IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3255/2015
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1. Seed Industries Association of Maharashtra, having its registered office at E-8,9,10, ABC Complex, 4th Floor, Opposite District Court, Adalat Road, Aurangabad, Maharashtra through its Executive Director Dr. Shaligram Dattaji Wankhede.

2. Arya Hybrid Seeds Ltd., Plot No.233, Chitegaon, Paithan Road, Aurangabad, Maharashtra through its Authorized Signatory Mr. Mahendra V. Deshmukh.

3. Vikram Seeds Pvt. Ltd. , having its registered office at 19 Raj Mahal, 4th Floor, 84 Veer Nariman Road, Mumbai- 400 020, through its Authorized Signatory Mr. Amit K. Vyas.

4. Mr. Prashant Deshmukh, Shareholder Vikram Seeds Pvt. Ltd. C/o Vikram Seeds Pvt. Ltd. 19 Raj Mahal, 4th Floor, 84 Veer Nariman Road, Mumbai – 400 020. .. **PETITIONERS**

.. **Versus** ..

1. The State of Maharashtra, through its Secretary Agriculture, Animal Husbandry, Dairy Development & Fisheries Department, Mantralaya, Annexe, Mumbai – 400 032.

2. Commissioner (Agriculture),
Commissionerate of Agriculture,
Maharashtra State,
Pune – 411 011, (Maharashtra).

3. Director of Agriculture Input &
QC/Licensing Authority,
Commissionerate of Agriculture
Maharashtra State,
Pune- 411 011, Maharashtra. .. **RESPONDENTS**

Mr. Abhishek Manu Singhvi, Senior Advocate with
Mr. Akshay A. Naik & Mr. Prashant Pakhiddey, Advocates for Petitioners.
Mr. Sunil V. Manohar, Senior Advocate with
Mrs. B.H. Dangre, Government Pleader for Respondents 1 to 3.

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CORAM : B.R. Gavai & Indira K. Jain, JJ.
DATED : June 17, 2015.

ORAL ORDER (per B.R. Gavai, J.)

1. The petitioners have approached this Court being aggrieved by the Notification dated 08.06.2015 insofar as it fixes the maximum sale price of BG-I cotton seeds at Rs.730/- per packet and of BG-II cotton seeds at Rs.830/- per packet.

2. The petitioner no.1 is the Association duly registered under the Societies Registration Act, 1860 comprising of 40 seed companies as its members. The petitioner nos. 2 and 3 are

producers of various seeds including Bt. Cotton seed in all parts of India including Maharashtra. The petitioner nos. 2 and 3 are members of the petitioner no.1 Association whereas the petitioner no.4 is a shareholder of the petitioner no.3 company.

3. The petition was initially listed for admission on 12.06.2015. After hearing Mr. Singhvi, the learned senior counsel, we had issued notice returnable on 16.06.2015. Yesterday when the matter was listed, an affidavit-in-reply was filed on behalf of the State. We have extensively heard Mr. Singhvi, the learned senior counsel appearing on behalf of the petitioners and Mr. Sunil Manohar, the learned senior counsel appearing on behalf of the State Government.

4. The main contentions as raised by Mr. Singhvi, the learned senior counsel are as under:-

(I) That, for the last four years, the price of BG-I and BG-II cotton seeds is static at Rs.830/- and Rs.930/-. Though on account of increase in production costs, a demand was made by the Association to the State Government for increasing the maximum sale price (for short "MSP"), the State Government instead of increasing the price, has reduced it by Rs.100/-;

(ii) While reducing the price and issuing the notification, the mandate of Section 10 of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009 (for short "the Seeds Act") has been totally ignored by the State Government. The learned senior counsel submitted that Section 10 of the Seeds Act mandates the costs of production including trait values to be taken into consideration while determining the MSP. The learned senior counsel further submitted that the said factors have not been taken into consideration by the State Government. The learned senior counsel, therefore, submitted that when the factors which are required to be taken into consideration by the statute are not taken into consideration, the notification will have to be held as bad in law.

5. Mr. Singhvi, the learned senior counsel further submitted that insofar as State of Telangana and State of Andhra Pradesh are concerned, they have notified the price at Rs.830/- and Rs.930/- and there is no logic in reduction of prices as has been done by the State of Maharashtra.

