



Gujarat State Law Commission

JUSTICE M. B. SHAH

Former : Judge, Supreme Court of India,
Chief Justice, High Court of Bombay
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No.GSLC/2021/LPAD_25th REPORT/056 **14th July, 2021**

Dear Shri Aggarwalji,

Government of Gujarat, Legislative and Parliamentary Affairs Department; vide its Resolution No.LAC/2006/44/110/Law Cell, dated 31st December, 2013; had appointed the undersigned as the Chairman of the State Law Commission.

Till date, the Commission under the chairmanship of the undersigned has submitted in all **twenty-four (24) reports** on various points for consideration and for taking further needful actions.

Today, the Commission submits **twenty-fifth (25th) report**, namely, "*Price of edible oils: Step requires to be taken by the Government of Gujarat to control the rate of inflation (as far as possible) by fixing the price of certain products which could be reasonably revised periodically and for this purpose, there is the need for the State Government to exercise its power to make law for "Price Control" [Entry 34 of List-III of Seventh Schedule of The Constitution of India]*".

Two sets of the aforesaid report are sent herewith for consideration and for taking needful actions.

With warm regards,

Yours sincerely,

Justice M. B. Shah (Retd.)
Chairman

Encl. As above

To,
Shri Manoj Aggarwal (IAS)
Additional Chief Secretary (Addl. Charge)
Legislative and Parliamentary Affairs Department
Block No.4, Fourth Floor, Sardar Bhavan,
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Price of edible oils

Step requires to be taken by the Government of Gujarat to control the rate of inflation (as far as possible) by fixing the price of certain products which could be reasonably revised periodically and for this purpose, there is the need for the State Government to exercise its power to make law for “Price Control” [Entry 34 of List–III of Seventh Schedule of The Constitution of India]

1. At the outset, it is to be stated that the subject **with regard to fix the price** of products and/or the subject **with regard to price control** of products are quite vast.

Price control is the need of the hour, in view of the fact that the manufacturers / companies are day–by–day increasing the maximum retail price/selling price of the products which are being used daily.

It appears that there has not been the control of the State Government over the manufactures / companies which have been increasing the price of the products (such as, edible oils) in a short span. Some of these products (such as, edible oils) are such, which are being used daily by the people (residing in the State).

Because of the frequent rise in the price of the products, the people residing in the State are being economically exploited.

Arbitrary price caps tend to distort market mechanisms and also yield unpleasant side effects.

The State Government has significant role in regulating the price and distribution to maintain the smooth economy. If there is good production but it has no value, when the goods produced are not delivered to the end-users at the right time; in the right quantity and at the reasonable price.

2. It is a known fact that day-by-day, the purchasing capacity of the people is reducing. The income is either stable or is reducing and as against that, the inflation rate is increasing. It is very difficult for the common-man to manage for the daily requirements.

Question is, whether the State Government is duty bound in the matter of controlling the rate of inflation by fixing the price of certain products which could be reasonably revised periodically?

It would be, therefore, worthwhile to refer to certain provisions of the Constitution of India.

- (i) Part-IV deals with "Directive Principles of State Policy" and particularly, Article 39 deals with "Certain principles of policy to be followed by the State" which *inter-alia* reads:--

"The State shall, in particular, direct its policy towards securing:—

- (a) that the citizens, men and women equally have the right to an adequate means of livelihood;*
- (b) that the ownership and control of the material resources of the community are so distributed **as best to sub-serve** the common good;*
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
....."*

(ii) Part–XI deals with "Relations between The Union and The States". Chapter–I therein deals with "Legislative Relations" and particularly, Article 246 deals with "Subject–matters of laws made by Parliament and by the Legislatures of States".

Clause (2) of Article 246 specifically provides that, *"Notwithstanding anything in Clause (3), Parliament, and, subject to Clause (1), **the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List")."***

Clause (3) of Article 246 specifically provides that, *"Subject to Clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List")."*

(iii) Seventh Schedule of the Constitution of India contains three lists, viz. Union List, State List and Concurrent List. Entry 34 of the Concurrent List (List–III) deals with "Price Control".

