



W.P.(MD)No.5340 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 30.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Orders Reserved On 27.11.2023	Orders Pronounced On 30.11.2023
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W.P.(MD)No.5340 of 2020
&
W.M.P.(MD)No.4630 of 2020

Cashew Factory Owners Development
Association of Tamil Nadu,
Rep. by its Secretary,
No.6/109, Nediyaivilai,
Chenkodi Post - 629 177,
Kanyakumari District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary and
Agricultural Production Commissioner,
Agriculture (AM2) Department,
St.George Fort,
Chennai - 600 009
- 2.The Director,
The Directorate of Agricultural Marketing
and Agriculture Business,
Thiru. Vi.Ka. Industrial Estate, CIPET – II,
Main Road, Guindy, Chennai – 600 032.



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3.The Commissioner,
The Tamil Nadu Agriculture Marketing and
Agri Business,
Thiru.Vi.Ka.Industrial Estate, CIPET-II,
Main Road, Guindy, Chennai - 600 032.

4.The Secretary,
Kanyakumari Market Committee,
Nagercoil - 629 001,
Kanyakumari District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned G.O.(Ms)No.20, Agricultural (AM2) Department, dated 27.01.2020, issued by the first respondent State Government, quash the same and further direct the State Government to give exemption in favour of the District of Kanyakumari from the levy of Market fee of 1% for processing and marketing Cashew Nuts insofar as the Members of the petitioner Society (Members List annexed) in terms of Section 65 of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.B.Saravanan
Additional Government Pleader



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ORDER

WEB COPY This Writ Petition has been filed by an Association questioning G.O. (Ms)No.20, Agricultural (AM2) Department, dated 27.01.2020, issued by the first respondent and for a further direction to the State Government to grant exemption in favour of the District of Kanyakumari from the levy of market fee at the rate of 1% for processing and marketing cashew nuts.

2. The case of the petitioner Association is that cashew nut used to be one of the major agricultural produce in the District of Kanyakumari and the State Government used to levy taxes on cashew nuts. That apart, the State Government also levied 1% of the total value of nuts as market fee, which is collected through the fourth respondent Market Committee.

3. The further case of the petitioner is that the cashew nut produce is drastically reduced in the District of Kanyakumari and hardly 1% of the total extent of Kanyakumari District, is utilized for cashew nuts produce.

4. In view of the above, the petitioner Association is seeking for the exemption from the levy of market fee of 1%. When a representation was



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made in this regard to the first respondent, the same was rejected by the first respondent through the impugned Government Order, dated 27.01.2020.

Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. The fourth respondent has filed a counter affidavit and has taken a stand that the levy is made in line with Section 24 of the Tamil Nadu Agricultural Produce Marketing [Regulation] Act, 1987 [hereinafter referred to as "the Act"] and that the same yielded a income of Rs. 218.72 Lakhs during 2018-2019 and therefore, the first respondent thought it fit not to grant any exemption. In view of the same, the first respondent has sought for the dismissal of this Writ Petition.

6. Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned Additional Advocate General appearing on behalf of the respondents.

7. It must be borne in mind that seeking for an exemption from a levy cannot be done as a matter of right. At the best, it can only be in the nature



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of request, which cannot attain the status of a right. In view of the same, there is no corresponding duty on the part of the Government to grant exemption. If there is no legal right and there is no corresponding duty, the Court cannot issue a Writ of Mandamus.

8. The request made by the petitioner Association was considered by the first respondent and the first respondent has rejected the said request through the impugned Government Order, dated 27.01.2020. While undertaking this exercise, the first respondent has taken into consideration the income that is yielded by levying 1% market fee for the cashew nuts. A substantial amount is collected, which is being put to use for various purposes. Section 30 of the Act provides that the amount that is standing to the credit of the Market Committee Fund can be expended for various purposes and it need not necessarily confine only to the activities involving produce of cashew nuts. The law on this issue was considered by the Division Bench of this Court in **V.Senthil Kumar vs. State of Tamil Nadu** reported in **1995 A.I.H.C. 4020**.



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9. This Court does not find any error of law on the face of the impugned Government Order passed by the first respondent and this Court is not inclined to substitute its views to the view taken by the Government. Accordingly, no grounds have been made out to interfere with the impugned Government Order and as a result, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
NCC : Yes/No
Speaking order / Non-Speaking order
SMN2

30.11.2023

To

- 1.The Principal Secretary and
Agricultural Production Commissioner,
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Agriculture (AM2) Department,
St.George Fort,
Chennai - 600 009
- 2.The Director,
The Directorate of Agricultural Marketing
and Agriculture Business,
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N.ANAND VENKATESH, J.

SMN2

Pre-delivery order made in

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&

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30.11.2023