

## **Officer-In-Charge Of The Superseded ... vs Tara Chand Agarwal And Ors. on 30 October, 1985**

**Equivalent citations: AIR1986SC355, 1987LABLC1904, 1985(2)SCALE1398, (1985)4SCC686, 1986(1)UJ58(SC), AIR 1986 SUPREME COURT 355, (1986) IJR 56 (SC), 1986 (1) MCC 287, 1986 UJ (SC) 58, 1985 (4) SCC 686, (1986) JAB LJ 270, (1986) 1 CURCC 1068**

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**Bench: A.P. Sen, B.C. Ray**

### **JUDGMENT**

A.P. Sen, J.

1. This appeal by special leave is directed against the judgment and order of the Madhya Pradesh High Court dated April 10, 1985 quashing the order of the Director of Marketing, Bhopal dated May 13, 1983 under Sub-section (1) of s. 56 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1973 directing the supersession of the Krishi Upaj Mandi, Khandwa for a period of one year w.e.f. even date in the first instance and the subsequent order dated March 14, 1984 constituting a Committee Under Section 56(3)(b) and that dated May 12, 1984 extending the period of supersession till May 11, 1985. After quashing the impugned orders of the Director, the High Court has also directed the State Government to put the elected body incharge of the Market Committee forthwith. Taking advantage of the order passed by this Court dated April 10, 1985 for maintenance of status quo, it appears that the Director has again passed an order purporting to be under Sub-section (1) of Section 56 of the Act extending the period of supersession of the Committee for a further period of one year i.e. till May 11, 1986.

2. Apparently, the State Legislature with a view to implement the judgment of the High Court enacted the Madhya Pradesh Kushi Upaj Mandi (Amendment) Adhiniyam, 1985 and inserted a new Sub-section (I), of Section 56 in the Act in place of the earlier Section 56(1), by which though the power of supersession of the committee is still retained with the Director, but such supersession can be for a period not exceeding one year and a duty is cast on the Director on the expiry of first six months of the period of supersession to take immediate steps to hold the elections for the Constitution of the new Market Committee. By a legal fiction, the period of supersession would be deemed to expire on the date of first general meeting of the Market Committee so constituted. Instead of the earlier provision in the old Section 56(1) empowering the to extend the period of supersession from time to time for a maximum period of three years, the other limitation engrafted on the power of the State Government is to supersede a market committee under the second proviso

to Section 56(1) as enacted and the period of supersession cannot, in any case, exceed beyond the term of the Market Committee as specified in Sub-section (5) of Section 11. There is the term of the elected body. Sub-section (1) of Section 56 as it now exists read as follows :

56(1). If in the opinion of the Director, a market committee is not competent to perform or persistently makes default in performing the duties imposed on it by or under this Act or abuses its power the Director may, by an order in writing supersede such committee for a period not exceeding one year and on expiry of first six months of the period of supersession, action to hold the elections for the Constitution of market committee shall be started and the period of supersession shall be deemed to expire on the date of first general meeting of the market committee so constituted :

Provided that before passing an order of supersession under this sub-section the Director shall give a reasonable opportunity to the market committee for showing cause against the proposals and shall consider the explanations and objections, if any, of the market committee :

Provided further that where the new market committee could not be constituted within one year of its supersession, the State Government may, in special circumstances, extend the period of supersession which shall not, in any case, exceed beyond the term of the market committee specified in Sub-section (5) of Section 11.

3. It is plain from a reading of Sub-section (1) of Section 56 of the Act that the power of extending the period of supersession of a market committee now vests in the State Government and not in the Director of Marketing. There is a further restriction placed as to the period of supersession. It is clear from the terms of the second proviso that the period of supersession shall not, in any case, exceed beyond the term of the Market Committee specified in Sub-section (5) of Section 11 which is a period of five years from the date of election. It is common ground that the Market Committee was first elected on September 17, 1979. That being so, the term of the Market Committee expired on September 16, 1984 in accordance with Sub-section (5) of Section 11. The order of extension passed by the Director extending the period of supersession till May 11, 1986 is therefore a complete nullity.

4. In the circumstances, we decline to interfere with the judgment of the High Court and dismiss the appeal with costs. We direct the State Government, and the Director of Marketing, Bhopal to take immediate steps to hold election of members of the Krishi Upaj Mandi, Khandwa in accordance with the provisions of the Act and the rules framed there under and complete the elections within a period of two months from today. They shall also, in the meanwhile, comply with the direction of the High Court to put back the elected body in charge of the Market Committee forthwith, if the new elections have not already been held.