6. The learned senior counsel further submitted that the State Government by issuing the Government Resolution had appointed the Expert Committee under the Chairmanship of Dr. Mayee which has in effect recommended increase in price. The learned senior counsel submitted that the State Government has totally failed to take into consideration the recommendations of the

Dr. Mayee Committee. The learned senior counsel submitted that unless cogent reasons are recorded for rejecting the recommendations of Dr. Mayee Committee, the notification will have to be held bad in law for non-consideration of the relevant factors.

7. The learned senior counsel further submitted that from the reply filed on behalf of the State, it would reveal that the State has basically relied on the information given by one Dr. K.R. Kranthi, Director, Central Institute of Cotton Research, Nagpur while determining the procurement price. The learned senior counsel submitted that it is apparent that the information that is sought by the State from Dr. Kranthi is after the notice was issued by this Court and the information was subsequently furnished by said Dr. Kranthi. The learned senior counsel, therefore, submitted that the said information could never have been the basis for the decision of the State Government. The learned senior counsel, therefore, submitted that if the said information is kept out of consideration, there is no material with the State Government on the basis of which the impugned notification could have been issued.

8. The learned senior counsel relies on the judgment of the Constitution Bench of the Apex Court in the case of **Shree Meenakshi Mills Ltd. .vs. Union of India** reported in **(1974) 1**

Supreme Court Cases 468, in support of the proposition that while determining the MSP, the authorities are bound to take into consideration the costs of the production and the reasonable return. The learned senior counsel submitted that the price which has been determined by the State Government is of such a nature that the State has dealt a death blow to the companies. He submitted that the MSP determined is totally in ignorance of the costs of the production and the reasonable return. The learned senior counsel, therefore, submitted that the impugned notification is in violation of the law laid down by the Constitution Bench of the Apex Court in the case of **Meenakshi Mills Ltd.** (supra).

9. The learned senior counsel further relies on the judgment of the Apex Court in the case of **M/s Gupta Sugar Works .vs. State of U.P. And ors** reported in **1987 (Supp) Supreme Court Cases 476**, in support of the proposition that while determining the price in the interest of the industry as a whole cannot be left out and that is required to be gone in mind. The learned senior counsel further relies on the judgment of the Apex Court in the case of **Union of India .vs. Cynamide India Ltd. And another** reported in **(1987) 2 Supreme Court Cases 720**, in support of the proposition that the factors which are relevant have not been taken into consideration by the State Government while issuing the impugned notification.

10. The learned senior counsel, therefore, strenuously contends that a case is made out for admission of the petition and also for grant of interim relief in favour of the petitioners. The learned senior counsel submits that if the balance of convenience is looked into, it heavily tilts in favour of the petitioners. He submits that if the petitioners are required to sell the seeds at the MSP fixed under the impugned notification, the petitioners will have to sell the same at loss and in the event the petitioners succeed, they will not be in a position to recover the amount from the farmers. He submits that if the petitioners are permitted to sell the cotton seeds at the rate of Rs.930/- and Rs.830/- and they can be directed to keep an account or deposit the difference of Rs.100/- in an escrow account and in the event the petitioners do not succeed in the petition, the said amount can be paid back to the farmers.

11. Mr. Manohar, the learned senior counsel appearing on behalf of the State Government vehemently opposed the petition. The learned counsel submitted that the scope of interference of this Court while exercising its jurisdiction for examining an administrative action is very limited. The learned senior counsel submits that unless this Court finds that the decision taken by the State Government is palpably arbitrary or *mala fide*, it will not be permissible for this Court to interfere with the same.

12. The learned senior counsel submitted that firstly the contention of the petitioners that if they are required to sell the seeds at the price determined by the impugned notification, they would be sustaining losses, is far away from the factual position. The learned senior counsel submitted that from the data which is available with the State Government and also as could be seen from admission of the petitioner no.1 itself, the seeds are sold in the market in the range of Rs.700/- to Rs.750/-. The learned senior counsel submitted that if the seeds are sold at the rate of Rs.700/-, then the contention that if the petitioners are required to sell at the rate of Rs.730/- and Rs.830/- they would be sustaining losses is far from the truth. The learned senior counsel further submitted that though the petitioners were given an opportunity, the petitioners have not submitted costs analysis to the State Government. The learned senior counsel further submitted that not only that but there are no details given in the petition as to how the petitioners would sustain the losses. It is submitted that no figures regarding the production costs etc. are given in the petition.

