

Kamla Kant Misra vs State on 21 August, 1950

Equivalent citations: AIR1951ALL595, AIR 1951 ALLAHABAD 595

ORDER

Harish Chandra, J.

1. The applicant is the manager of the Badal Ram Lakshami Narain Oil Mills at Banaras and has been convicted under Section 7, Essential Supplies (Temporary Powers) Act, 1946 (XXIV [24] of 1946) for committing a breach of the provisions of the U. P. Oil Seeds and Oil Seeds' Products Control Order, 1945, inasmuch as a large stock of linseed oil-seeds received by the Mills was not entered in their registers, as it ought to have been under the conditions of the licence, for a period of nearly ten days. The trial Court sentenced the applicant to a fine of Rs. 500/-, but the lower appellate Court finding that the omission did not appear to have been dishonest and was due only to negligence or carelessness reduced the amount of the fine to Rs. 50/-.

2. In this Court it is argued that linseed oil-seeds not being an essential commodity as defined in Section 2 of the Act, the Control Order of 1945 cannot be said to have been kept alive by Section 17 of the Act in so far as it relates to linseed oil-seeds. In a case just decided by me--Gopi Krishna Malviya v. State, (Cri. Revn. No. 222 of 1950 D/- 21-8-1950) I have held that only such Orders passed under the Essential Supplies'(Temporary Powers) Ordinance, 1946 (XVIII [18] of 1946) were kept alive by Section 17 of the Act as related to essential commodities as defined in Section 2 of Act XXIV [24] of 1946. The Control Order of 1945 is one of the orders passed under the Essential Supplies (Temporary Powers) Ordinance, 1946, which was repealed by Section 17 of Act XXIV [24] of 1946, and it is necessary to see whether linseed oil-seeds are included in the definition of "essential commodity" as given in Section 2 of that Act. Clause (a) of Section 2 provides that "essential commodity" means any of the classes of commodities mentioned in that clause. These include "foodstuffs" and in Clause (c) of the same section "food stuffs" have been defined as including "edible oil-seeds and oils". The word 'edible', according to Webster's Dictionary, in its adjectival sense, means 'fit to be eaten as food; eatable, esculent.' According to Chambers' 20th Century Dictionary 'edible' in its adjectival sense means 'fit to be eaten'. Similarly according to the shorter Oxford Dictionary the word 'edible' in its adjectival sense means 'eatable, fit to be eaten'. According to Webster's Dictionary one of the manners in which linseed oil-seed is used is, 'as a food'. According to Encyclopaedia Britannica, Edn. 11.

"Linseed formed an article of food among the Greeks and Romans and it is said that the Abyasinians at the present day eat it roasted. The oil is to some extent used as food in Russia and in parts of Poland and Hungary".

The question whether linseed is or is not used as an article of food in India was not raised in the Court below and no evidence was taken as to whether linseed is or is not used as a food by any class

of people in India. But if the dictionary meaning to be assigned to the word 'edible' is to be accepted linseeds oil-seeds must be regarded as edible oil-seeds in the sense that they can be eaten and are fit to be used as food whether they are, in practice, commonly used as a foodstuff or not in India.

3. My attention has been drawn to a number of publications and it is pointed out that in this country linseed oil-seeds are not regarded as a food-stuff. It cannot be said that these publications lead to the necessary conclusion that linseed oil-seeds are in fact not regarded as edible oil-seeds in this country. But there can be no doubt that they indicate that these oilseeds are not commonly regarded as an article of food. In a notification published in the U.P. Government Gazette, Extraordinary, dated 31-8-1946, the schedule to the U. P. Oilseeds and Oilseeds' Products Price Control Order, 1946, was substituted by a fresh schedule and in this schedule mustard and rape seeds and linseed are classed under two separate headings* Later the word 'edible' has been printed with-in brackets after the term 'mustard oil.' But the use of the word 'edible' after 'mustard oil' does not seem to carry any special meaning, Mustard oil may be eatable or it may be fit only to be used for burning or for other purposes and it seems to me that it was this distinction which was sought to be made out in this schedule. In the Indian Trade Journal, dated 9-6-1949, page 819, mention is made of Ireland's requirements in 1949 and these requirements are given under four headings. One of them is 'Edible,' i.e., Groundnut, Cottonseed oil, Gingelly oil or any other oil suitable for conversion into animal fats. The third heading is : Hard and Semi-hard (Palm Oil, etc.). The fourth heading is "Linseed." It is pointed out that this suggests that linseed is not an edible oil. I do not think that this is the necessary conclusion to be arrived at from this classification. Linseed oil has admittedly a large number of industrial uses also and it may be that this was the reason why linseed was placed in a separate class. It will be noted that 'palm oil' which includes cocoanut oil which is an edible oil has been put under a separate heading of "Hard and semi-hard." My attention has also been drawn to the proceedings of a meeting of Oil Mill-owners held at Banaras on 23-10-1946, in which some representatives of Government departments were also present. I am not sure if I can take judicial notice of this. No doubt, it is mentioned in the proceedings of this meeting that linseed oil came under the category of non-edible oils. In the U. P. Government Gazette, Extraordinary, dated 27-4-1948, Hindi edition, on p. 2 under the heading "Khane ke tel" various oils are mentioned. Linseed oil is not one of them, but towards the end of this paragraph it is mentioned that "Khane ke tel" would include those oils which the Government may notify as such. In the list of proposed 'Western German Imports from India, July 1949 to June 1950,' given in the Government of India, Ministry of Commerce, publication styled India's Trade Agreement with other countries, 1949, linseed has been placed under the heading "Chemicals" although peanut oil and peanut oil-seeds have been placed under the heading "Food and Agricultural Products." Similar is the case in Schedule B representing exports from India to Pakistan. Linseed oil is not placed under the heading "Edible oil" and has been given a separate heading. It may be that this is due to the special importance which attaches to linseed oil owing to its many industrial uses.

4. The effect of these documents does in fact seem to be that linseed oil-seeds and oil are not regarded in this country as a common article of food. But according to the dictionary meaning of the word 'edible,' it is not necessary for us to examine whether they are commonly used as food or not. All that we have to see is whether they are eatable or fit to be used as food.

5. It is, however, pointed out that in interpreting the word 'edible' we should have regard to the object of the Essential Supplies (Temporary Powers) Act, 1946. The general object of the Act is to control certain articles defined as essential commodities. These essential commodities include not only foodstuffs but such articles as paper, petroleum and petroleum products, coal, mica and other articles. There is no indication in the Act as to the criterion which determines what an essential commodity is and we must look to the definition itself to find out what may be regarded as essential commodities. There seems to be no reason, therefore, to interpret the word 'edible' in other than its ordinary dictionary sense which, as we have seen, is eatable or fit to be used as food.' In this view of the matter I do not see why linseed oil-seeds should not be regarded as edible oil-seeds. For the reasons given above my view is that the U. P. Oil seeds and Oil seeds' Products Control Order, 1945, has been kept alive by Section 17 of Act XXIV [24] of 1946 in its application to linseed oil-seeds also.

6. I, therefore, see no reason to interfere and reject the application.