpose of section 27. The market committee, therefore, is well within its power to levy and collect market fee when the cattle was bought or sold in the notified market or notified market area. (685 B) C

*Ramesh Chandra v. State of U.P.*, [1980] 3 SCR 104, distinguished.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1770 of 1984. D

From the Judgment and Order dated 24.3.83 of the Patna High Court in C.W.J.C. No. 1654 of 1974.

S.B. Sanyal and B.B. Singh for the Appellant.

H.L. Agarwala and Irshad Ahmed for the Respondent. E

The following Order of the Court was delivered:

This appeal by special leave arises from the judgment of the Division Bench of the Patna High Court in C.W.J.C. No. 1654 of 1974 dated March 24, 1983. The only question is whether Market Committee has power to levy market fee on buffaloes, bullocks and cows bought or sold on every Thursday in Sammaspur Hat. The Division Bench held that by operation of section 2 (1) (a) read with Item 3 in Classification 8 of the Schedule under the head 'Animal Husbandry Products' cattle is an agricultural produce for the purpose of levy of the market fee under section 27 of the Bihar Agricultural Produce Markets Act, 1960 (Act XVI of 1960), for short 'the Act.' We find no force in the contention of Sri Sanyal, learned Senior counsel for the appellant that the cattle is not an agricultural produce and the levy and collection of the market fee on the cattle bought or sold in the notified market is without jurisdiction. Section 15(1) of the Act provides that no agricultural produce specified in the notification under sub-section F  
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- A (1) of section 4, shall be bought or sold by any person at any place within the market area, other than the principal market yard or sub-market yard or yards established therein, except such quantity as may in this behalf be prescribed for retail sale or personal consumption. Sale or purchase of the agricultural produce in such areas shall, notwithstanding anything contained in any law, be made by means of open auction or tender system except in
- B case of such class or description of produce as may be exempted by the Board. Section 27 of the Act is the charging section for levy of the market fee which reads thus:

C “Market Committee shall levy and collect market fees on the agricultural produce bought or sold in the market area, at the rate of rupee one per Rs. 100 worth of agricultural produce.”

The question, therefore, is whether cattle is an agricultural produce. Section 2 (1) (a) defines Agricultural Produce thus:

- D “2(1) In this Act, unless there is anything repugnant in the subject or context -
- (a) “agricultural produce” includes all produce, whether processed or non-processed of agriculture, horticulture, animal husbandry and forest specified in the Schedule.”

E As stated earlier, in Classification 8 of the Schedule, Item 3 identifies cattle to be an agricultural produce. It is true that in the common parlance of animal husbandry cattle may not be considered to be an agricultural produce. But the definition is an inclusive definition and is wide of import. The legislature itself has specified diverse items in the schedule which is part of the Act which are amenable to levy and collection of the market fee

F when the specified item is bought or sold in the notified market yard or sub-market yard or yard or in the notified area. In view of the fact that the legislature itself, on identifying the cattle to be an agricultural produce laid its policy to subject cattle for levy of market fee, it is not open to the Court to scan its wisdom. Though in the normal connotation cattle may appear to

G be not an agricultural produce, it needs to be given effect unless the legislature lacks competence which is not the case of the appellant. The policy and the wisdom of the legislature cannot be tested by taking aid of the preamble of the Act particularly when the language of section 2(1)(a) is inclusive, unambiguous, specific and explicit. Preamble of the Act is the key to open the mind of the legislature when the language of the statute is

H ambiguous. Absurdity or irrationality of bringing the enumerated items of

agricultural produce within the sweep of the legislature is not a principle of interpretation of the statute and the court cannot strike down the Act on its basis. A

The inclusive definition in section 2(1)(a) under the caption animal husbandry products, cattle has been specified as one of the items of agricultural produce for the purpose of section 27. We find that the market committee, therefore, is well within its power to levy and collect market fee when the cattle was bought or sold in the notified market or notified market area. It is a common knowledge that in rural areas weekly cattle fairs are conducted in which cattle will be brought for sale and are sold. Its regulation is the purpose of the Act. The learned counsel, Sri Sanyal, sought to seek support from the observations made by this Court in *Ramesh Chandra v. State of U.P.*, [1980] 3 SCR 104 at p.125. The observations therein would be construed in the contest in which the argument was addressed. It is not the case where the cattle has not been identified as one of the items of the agricultural produce under the caption "animal husbandry products." As held earlier that once agricultural produce has been identified by the legislature in the Schedule, so long as they are bought or sold within the same notified market area, they are liable for levy and collection of the market fee. It is not the case that the same produce, namely, cattle has been subjected to levy of multiple fee in the same notified market area. It may be that there may be more than one market in the same notified market area. If an agricultural produce has been bought or sold in the notified area and subject to levy and collection of market fee and if the same notified market area, certainly the market committee has no power to levy market fee more than once. But that is not the case here. Imposing of multiple tax is the accepted legislative policy in Sales Tax Acts. Paddy and rice, wheat and wheat flour, when separated, identified as agricultural produce and each is eligible to levy of market fee. Hydes and skins when identified as agricultural produce, merely because they are treated from carcass, they are not exempt from levy of market fee as the cattle was already subjected to levy of market fee. Ghee and butter are by products from milk but when milk, ghee and butter are notified as agricultural produce, each is eligible to levy of market value. B C D E F

We, therefore, hold that cattle is an agricultural produce and eligible to levy and collection of market fee. We find no illegality in the judgment of the High Court warranting interference. The appeal is accordingly dismissed with costs quantified as Rs. 10,000. G

A.G.

Appeal dismissed.