



W.P.No.36086 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:12.03.2025

Coram:

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.36086 of 2024

and

W.M.P.No.38987 of 2024

K.Shanmugam, aged 54,
S/o Kali gounder,
47/198-B, Paithur Road,
Therkukadu, Attur (TK),
Salem 636 102.

.. Petitioner

/versus/

1.The State of Tamil Nadu,
Represented by tis Commissioner and
Principal Secretary to the Government,
Agriculture and Farmers Welfare Department,
Fort St.George, Chennai 600 002.

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

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandmaus or any other appropriate writ or



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order or direction in the name of a Writ forbearing the respondents or any other person/representative of the respondents including those belonging to the above said market committee from taking any coercive action or demand or levy the market fee as per G.O.Ms.No.1 of 1 dated 03.01.2023 from the petitioner for the agricultural produce/paddy which are sourced from the areas which are outside the notified market areas of 284 regulated markets under 27 marketing committees in Tamil Nadu.

For Petitioner :Mr.A.G.Rajan

For Respondents :Mr.V.Manokaran, AGP

ORDER

This Writ Petition is filed for Mandamus forbearing the respondents or any other person/representative of the respondents including those belonging to the above said market committee from taking any coercive action or demand or levy the market fee, as per G.O.Ms.No.1 of 1, dated 03.01.2023 from the petitioner for the agricultural produce/paddy, which are sourced from the areas which are outside the notified market areas of 284 regulated markets under 27 Market Committees in Tamil Nadu.



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2. The primary contention of the learned counsel appearing for the petitioner is that the levy itself, made only as per G.O.(Ms).No.84, Agriculture and Farmers Welfare [AM2(1)] Department, dated 23.04.2022, was expressly cancelled, by G.O.Ms.No.1, Agriculture and Farmers Welfare Department, dated 03.01.2023 and therefore, the levy as well as the demand is illegal.

3. Per contra, the learned Additional Government Pleader placing reliance on the judgement of this Court in W.P.(MD)Nos.26345 and 28375 of 2023, would submit that the matter is no longer *res Integra*. This Court has decided the writ petition that originally the market fee was leviable as per G.O.Ms.No.64, Agriculture (AM2) Department dated 27.05.2014. It was superseded by the G.O.Ms.No.84. Once the G.O.Ms.No.84 is cancelled, then G.O.Ms.No.64 dated 27.05.2014 sprung back to life and therefore, under the said G.O. also the respondents are at liberty to levy market fee and the prayer of the petitioner can no longer be countenanced.



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4. I have considered the rival submissions made on either side and perused the materials available on record.

5. It is essential to extract paragraph No.2 and 3 of the said writ petitions in W.P.No.26345 and 28375 of 2023:-

“2. The learned Senior Counsel for the petitioner relied on the order dated 02.02.2023 made in W.P.No.1537 of 2023. The submissions of the learned Senior Counsel for the petitioners are no doubt attractive. As rightly pointed out by the learned Additional Advocate General, G.O.Ms. No.84 Agriculture and Farmers Welfare Departments dated 23.04.2022 did not supersede G.O.Ms.No.64 Agriculture (AM2) Department dated 27.05.2014. Of course, as pointed out by the Senior Counsel for the petitioners, there cannot be operation of two government orders covering the same subject matter at the same time. Therefore, when G.O. Ms No.84 dated 23.04.2022 held the field, G.O. Ms No.64 Agriculture and Farmers Welfare Departments dated 03.01.2023 cancelling G.O.Ms.No.84 dated 23.04.2022, G.O Ms No.64 dated 27.05.2014 sprung back to life.

3. When I repeatedly queried the learned Senior Counsel to point out if there is any passage or line occurring



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in G.O.Ms.No.84, dated 23.04.2022 which can be understood to mean that G.o.Ms.No.64 dated 27.05.2014 stood cancelled or rescinded, the learned Senior Counsel could not give me a direct answer. The theory of eclipse is a well-known legal concept. I therefore hold that the respondents are at liberty to levy market fee in terms of G.O Ms No.64, dated 27.05.2014.”

6. In view thereof, since these matter has already been decided giving liberty to levy the market fee in accordance to the terms of G.O.Ms.No.64, dated 27.05.2014, this Writ Petition is disposed of on the same terms. Consequently, connected Miscellaneous Petition is closed. No costs.

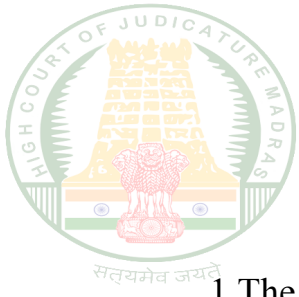
12.03.2025

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Netural citation:yes/no

To

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