13. The learned senior counsel submitted that in any event even if the price fixation in the impugned notification results in some temporary losses, the market forces are sufficient enough to absorb them and as such even if the contention of the petitioners is

accepted that they will sustain some losses, cannot be a ground for interfering with the impugned notification. The learned senior counsel submits that while exercising the powers for determining the MSP, the most relevant consideration for the State Government is the interest of the consumers. He submitted that as against the interest of the large number of consumers, if a little prejudice is caused to the few manufacturers, cannot be a ground for interfering with the impugned notification, if it is otherwise sustainable in law. The learned senior counsel in this respect relies on the judgment of the Constitution Bench of the Apex Court consisting of seven Hon'ble Judges in the case of **M/s Prag Ice and Oil Mills .vs. Union of India** reported in **(1978) 3 Supreme Court Cases 459**. The learned senior counsel further relies on the judgments in case of **M/s Gupta Sugar Works** and in the case of **Cynamide India Ltd.** (cited supra), so also the judgment of the Apex Court in the case of **Oil and Natural Gas Commission and another .vs. Association of Natural Gas Consuming Industries of Gujarat and others** reported in **1990 (Supp) Supreme Court Cases 397.**

14. On merits the learned senior counsel submitted that the data was available with the State Government that the seeds are sold in the market at the rate Rs.700/- to Rs.750/-. The learned senior counsel further submitted that insofar as the report of the Dr. Mayee Committee is concerned, it was found that the procurement

cost of the seeds which were shown in the said report was at much higher rate. The learned senior counsel submitted that the procurement cost per kilogram would be within the range of Rs.225/- and Rs.250/- per packet. The learned senior counsel further submitted that perusal of the procurement price as per the Mayee Report is Rs.345/- per packet. The learned senior counsel submitted that R. & D charges have been shown twice. The learned senior counsel submitted that if a comparison in procurement costs is made in Dr. Mayee Report, it is shown by more than Rs.100/- than the actual procurement costs. The learned senior counsel further submitted that the perusal of Dr. Mayee Report would reveal that the costs on various overheads have been shown much in excess. The learned senior counsel, therefore, submitted that the report of Dr. Mayee Committee is rightly rejected by the State Government. The learned senior counsel further submitted that the main factor that weighed with the State Government, while reducing the price was that the farmers in the State are suffering on account of continuous drought situation. It is submitted that in order to provide them some relief, it was decided to reduce the price by Rs.100/-. It is submitted that while doing so, the cost of production has also been taken into consideration by the State Government and as such no interference would be warranted in the present petition.

15. Mr. Singhvi, the learned senior counsel in rejoinder submitted that three of the cases cited by Mr. Manohar, the learned senior counsel i.e. the case **of M/s Prag Ice & Oil Mills** , case of **M/s Gupta Sugar Works** and the case **of Cynamide India Ltd**. would not be relevant for the purpose of the present petition inasmuch as those cases are either considering the provisions of the Essential Commodities Act or orders issued thereunder under the provisions of Section 3 of the said Act. The learned senior counsel submitted that when Section 10 of the Seeds Act specifically mandates certain factors to be taken into consideration and if the State fails to take the same into consideration, the impugned notification will have to be held bad in law. The learned senior counsel further submitted that the fourth case cited i.e. **Oil and Natural Gas Commission** (supra) would not be applicable to the facts of the present case inasmuch as the issue was not regarding the price fixation but the issue was regarding the permissibility for ONGC to charge the profit at a much higher rate.

16. The learned senior counsel submitted that insofar as the contention regarding providing relief to the farmers is considered, the same is without merit, inasmuch as the percentage of cost of the seeds of cotton in the total cost of production is only 8 %. It is submitted that by merely reducing the price of cotton seeds by Rs.100/- would be of no substantial relief to the farmers. It is

submitted that the said ground is without substance and in any case is not available under the provisions of Section 10 of the Seeds Act. The learned senior counsel further submitted that the contention that the seeds are sold in the open market at a lesser price is without substance. It is submitted that the purpose of price fixation is only for providing the MSP. It is submitted that there is nothing in law which prevents a dealer to sell the seeds at a lesser price taking into consideration the various factors in the market. The learned senior counsel submitted that this could not have been a consideration while determining the MSP. The learned senior counsel, therefore, submitted that this is a fit case wherein this Court should exercise jurisdiction under Article 226 of the Constitution and grant an interim relief as prayed for.

17. On the last date, we had requested the learned Government Pleader appearing in the matter to make the original file available for our perusal. Accordingly photo-state copy of the original file was produced before us yesterday. We have minutely gone through the file.

