



W.P(MD)No.16505 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16505 of 2022

and

W.M.P.(MD)Nos.11929 and 11931 of 2022

Sri Thirupathi Traders,
3/502-12-A, Kulloorchandai Road,
Allampatti,
Virudhunagar 626 001,
Rep. by its Proprietor,
S.Kathirvel.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Agriculture and Farmers Welfare Department,
Fort St. George, Secretariat,
Chennai 600 009.

2.The Director,
Department of Agriculture Marketing & Agri Business,
100 Feet Road, SIDCO Industrial Estate,
Guindy, Chennai 600 032.

3.The Secretary,
Virudhunagar Market Committee,
Madurai Road,
Virudhunagar 626 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication issued by the 3rd Respondent in Na.Ko.No.Aa3/877/2022 dated 31.05.2022 and to QUASH the same and consequently forbearing the Respondents from levying market fee in respect of sale or purchase of Gingelly seed outside the notified market area viz., Virudhunagar Regulated Market.

For Petitioner : Mr.G.Sankaran, Senior Counsel,
For Mr.F.Deepak.

For Respondents : Mr.Veera Kathiravan,
Addl. Advocate General,
Assisted by Mr.M.Prakash,
Addl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

2.The writ petitioner is a trader in gingelly seeds. The petitioner's area of operation is Virudhunagar. The stand of the petitioner is that the



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respondents cannot invoke the provisions of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 as against the writ petitioner because Virudhunagar is not a notified market area.

3.I am not able to subscribe to this contention. As rightly pointed out by the learned Additional Advocate General, Virudhunagar was notified as market area under the provisions of the Tamil Nadu Agricultural Produce Markets Act, 1959. Copy of the said notification ie., G.O.Ms.No.760, Agriculture Department dated 15.04.1976 issued under Section 5(4) of the Tamil Nadu Agricultural Produce Markets Act, 1959 has been enclosed in the typed set of papers. It is true that 1959 Act was repealed by 1987 Act. Even though a fresh notification was not issued under the new Act vide amending the Act No.15 of 2019, it has been declared that the areas notified under the repelled Act would be deemed as notified areas under the new Act. Section 2 of the Tamil Nadu Act No.15 of 2019 reads as follows:-

“2. In section 67 of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987, (hereinafter referred to as the principal Act), in sub-section (4), for the



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expression “Notwithstanding the repeal of the said Act, any area declared to be a notified area under the said Act shall be deemed to be a notified area under this Act;”, the expression “Notwithstanding the repeal of the said Act, any area declared to be a notified area or a notified market area under the said Act shall be deemed to be a notified area or a notified market area, as the case may be, under this Act;” shall be substituted.

4.I, therefore endorse the contention of the learned Additional Advocate General that Virudhunagar continues to be a notified market area under the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 also.

5.The other contention advanced by the learned counsel for the petitioner is that the impugned communication dated 31.05.2022 calling upon the petitioner to submit the accounts regarding sale particulars was issued based on G.O.(Ms) No.84, Agriculture and Farmers Welfare Department dated 23.04.2022 and since G.O.(Ms) No.84 dated 23.04.2022 had been cancelled by G.O.(Ms) No.1 dated 03.01.2023, the impugned communication cannot survive.



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6.I am not able to subscribe to this contention also. This is because G.O.(Ms) No.84 dated 23.04.2022 had not superseded the earlier G.O.(Ms) No.64 dated 27.05.2014. It had merely eclipsed the earlier government order. There is no a single word in G.O.(Ms) No.84 dated 23.04.2022 cancelling, superseding or repealing G.O.(Ms) No.64 dated 27.05.2014. Therefore, when subsequent G.O.(Ms) No.1 dated 03.01.2023 cancelled G.O.(Ms) No.84 dated 23.04.2022, G.O.(Ms)No.64 dated 27.05.2014 sprung back to life. The impugned communication can therefore be justified with reference to G.O.(Ms)No.64 dated 27.05.2014.

7.Therefore, the action of the respondents cannot said to be lacking in jurisdiction and I sustain the impugned communication and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

19.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

To:-

- 1.The Principal Secretary to Government,
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Chennai 600 009.
- 2.The Director,
Department of Agriculture Marketing & Agri Business,
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