



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2021

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.17928 of 2014

and

M.P. (MD) .Nos.1 and 2 of 2014

Watery Coconut Merchant Association,
Represented by its President,
S.Sangaiya

... Petitioner

Vs.

1. The Commissioner and the Principal Secretary to Government,
Agricultural Department, Secretariat,
Chennai-600 009.

2. The Commissioner,
Agriculture Marketing and Agri Business,
Thiru.Vi.Ka. Industrial Estate,
Cipet Road, Guindy,
Chennai-600 032.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent from in any manner resorting to demand or levy market fee in respect of watery coconut, which is not an agricultural produce nor notified agricultural produce with reference to any notified market area as per the provisions of Tamil Nadu Agriculture Produce Marketing (Regulation) Act, 1987, (Tamil Nadu Act XXVII of 1989).

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.M.Rajarajan
Additional Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents not to resort to any demand or levy any market fee in respect of watery coconut, which is not an agricultural produce nor notified agricultural produce with reference to any notified market area as per the provisions of



Tamil Nadu Agriculture Produce Marketing (Regulation) Act, 1987, (Tamil Nadu Act XXVII of 1989) .

2. Heard Mr.G.Sankaran, learned counsel appearing for the petitioner and Mr.M.Rajarajan, learned Additional Government Pleader appearing on behalf of the respondents.

3.The issue raised in the present Writ Petition was considered by this Court in Crl.O.P.(MD).Nos.5027, 5028 and 15598 of 2013, by common order dated 16.04.2018. The relevant portions in the order are extracted hereunder:-

"11. As earlier pointed out, the Schedule has two columns. Therefore, Schedule must be harmoniously read and understood as a whole. The Columns 1 and 2 will have to be interposed against each other. Otherwise, there is absolutely no reason for having Column No.1. Column No.1 contains the names of the classes of agricultural produce. It is genus. Column No.2 contains the names of the individual items of agricultural produce. It is like species. If the intention of the legislature was to levy fee on coconuts in all forms except tender coconut, then, there is no need for bringing it under the category of oil seeds. Every coconut is not an oil seed. The petitioners had categorically submitted that they are trading in watery coconuts which are not sold for oil extracting purpose. They are only meant for human consumption or religious purposes. They are not oil seeds as such. Only Kopra is used as Oil Seeds. Since the petitioners have taken the stand that they are not obliged to take license because they are not dealing in coconut that is not an oil seed, this Court is of the view that ambiguity and doubt will have to be resolved in favour of the petitioners and against the respondents.

12. Nothing prevented the Government to include this entry "Coconut in all forms except tender coconut" under category 15, which is the residual or miscellaneous category. Likewise, they have not been included under the vegetable category. They have instead been specifically included under the "Oil seeds category. Watery coconuts cannot by any stretch of imagination be classified as oil seeds.



13. This Court is of the view that the Amendment made to the Schedule vide G.O.(Ms).No.222 Agriculture Department dated 01.10.2010 cannot be said to have made any difference to the legal position enunciated in the judgment of this Court in S.A.(MD).No.645 of 2008 dated 24.09.2008. In **AIR 1992 SC 604 (State of Haryana Vs. Bhajanlal)**, it was held that where the allegations made in the complaint even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offences, the complaint can be quashed."

4. In view of the above, it is clear that the watery coconut will not fall within the category stipulated and therefore, there cannot be any demand or levy of market fee. By recording so, this Court held that a trader need not take a licence for trading any watery coconut.

5. It is, therefore, clear that the above order answers the apprehension raised by the petitioner. If at all there is any subsequent development, it is always left open to the petitioner to independently agitate the same in the manner known to law.

6. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Commissioner and the Principal Secretary to Government,
Agricultural Department, Secretariat,
Chennai-600 009.
2. The Commissioner,
Agriculture Marketing and Agri Business,
Thiru.Vi.Ka. Industrial Estate,
Cipet Road, Guindy,
Chennai-600 032.



NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

Order made in
W.P. (MD) .No.17928 of 2014
17.04.2021

RS (06.05.2021) 4P 4C