18. The scope of interference while exercising the administrative action is very well crystallized by the Apex Court in the case of **Tata Cellular .vs. Union of India** reported in **(1994) 6 Supreme Court Cases 651**. The parameters for interference

are laid down by the Apex Court in para 77 read thus:-

> *"77. The duty of the court is to confine itself to the question of legality. Its concern should be :*
>
> *1. Whether a decision-making authority exceeded its powers?*
>
> *2. Committed an error of law,*
>
> *3. committed a breach of the rules of natural justice,*
>
> *4. reached a decision which no reasonable tribunal would have reached or,*
>
> *5. abused its powers.*
>
> *Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfillment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:*
>
> *(i) Illegality : This means the decision- maker must understand correctly the law that regulates his decision-making power and must give effect to it.*
>
> *(ii) Irrationality, namely, Wednesbury unreasonableness.*
>
> *(iii) Procedural impropriety.*
>
> *The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in R. v. Secretary of State for the Home Department, ex Brind[28,] Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, "consider*

> *whether something has gone wrong of a nature and degree which requires its intervention".*

19. The exercise of power for fixation of price has been held to be quasi legislative in nature. The scope of judicial review is narrow. The scope of judicial review of an administrative action while exercising quasi legislative powers is still narrower. Unless it is found that the action of the State Government in performing quasi legislative duty, is palpably arbitrary or *mala fide*, it will not be permissible for this Court to interfere with the same. A limited inquiry that would be permissible for us, is as to whether the State has taken into consideration the relevant factors while arriving at a decision or as to whether it has not taken into consideration relevant factors or as to whether the State has taken into consideration irrelevant factors, while taking the ultimate decision. The correctness or otherwise of the ultimate decision would be beyond the scope of our judicial review.

20. In the light of these parameters, we will have to examine the present case.

21. Section 10 of the Seeds Act reads thus:-

> *"10. (1) The Government, after taking into consideration the costs of production, etc. including trait value, wherever necessary, obtained from various agencies concerned, may*

fix, from time to time, the maximum sale price of all types of cotton seeds.

(2) Every such price shall be published in the Official Gazette and shall be effective from such date as may be specified therein.

22. It could thus be seen that the State is required to take into consideration the costs of production etc. including trait value wherever necessary, obtained from various agencies concerned while determining the MSP of all types of cotton seeds. It is not in dispute that for last 4 years the price of BG-I and BG-II has been static at Rs.830/- and Rs.930/- per packet. No doubt that the report of Dr. Mayee Committee which was appointed by the State Government has recommended MSP at Rs.1080/-. However, the State Government is not bound to accept the recommendations of the Committee appointed by it. The ultimate decision has to be taken by the State Government who is empowered to exercise powers of delegated legislation under Section 10 of the said Act.

23. Perusal of the file would reveal that initially the Additional Chief Secretary of the State Government (Agriculture Department) had proposed to keep the prices of the BT cotton at the same rate. However, taking into consideration drought situation in the State of Maharashtra, the Additional Chief Secretary has specifically recommended for not accepting the recommendations of Dr.

Mayee Committee . The perusal of the file would further reveal that the Hon'ble Minister for Agriculture in his note has observed that BT cotton is sold at Rs.700/- to Rs.750/- in the market. He has further observed that the procurement cost is ordinarily Rs.450/- per kilogram and would thus come to Rs.162/- per packet for 450 grams. As such the Hon'ble Minister was of the view that the MSP of the BT cotton can be very well reduced by Rs.100/-. After the note was prepared by the Hon'ble Minister, another note was prepared by the Additional Chief Secretary. Insofar as the note of the Hon'ble Minister that the packet of the cotton seeds are sold at Rs.700/- to Rs.750/- is concerned, the Additional Chief Secretary has written in his note that there are 42 companies who have sought permission for producing the BT cotton seeds. It is further stated in the note that the companies have sought permission for 300 types of seeds for marketing and out of that 250 types of seeds are available in the market. The fact that the seeds are sold at Rs.700/- to Rs.750/- has also not been disputed in the said note. The Additional Chief Secretary in his note has stated that the power is to fix maximum sale price. However, there is nothing which prevents a company from selling the cotton seeds packet at a lower rate than the MRP. He has stated in the note that such of the companies which are having less turn over in the market, are selling the packets at a lesser rate. He has stated in the note that on account of fixation of MSP, the companies which are having major market share are prevented from selling the seeds at the rate, as per their whims and as such has recommended to retain the said rate. The Hon'ble Minister has refused to agree with the noting of the Additional Chief Secretary and on the reasons recorded by him earlier, directed the prices to be reduced at Rs.100/- per packet. The same has also been approved by the Hon'ble Chief Minister.

