

1955

Present : Aboyesundere, J.

THE ATTORNEY-GENERAL, Appellant, and A. M. A.  
RAHIM, Respondent

S. C. 1044/55—M. C. Colombo South, 01270/A

Price control order—Form—Charge of sale of beef at excess price—Burden of proof—  
Meaning of expression "beef"—Control of Prices Act, ss. 3 (2), 4 (1).

When a price control order is made by the Controller, the citation of the power conferred by section 4 of the Control of Prices Act is sufficient to indicate the existence of the circumstances in which the power is exercised.

Where, in a prosecution for contravention of a price control order relating to beef, the expression "beef" is defined in the Order as including any kind of beef other than imported beef or any offal, the burden is on the prosecution to prove that the beef referred to in the charge was not imported beef or any offal.

The word "beef" includes meat of the buffalo.

**A**PPEAL from a judgment of the Magistrate's Court, Colombo South.

*L. B. T. Premaratne*, Senior Crown Counsel, for Complainant-Appellant.

*Colvin R. de Silva*, with *M. M. Kumarakulasingham* and *N. S. A. Goonetilleke*, for Accused-Respondent.

November 17, 1955. ABEYESUNDERE, J.—

This is an appeal by a Food and Price Control Inspector against an order made by the magistrate of Colombo South court in a case where a person was prosecuted for selling beef with bones at a price above the price fixed by the order dated 14th October, 1954, and made under the Control of Prices Act.

Crown Counsel who appears for the appellant submits that the learned magistrate was wrong in holding that the expression 'beef' did not include the flesh of a buffalo, that the price control order was invalid as it failed to recite that there was a scarcity or any unreasonable increase in the price of beef and that the burden was on the prosecution to prove that the beef to which the charge related was beef of the description contained in paragraph III of the price control order. The accused in this case have been acquitted on the three grounds which are now contested by the appellant.

The price control order mentions that the order is made by virtue of the powers vested in the Assistant Controller of Prices (Food) for the Colombo District by section 4 read with section 3 (2) of the Control of Prices Act. Section 4 (1) of the Act enables a price control order to be made in respect of any articles if it appears to the Controller that there

is, or is likely to arise, in any part of Ceylon any shortage of that article or any unreasonable increase in the price of that article. The citation of the power conferred by section 4 is sufficient to indicate the existence of the circumstances in which the power is exercised. I hold that it is unnecessary for a price control order, which cites the power under which the order is made, to state that it appears to the officer making the order that there is, or is likely to arise, in any part of Ceylon any shortage of the article to which the order applies or any unreasonable increase in the price of that article.

The price control order in this case defines the expression 'beef' by excluding therefrom imported beef whether frozen, salted or chilled or any form of offal. That expression, as defined, includes any kind of beef other than imported beef or any offal. The dictionary meaning of the word 'beef' includes meat of the buffalo. The expression 'beef' in the price control order therefore includes buffalo meat which has not been imported and which is not offal. I hold that the price control order in question applies to such buffalo meat.

In view of the fact that the expression 'beef', as defined in the price control order, does not include imported beef and offal, it was incumbent on the prosecution in this case to have proved that the beef referred to in the charge was beef which was not imported into Ceylon and which was not offal. The prosecution has failed to adduce such proof. There was thus no proof that the beef referred to in the charge was beef in respect of which the price control order applied. On this ground alone, the accused in this case was entitled to an acquittal.

For the aforesaid reasons, I dismiss the appeal.

*Appeal dismissed.*

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