Hence, the State Legislature has the legislative competence to see that there is the price control.

3. In view of the various constitutional provisions discussed herein above and considering the fact that, the State Legislature has the legislative competence to see that there is the price control; it is suggested to have some control over the manufacturers / companies which are engaged in the business of producing the edible oils within the territories of the State.

Price controls should be resisted even in the times of inflation.

The urge to tame inflation through price controls is omnipresent in all the governments.

Many of the times, mal-practice, shortage and black-marketing of certain products are the inevitable fallout.

Whatever it may be, but, the Government of Gujarat should have *at least* some control over the manufacturers / companies which are engaged in the business of producing the edible oils within the territories of the State.

The reason is, almost since about 1½ years, it is noticed that the price of edible oils is increasing and the people at large are the sufferers. The costly edible oils have become unaffordable now, for many of the citizens residing in the State.

At this stage, it is necessary to refer to two newspaper reports which are as under:--

- (i) Newspaper report, namely, "Concerned as edible oil prices soar to 11-year high, government takes stock" published on 26th May, 2021 in The Indian Express *inter-alia* states that,

*"The increase in prices of cooking oils comes in a midst of a pandemic and lockdowns in different States that have hit economic activities. **On Monday, the Department of Food & Public Distribution held a meeting with all stakeholders and asked States and businesses to take all possible steps to bring down prices of edible oils."***

The aforesaid newspaper report further *inter-alia* states that, "Data supplied by the **State Civil Supplies Departments** and available on the website of the Union Ministry of Consumer Affairs, Food and Public Distribution, show that all-India monthly average retail prices of six edible oils have reached their highest levels since January, 2010."

- (ii) Another newspaper report, namely, "Poor households cut back on pricey edible oils, as Centre weighs duty cut" published on 09th June, 2021 in The Hindustan Times, *inter-alia* states that,

*"Record edible oil prices have hit consumption among poorer households, as the Union Government weighs options of reducing the import duties amid soaring global rates and risks of food inflation. **Edible oil prices have risen up to 60%, according to data from the Consumer Affairs Ministry.** ... This month, Haryana issued orders to stop distributing subsidized edible oil to the poor through the public*

distribution system due to high prices of procurement and will give cash instead, according to a State Government official. In a recent meeting, States have been advised to crack down on hoarding of essential commodities."

It would be, now, necessary to refer to The Gujarat Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2008 which came into force from 11th June, 2008.

Having gone through the aforesaid Act, it is revealed that the same was required to be enacted by the State Government; **since** it had become imperative on the part of the State Government to regulate the supply, distribution and sale of cotton seeds by fixing the sale price in the interests of the farmers in the State **and** there was no provision to regulate the supply, distribution, sale of cotton seeds and to control the sale price of such cotton seeds in the State. **More particularly, the traders in cotton seeds including transgenic cotton seeds were exploiting poor farmers by collecting the exorbitant price.**

Section 12 of the aforesaid Act specifically deals with "Power to fix the price" which *inter-alia* provides that, **the State Government may**, after taking into consideration of the cost of production, etc. including trait value and other related factors wherever necessary, obtained from various agencies concerned, **fix maximum sale price from time to time, of all types of cotton seeds.**

It would be appropriate for the State Government to take some steps to control the rate of inflation by fixing the price of certain products (including edible oils) which could be reasonably revised periodically.

Apart from the edible oils, there are number of such products for which, the State Government should take adequate steps. This is necessary, since it appears that the people residing in the State are fully dissatisfied, due to high rate of inflation and at the same time, level of unemployment is high and purchasing capacity is reducing day-by-day.

The Government of Gujarat should ask the sellers and industry representatives to keep the prices within reasonable limits. At present, the price of groundnut oil is about Rs.200/- per litre. Price may be fixed at Rs.200/-.

If possible, the State Government should arrange to provide three to four litres edible oil (at least, cottonseed oil) every month to the poor people at the subsidized rate; under the "Public Distribution System".

Date : 14th July, 2021
Place: Ahmedabad



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Former Judge,
Supreme Court of India
AND
Chairman,
Gujarat State Law Commission