24. The perusal of the file and specifically page no.24 thereof which is an annexure to the representation of the petitioner no.1, would reveal that the procurement cost insofar as BG-I and BG-II in the State of Maharashtra is concerned, it is shown to be at Rs.222/- for both types of seeds. The perusal of the communication dated 25.5.2015 addressed by the Commissioner of Agriculture to the Additional Chief Secretary would also reveal that BG-I and BG-II cotton seed packets are available at a lesser rate than Rs.930/- to the agriculturist except the three or four brands. The perusal of the file would reveal that the prices in 2003 were at much higher rate. They substantially came down till 2010 and were for the first time increased in the year 2011. The perusal of the file while increasing the prices to Rs.830/- and Rs.930/- in the year 2011 would reveal that the representatives of the companies themselves have stated that the procurement cost of the raw seeds is Rs.450/- per kilogram.

25. The perusal of page 301 of the file would reveal that the

State Government was having inputs from three sources regarding the costs of seed production, one from the National Seed Association, second from the State Agriculture University and third from Dr. Mayee Committee. It is to be noted that insofar as procurement price of raw seed cotton from grower is concerned, all the three sources have given the figures as Rs.361/-, Rs.363/- and Rs.345/- respectively per packet of 450 grams. The perusal of the file would reveal that upon computation of all the factors, the final price that is recommended by the National Seed Association was Rs.850/- for BG-I and Rs.1050/- for BG-II. It was Rs.725/- and Rs.835/- respectively for BG-I and BG-II as recommended by the State Agriculture University and it was Rs.1080/- for BG-II as recommended by Dr. Mayee Committee. It could thus be seen that the State Government was having inputs from three sources regarding the costs of production of the seeds, including the trait charges and upon consideration thereof and also upon taking into consideration the fact that on account of drought situation the increase in cost of seeds would not be appropriate, has issued the impugned notification. It could thus be seen that the figure which is notified by the State Government is almost near to the figures which are recommended by the State Agriculture University. The State Agriculture University has recommended Rs.725/- for BG-I whereas the rate notified by the State is Rs.730/- , whereas insofar as BG-II is concerned, the State Agriculture University has recommended Rs.835/- and the State Government has notified at Rs.830/-. It is further to be noted that the cost of production of raw seeds even as per the inputs given by the State Agriculture University is at the rate of Rs.363/-. It is further to be noted that the document at Serial No.24 which is an Annexure to the representation of the petitioner no.1 shows the procurement costs to be Rs.222/- per packet which is Rs.141/- less than the one shown by the State Agriculture University. In that view of the matter, the contention that the prices which are determined, are determined without taking into consideration the factors as required to be taken into consideration under Section 10 of the Seeds Act is concerned, in our view would not be sustainable.

26. It is further to be taken into consideration that not only during this year, but even in the last year the State Government had proposed to reduce the prices. It was specifically noticed by the State Government that there is high competition in the market and the seed packets are sold in the market at much lesser price than the MSP. It was further noticed that in the last two years on account of natural calamities of wet-drought and hail storms, the farmers in the State were suffering greatly. It was, therefore, recommended that in order to give some relief to the farmers, it was necessary to reduce the rate of BG cotton seeds. It was, therefore, recommended as under:-

Sr. No.	Type	Maximum Sale Price (450 gram. Per packet)	
		Non BT Cotton Seed used as refugia	Redgram seed used as refugia
01	BG-I	735/- (- 95)	667/- (-95)
02	BG-II	840/- (- 90)	772/- (-90)

However, since the code of conduct on account of declaration of Bi-elections to the Maharashtra Legislative Council from the Graduate and Teachers' Constituency had ensued, it was proposed that prior to issuance of the notification, a prior permission of the Election Commission should be taken. Though the Hon'ble Minister while considering the file observed that the reduction of the rates was recommended on the basis of inputs given by the Mahatma Phule Krushi Vidyapeeth, Rahuri, the then Hon'ble Minister for Agriculture observes that the said situation was within the knowledge of the Commissioner of Agriculture for considerable time. He further observes that it cannot be said that the rates as proposed by the State Agriculture University can be said to be correct. He further observes that the Kharip season has already commenced and the seed packets at the MRP are already in the market. He has further observed that the companies are free to sell the seeds at a lesser price and as such it will not be appropriate to make the change at this stage. It could thus be seen that it is not for the first time that the prices are sought to be slashed down. In the last Agricultural year, also the Department on the basis of the inputs given by the Mahatma Phule Agriculture University has proposed reduction in the rate. However, the then Hon'ble Minister for Agriculture, in view of the above noting, did not accept the proposal of the Department of Agriculture.

