

Supreme Court of India

Bihar S. A. Produce Marketing ... vs Shankar Makhana Bhandar And ... on 10 January, 1994

Equivalent citations: 1994 SCC, Supl. (2) 522

Author: M Punchhi

Bench: Punchhi, M.M.

PETITIONER:

BIHAR S. A. PRODUCE MARKETING BOARD

Vs.

RESPONDENT:

SHANKAR MAKHANA BHANDAR AND OTHERS

DATE OF JUDGMENT 10/01/1994

BENCH:

PUNCHHI, M.M.

BENCH:

PUNCHHI, M.M.

JEEVAN REDDY, B.P. (J)

CITATION:

1994 SCC Supl. (2) 522

ACT:

HEADNOTE:

JUDGMENT:

ORDER ORDER

1. Leave granted.

2. We are inclined to allow this appeal. The High Court seems to have committed a grave error in minimising the effect of the Bihar Agricultural Produce Markets (Validation) Act, 1982 (Bihar Act No. 64 of 1982) whereby the defect of non-publication of notification No. 14841, dated October 27, 1967 and other notifications mentioned therein was removed and it was ordained that the market fee levied, collected or to be levied and collected shall not be illegal and invalid merely on the ground of such non- publication. As a sequence, the contrary effect of any judgment, decree or order of any court was removed and the said notification as also the other notifications were mandated to be deemed to be valid and effective and all levies made and market fees collected deemed to have been validly realised, taken, done and issued as if the provisions of the Act were at all times in force. It appears to us that the High Court was under the impression that since it had pointed out in a string

of cases the effect of nonpublication of notice, its decision could not be upset by the Validation Act. This impression of the High Court was obviously wrong for the Validation Act had not directly attacked the judgments of the courts, but knocked off their basis by validating the non-publication to be as if valid publication. The defect having been removed, the basis of the set of cases decided by the High Court stood + Arising out of SLP (C) No. 4828 of 1993 knocked off and hence the Validation Act had a field to role over so as to justify the levies and the collections.

3. In this view of the matter, the appeal necessarily has to be allowed and accordingly we do so, setting aside the impugned order of the High Court declaring the fees levied and collected or to be levied and collected from the respondents as valid. No costs.