

A SAT PAL GUPTA & ANR.

v.

B STATE OF HARYANA & ANR.

February 5, 1982

[Y.V. CHANDRACHUD, C.J. AND A.D.KOSHAL, J.]

C *Essential Commodities Act, 1955—"Foodstuff"—Meaning of—Rice bran used to feed poultry and cattle—Whether essential commodity within the meaning of the Act.*

D Sub-clause (i) of section 2(a) of the Essential Commodities Act 1955 defines an "essential commodity" to mean "cattle fodder including oilcakes and other concentrates" and by sub-clause (v) an "essential commodity" means "food-stuffs, including edible oilseeds and oils." Clause 3 of the Haryana Rice Bran (Distribution and Price) Control Order 1967 provides that no dealer or owner of a rice mill shall sell or offer to sell or supply rice bran save against a permit granted by certain officers of the State Government.

E By a writ petition under Article 226 of the Constitution, the appellants impugned the validity of clause 3 of the Control Order on the ground that rice bran is not an essential commodity and that for this reason power under section 3 could not be exercised for the purpose of regulating its sale or supply. The High Court rejected the appellants' writ petition.

Dismissing the appeal,

HELD : Rice bran being a "foodstuff" within the meaning of section 2(a) (v) of the Act, it is an essential commodity and therefore, the power conferred by section 3 can be used to regulate its production, sale or supply. [199 F]

F The term "foodstuffs" means food of any kind. The dictionary meanings of "food" are not restricted to what is eaten by human beings for nourishment and sustenance. According to them, what one takes into the system to maintain life and growth or what is taken into the body of an organism in order to sustain growth is food. [199 C-E]

G Rice bran, which is a bye-product of the husking and milling process of paddy, consists of the layer that lies between husk and the kernel. It is a food stuff which is commonly used as poultry and cattle feed. Any stuff which is commonly used as food by the generality of *living beings* is food-stuff ; it is not legitimate to restrict its meaning to things used as food by *human beings*. The animal kingdom is not any the less important in the cosmic scheme than the human empire and it is a distortion to say that it is a matter of little or no concern to the State whether the cattle and the poultry get their due ration of the means of their subsistence. Cattle feed and poultry feed are feed to the cattle and the poultry and therefore they are foodstuffs. [198 E-H]

Cattle and poultry are living components of the natural environment and there is no reason to exclude that which they eat or feed upon from the meaning of the word "foodstuffs". If what the human beings eat is food, so is what the other living beings eat. "Cattle fodder" is expressly brought within the compass of essential commodities by section 2(a) (i). It would be illogical if, in that context, rice bran is excluded from the purview of essential commodities on the ground that it is eaten by the poultry and not by *Homo Sapiens*. [199 B-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1099(N) of 1972.

Appeal by special leave from the judgment and order dated the 12th October, 1971 of the Punjab and Haryana High Court in Civil Writ No. 3400 of 1971.

*B.P. Maheshwari* and *Suresh Sethi* for the Petitioner.

*K.G. Bhagat* and *M.N. Shroff* for the Respondents.

The Judgment of the Court was delivered by

CHANDRACHUD, C.J. The appellants, in this appeal by special leave, are dealers in rice, paddy and rice bran. They also have an associate rice milling and husking plant which is run under the name and style of Jagdamba Rice Mills, Traori.

Section 3 of the Essential Commodities Act, 10 of 1955, empowers the Central Government, under the circumstances stated in that section, to issue notified orders providing for the regulation of production, supply and distribution of any essential commodity. Under Section 5, the Central Government can delegate its powers to a State Government or an officer or authority subordinate to it. In exercise of that power, the Central Government issued a notification on July 24, 1967 delegating to the State Governments the power conferred upon it by Section 3 of the Act. In exercise of such delegated power, Respondent 1, the State of Haryana, promulgated the Haryana Rice Bran (Distribution and Price) Control Order, 1967. Clause 3 of the said Order provides that no dealer or owner of a rice mill shall sell or offer to sell or supply rice bran save against a permit granted by the Director, Food and Supplies, or the District Magistrate or any other officer authorised by the Director in that behalf. The appellants filed a writ petition under Article 226 of the Constitution in the High Court of Punjab and Haryana, challenging clause 3 of the aforesaid Control Order, on the

**A** ground that rice bran is not an essential commodity and therefore, the power conferred by section 3 of the Act cannot be exercised for the purpose of regulating its sale or supply. This contention has been negated by the High Court.

