

A RAGHU SEEDS AND FARMS AND OTHERS ETC.

v.

THE UNION OF INDIA AND ORS. ETC.

OCTOBER 28, 1993

B [KULDIP SINGH AND YOGESHWAR DAYAL, JJ.]

Essential Commodities Act, 1955 : Sections 2 and 3—Notification dated 24.2.1983 declaring certain seeds to be essential commodities—Seeds (Control) Order—Issue of—Whether intra vires the powers are valid.

C *Seeds (Control) Order, 1983—Power of Central Government to issue the Seeds (Control) order— Whether covered under Entry 33 of List III of the Seventh Schedule to the Constitution.*

D *Constitution of India, 1950 : Seventh Schedule—List III Entry 33—Power of Central Government to issue Notification declaring certain seeds to be essential commodities—Consequently issuing the Seeds (Control) Order, 1983—Validity of.*

E In exercise of the powers conferred by sub-clause (xi) of clause (a) of section 2 of the Essential Commodities Act, 1955 the Central Government, by its order notified on 24.2.1993, declared certain seeds to be essential commodities for the purposes of the Act. The seeds included seeds of food crops and seeds of fruits and vegetables. Consequently, the Central Government issued the Seeds (Control) Order, 1983 in exercise of
F the powers conferred by Section 3 of the Essential Commodities Act, 1955. The order contemplated that persons carrying on the business of selling, exporting or importing seeds should obtain a licence.

G In these Transferred Cases, the validity of the notified order dated 24th February, 1983 and the Seeds (Control) Order, 1983 are challenged mainly on the ground that the seeds and seeds of fruits and vegetables were not the class of commodities which could be declared by the Central Government as essential commodities for the purposes of the Act, and that the said commodities were not the commodities in respect of which the Parliament had powers to make law by virtue of Entry 33 of List III of
H Seventh Schedule to the Constitution of India.

Dismissing the cases, this Court

HELD : 1.1. It is well established that the language of the various entries should be given the widest scope of which their meaning is fairly capable. [485-A]

1.2. Clause (b) of Entry 33 of List III of the Seventh Schedule to the Constitution of India mentions 'foodstuffs' as a class of commodity which includes edible oilseeds and oils. This entry deals with not merely trade and commerce in foodstuffs but also in relation thereof in production, supply and distribution as well. Once it is clear that Entry 33 also deals with production, it is obvious that the seeds are a vital commodity having direct connection with the production of the foodstuffs to which it relates. Therefore, seeds of foodstuffs is an item which has direct bearing with the production of the foodstuffs and consequently it is competent for the Parliament as well as States to make laws in relation to seeds of foodstuffs. Surely seeds of food-crops and seeds of fruits and vegetables relate to foodstuffs. Thus, there is no doubt that the notified order dated 24th February, 1983 was *intra vires* the powers conferred by sub-clause (xi) of clause (a) of Section 2 of the Essential Commodities Act, 1955. Once the said notified order becomes valid, the Seeds (Control) Order 1983 is within the power of the Central Government under Section 3 of the Act.

[484-F-G; 485-B]

Calcutta Gas Company (Proprietary) Ltd. v. West Bengal and others, AIR (1962) S.C. 1044 and *Harakchand Ratanchand Banthia and other etc. v. Union of India and others*, [1970] 1 S.C.R. 479, referred to.

CIVIL ORIGINAL JURISDICTION : Transferred case No. 4 of 1986.

(Under Article 139-A1 of the Constitution of India.)

WITH

Transferred Case Nos. 5 of 1986 & 48 of 1986

WITH

Writ Petition (C) Nos. 15337-38 of 1984.

H.N. Salve and C. Mohan Rao for M/s Swarup John & Co. for the

A petitioner.

A.S. Nambiar, B.C. Barua, S.N. Terdal and C.V.S. Rao for the Respondents.

The Judgment of the Court was delivered by

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YOGESHWAR DAYAL, J. By Transferred Case Nos. 4, 5 and 48 of 1986 and Writ Petition (Civil) Nos. 15337-15338 of 1984 the petitioners herein have challenged the constitutional validity of the Seeds (Control) Order, 1983 purported to have been issued in exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (hereinafter referred to as 'the Act') as being unconstitutional, *ultra vires* and void. The

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petitioners have also challenged the declaration of seeds of food-crops and seeds of fruits and vegetables as the essential commodities by the Government of India, Ministry of Civil Supplies contained in the order dated 24th February, 1983 also issued under the Act.