27. The observations aforesaid would clearly show that the contention of the petitioners that there was no material with the State Government, while arriving at a decision to reduce the prices is without any substance. The relevant material was available with the State Government. We may state that the sufficiency or otherwise of the said material would be beyond the domain of our jurisdiction. The limited inquiry as observed hereinabove, would be as to whether the considerations that weighed with the State Government were relevant or not. At the cost of repetition, as mandated by Section 10 of the Seeds Act, three inputs regarding the costs of production were very much available with the State Government and the State Government in its wisdom has chosen to rely on one of them.

28. Though both the learned senior counsel have addressed

at length relying on the various judgments of the Hon'ble Supreme Court, we do not find that in the factual scenario, it will be necessary to refer to all of them. The ratio of the judgments including the judgments of the Constitution Benches in the case of **M/s Prag Ice and Oil Mills** and in the case of **Meenakshi Mills Ltd.** is very clear. The function of the executive while exercising delegated powers for fixation of price under the statute, is a legislative function and while exercising that function the paramount consideration is the interest of the consumers at large. No doubt that all the judgments cited at the bar would also support the proposition that the price fixation should not be done in a manner which will throw the producers on the road. However, as argued by the learned Senior Counsel for the State, nothing is placed on record to show that on account of the price fixation as done by the State Government, the petitioners and members of the petitioner no.1 would be thrown on road. Not only that but the factual position appears to be that, except the three or four companies in the market, all others are selling the products at Rs.700/- to Rs.750/- per packet. If that be so, the contention that the petitioner nos. 2 and 3 and the members of the petitioner no.1 will be driven to road, does not appear to be correct on facts.

29. Even assuming for a moment that some of the companies suffer temporary losses, cannot be a ground for interfering with the

decision of the State. The Constitution Bench of the Apex Court in the case of **M/s Prag Ice and Oil Mills** (supra) has observed thus in para 61:-

> *"We are not impressed by the play of statistics on the part of the petitioners which is designed to show that as a result of the Price Control Order, they are faced with a loss of about Rs. 5/- per kilogram on the sale of mustard oil. We will ignore, while we are on this point, the pronounced reiteration of the respondent that the, petitioners have made huge profits in past years and that their concerns are sufficiently prosperous to be able to absorb a small loss for a temporary period. But even in the absence of satisfactory proof of the extent of the profits made by the petitioners in past years, we are of the opinion that the circumstance that the petitioners may have to suffer a loss over a short period immediately following upon the pro-mulgation of the Price Control Order will not render the Order constitutionally invalid. The interplay of economic factors and the laws of demand and supply are bound eventually to have their impact on the pattern of prices prevailing in the market. If the dealer cannot lawfully sell the finished product at more than Rs. 10/- per kilogram, the price of raw material is bound to adjust itself to the price of the product. Subsequent events unmistakably demonstrate the effect of such interplay and the favourable reaction which the Price Control Order has produced on 'the, price of mustard seed. But above all things, it is necessary to bear in mind in matters of the present nature what Krishna Iyer, J., said in B. Banerjee v. Anita Pan.[16]. that such provisions have to be prevented through a socially constructive, not legally captious microscope to discover a glaring unconstitutional infirmity, that when laws affecting large chunks of the community are enacted stray misfortunes are inevitable and that social legislation without tears, affecting vested rights, is virtually impossible."*

30. In any case when the State Government noticing that

the farmers in the State are in distress on account of continuous drought situation and in order to give some solace to them by reducing the prices of the seeds and that too on the basis of the relevant material and discharges the obligation cast on it, by the directive principles; can it be said to be a factor not relevant while exercising its quasi legislative powers.

31. In that view of the matter, the petition is found to be without any merit and as such dismissed.

(Indira K. Jain, J.) **(B.R. Gavai, J.)**

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halwai/p.s.