

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1207 of 2019

- Shree Sita Agro Tech Private Limited Having Office And Work At Behind District Court, Mill Para, Durg Chhattisgarh, Through Its Director Suresh Kumar Agrawal, S/o Shri Jhumarlal Agrawal, Aged About 64 Years, R/o Station Road, Gyatri Mandir Ward, Durg Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Agriculture, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. Deputy Secretary Department Of Agriculture, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
3. Krishi Upaj Mandi Samiti Durg Through Secretary, Krishi Upaj Mandi Samiti Dhamdha Road, Durg District Durg Chhattisgarh.

---- Respondents

WPC No. 55 of 2017

- Shree Sita Udyog (Unit -2) Having Its Registered Office At Behind District Court, Mill Para, Durg, Chhattisgarh, Through Ramniwas Agrawal, S/o Late Shri Chhaganlal Agrawal, Aged About 72 Years, Partner, Shree Sita Udyog (Unit 2), R/o Near City Club, Station Road, Durg, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Agriculture, Mantralaya, Mahanadi Bhawan, Naya Raipur, District

Raipur, Chhattisgarh.

2. Deputy Secretary, Department Of Agriculture, Mantralaya, Mahanadi Bhawan, Raipur, Chhattisgarh.
3. Krishi Upaj Mandi Samiti, Durg, Through Secretary, Krishi Upaj Mandi Samiti, Dhamdha Road, Durg, District Durg, Chhattisgarh.

---- Respondents

WPC No. 1159 of 2019

- Shree Sita Mill Having Plant At Village Jewera, Dhamdha Road, Burg, Having Office At Behind District Court, Mill Para, Durg Chhattisgarh. through Its Partner Radheshyam Agrawal, S/o Late Shri Madanlal Agrawal, Aged About 68 Years, R/o Station Road, Gyatri Mandir Ward, Durg Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, through the Secretary, Department of Agriculture, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Deputy Secretary Department of Agriculture, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
3. Krishi Upaj Mandi Samiti Durg Through Secretary, Krishi Upaj Mandi Samiti Dhamdha Road, Durg, District Durg Chhattisgarh.

---- Respondents

WPC No. 1223 of 2019

- Shree Sita Agro Foods Private Limited, Having Its Plant At Village Arasnara, Dhamdha Road, Durg, Office At Behind District Court, Mill Para, Durg, (Chhattisgarh). through Its Director Ganesh

Prasad Agrawal, S/o Shri Jhumarlal Agrawal, Aged About 58
Years, R/o Station Road, Gyatri Mandir Ward, Durg, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, through the Secretary Department Of
Agriculture, Mantralaya, Mahanadi Bhawan, Naya Raipur, District
Raipur, Chhattisgarh.
2. Deputy Secretary, Department Of Agriculture, Mantralaya,
Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
3. Krishi Upaj Mandi Samiti, Durg through Secretary, Krishi Upaj
Mandi Samiti, Dhamdha Road, Durg, District Durg, Chhattisgarh.

---- Respondents

For Petitioners	:-	Shri Ashish Surana, Adv.
For Respondent-State	:-	Ms. Fouzia Mirza, Addl. A.G.
For Respondent No.3	:-	Shri Yashwant Thakur, Adv.

Hon'ble Shri P.R. Ramachandra Menon, C.J.

Hon'ble Shri Prashant Kumar Mishra, J.

Order On Board

By

Prashant Kumar Mishra, J.

08/05/2019

1. Heard.
2. Petitioners, rice millers have moved these Writ Petitions
challenging the constitutional validity of Section 19 (1) (ii) of

the Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 (in short “the Adhiniyam, 1972”) on the ground of legislative competence placing reliance on the law laid down by the Supreme Court in the matter of **Gujarat Ambuja Exports Limited & Anr. vs. State of Uttarakhand & Ors. (2016) 3 SCC 601.**

3. At the outset, learned Additional Advocate General would state that constitutional validity of *pari materia* provision having being dealt with by the Supreme Court against the State, the State shall not invoke the said provision for levy of market fee on the petitioners for bringing paddy from outside the State for processing and manufacturing without there being any sale transaction in the concerned market area.
4. Learned State counsel would next submit that in so far as the sale of paddy made by the petitioners within the market area, the same is to be verified and if the transaction has taken place within the market area then the petitioners would be subject to levy under Section 19 (1) (i) of the Adhiniyam, 1972.
5. In view of the statement made, we dispose of all the Writ Petitions with the direction that the respondents shall not invoke Section 19 (1) (ii) of the Adhiniyam, 1972 for levy of market fee on the petitioners for paddy brought from outside the State for processing and manufacturing where transaction

has not taken place within the market area.

6. If the statute permits levy of market fees for any other transaction, than what is covered under Section 19 (1) (ii) of the Adhiniyam, 1972, the concerned market committee would be at liberty to consider the same on transaction basis.
7. Since the petitioners have been allowed interim relief in the present writ petitions, it is directed that till the respondents decide the issue of levy of market fees vis-a-vis the subject demand, the interim relief allowed earlier shall continue to operate in favour of the petitioners.
8. Challenge to the levy of market fees on other issues are left open to be considered in an appropriate proceeding, if occasion so arises.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Prashant Kumar Mishra)
Judge

Ayushi