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Section 2 of the Act is the definitions section and *inter alia* clause (a) thereof defines "essential commodity". The relevant part of clause (a) reads as follows :

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"(a) "essential commodity" means any of the following classes of commodities -

(i) cattle fodder, including oilcakes and other concentrates;

(ii) coal, including coke and other derivatives;

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(iii) component parts and accessories of automobiles;

(iv) cotton and woolen textiles;

(iva) drugs,

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Explanation - In this sub-clause "drug" has the meaning assigned to it in clause (b) of Section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940);

(v) foodstuffs, including edible oilseeds and oils ;

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(vi)

(vii)

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(viii)

(ix)

(x)

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(xi) any other class of commodity which the Central Government may, by notified order, declare to be an essential commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of Entry 33 in List III in the Seventh Schedule to the Constitution;"

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By the impugned notified order dated 34th February, 1983 the Central Government in exercise of the powers conferred by sub- clause (xi) of clause (a) of Section 2 of the Act declared the following seeds used of sowing or planting (including seedlings and tubers, bulbs rhizomes, roots, cuttings and all types of grafts and other vegetatively propagated material of foods crops or cattle fodder) to be essential commodities for the purpose of the said Act, namely -

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"(i) Seeds of food-crops and seeds of fruits and vegetables;

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(ii) Seeds of cattle fodder and

(iii) jute seeds. "

After issuing the said notified order declaring *inter alia* the seed of food-crops and seeds of fruits and vegetables as essential commodities the Central Government issued the impugned Seeds (Control) Order, 1983 purported to be in exercise of the powers conferred by Section 3 of the Act. It *inter alia* contemplates that the persons carrying on business of selling, exporting or importing seeds to obtain licence. It also *inter alia* provides for grant and/or refusal of the licence; renewal of the licence and various ancilliary provisions for suspension, cancellation of licence and submissions of various returns including provision of punishment for violation of the Seeds (Control) Order, 1983.

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The basic question involved in these matters is the validity of the notified order dated 24th February, 1983 whereby *inter alia* seeds of

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- A food-crops and seeds of fruits and vegetables have been declared as essential commodities for the purposes of the Act. The validity of the notified order *inter alia* is challenged on the ground that the seeds of food-crops and seeds of fruits and vegetables are not class of commodities which could be declared by the Central Government as essential commodities for the purposes of the Act. The argument is that it is so because
- B such a commodity is not a commodity in respect of which the Parliament has powers to make law by virtue of Entry 33 of List III of the VIIth Schedule to the Constitution of India. Entry 33 of List III of the VIIth Schedule to the Constitution of India reads as follows :

C "33. Trade and commerce in, and the production, supply and distribution of, -

(a)

(b) Foodstuffs, including edible oilseeds and oils;

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(c)

(d)

(e)

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It is clear that the aforesaid Entry 33 deals with not merely trade and commerce in, but also in the production, supply and distribution of, various products and articles mentioned in clauses (a) to (e) thereof. Clause (b) of Entry 33 mentions 'foodstuffs' as a class of commodity which includes edible oilseeds and oils. The main thing to be noticed in that the Entry deals with not merely trade and commerce in foodstuffs but also in relation thereof in production, supply and distribution as well. Once it is clear that Entry 33 deals with production, it is obvious that the seeds are a vital commodity having direct connection with the production of the foodstuffs to which it relates. Therefore, seeds of foodstuffs is an item which has direct bearing with the production of the foodstuffs and consequently it is competent for the Parliament as well as States to make laws in relation to seeds of foodstuffs. Surely seeds of food-crops and seeds of fruits and vegetables relate to foodstuffs.

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H The various entries in three lists are fields of legislation. See *Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal and others*, AIR

(1962) S.C. 1044 and *Harakchand Ratanchand Banthia and others etc. v. Union of India and others*, [1970] 1 S.C.R. 479 at 489. A

Again it is well established that the language of the various entries should be given the widest scope of which their meaning is fairly capable.

Therefore there is no doubt that the notified order dated 24th February 1983 was *intra vires* the powers conferred by sub- clause (xi) of clause (a) of Section 2 of the Act. Once the said notified order becomes valid, the Seeds (Control) Order, 1983 is within the power of the Central Government under Section 3 of the Act. B

These petitions, therefore, fail and are dismissed with costs. C

G.N.

Petitions dismissed.