**B** It is true that the power conferred by section 3(1) of the Essential Commodities Act, 1955, can be exercised by the Central Government or its delegate, only if it is of the opinion that it is necessary or expedient to provide for the regulation of any 'essential commodity'. The only sub-clauses of section 2(a) which are relevant for the purpose of deciding whether rice bran is an essential commodity, are sub-clauses (i) and (v). Sub-clause (i) of section 2(a) defines an 'essential commodity' to mean "cattle fodder, including oilcakes and other concentrates". By sub-clause (v), an 'essential commodity' means "foodstuffs, including edible oilseeds and oils". If rice bran is either cattle fodder or foodstuff, it would be an essential commodity and the Central Government or its delegate, the State Government, would have the power to regulate its production, supply and distribution, and trade and commerce therein.

**E** Coming first to the question argued by Shri Maheshwari as to whether rice bran is a 'foodstuff', it is well known that rice bran is commonly used as poultry feed and not uncommonly as cattle feed. This is undisputed. Rice bran is a bye-product of the husking and milling process of paddy and consists of the layer which lies between the husk and the kernel. The affidavit of Shri T.K. Banerji, Director, Food and Supplies, Haryana which was filed in the High Court shows that rice bran is used in place of wheat bran or wheat middlings in livestock feeding. To the same effect is the affidavit filed in this Court by Shri H.D. Bansal, Director, Food and Supplies, Haryana. If this is the true position, we are unable to appreciate that rice bran cannot be considered to be a foodstuff.

**F** Any stuff which is commonly used as food by the generality of *living beings* is foodstuff: it is not legitimate to restrict the meaning of that word to things which are used as food by *human beings*. The animal kingdom is not any the less important in the cosmic scheme than the human empire and it is a distortion to say that it is a matter of little or no concern to the State whether the cattle and the poultry get their due ration of the means of their subsistence. Cattle feed and poultry feed are food to the cattle and the poultry, and therefore they are foodstuffs.

**H**

The word 'foodstuffs' which occurs in clause (v) of Section 2(a) is not defined in the Act and therefore it must receive its ordinary and natural meaning, that is to say, a meaning which takes account of and accords with the day-to-day affairs of life. Cattle and poultry are living components of the natural environment and there is no reason to exclude that which they eat or feed upon, from the meaning of the word 'foodstuffs'. If, what the human beings eat is food, so is what the other living beings eat. 'Cattle fodder' is expressly brought within the compass of essential commodities by clause (i) of section 2(a). It would be illogical if, in that context, rice bran is excluded from the purview of essential commodities on the ground that it is eaten by the poultry and not by *Homo Sapiens*.

By 'foodstuffs' is meant food of any kind. The Shorter Oxford English Dictionary (Third Edition) says that 'food' is "what one takes into the system to maintain life and growth". According to Webster's Third New International Dictionary, 'food' means "material consisting of carbohydrates, fats, proteins and supplementary substances, that is taken or absorbed into the body of an organism in order to sustain growth, repair, and all vital processes and to furnish energy for all activity of the organism; something that nourishes or develops or sustains". These dictionary meanings of the word "food" are not restricted to what is eaten by human beings for nourishment and sustenance. According to them, what *one* takes into the system to maintain life and growth or what is taken into the body of an *organism* in order to sustain growth is food.

We are therefore of the opinion that rice bran being a foodstuff within the meaning of section 2(a)(v) of the Act, it is an essential commodity and therefore, the power conferred by section 3 can be used to regulate its production, sale or supply.

The affidavits filed on behalf of the State of Haryana have attempted to make out a case that rice bran is also used for human consumption. A research bulletin brought out by the Department of Chemical Engineering and Technology, Punjab University, Chandigarh, is cited therein as showing that the oil extracted from rice bran can be used in a variety of ways in the edible field as, for example, for fat-frying, cooking and in the preparation of salads and sauces, and that in Japan, it has been used for edible purposes for many years. This claim may or may not be true but we would like to have better evidence to uphold it. It may be possible, in

**A** course of time, to process rice bran by the use of advanced food technology in order to make it a common article of food for human consumption.

**B** Our attention is drawn by Shri Bhagat, who appears on behalf of the Haryana Government, to a decision of this Court in *M/s Sachdeva & Sons & Ors v. State of Punjab & Ors* (Civil Appeal No. 817 of 1980 decided on May 7, 1980) in which it was held that rice bran is "cattle fodder" within the meaning of section 2(a)(i) of the Act. We need not go into that question since we are of the view that rice bran, being a foodstuff, is an essential commodity.

**C** The decisions in *The State of Bombay v. Virkumar Gulabchand Shah*<sup>(1)</sup> and *Shriniwas Pannalal Chockani v. The Crown*<sup>(2)</sup> which were cited by Shri Maheshwari and Shri Bhagat respectively do not bear upon the question in issue before us and need not, therefore, be discussed.

**D** For these reasons we dismiss the appeal, but without costs.

P.B.R.

*Appeal dismissed.*

---

(1) [1952] 2 S.C.R. 877

(2) A.I.R. (38) 1951 Nagpur 226