

Before Hon'ble J. L. Gupta, J.

RONKI RAM AND OTHERS,—Petitioner.

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 4614 of 1979.

March 4, 1992.

Constitution of India, 1950—Arts. 14, 15 (4) and 341—Punjab Government Circular dated, October 12, 1965—Classification—Grant for construction of houses for certain specified members of Scheduled Castes—Government circular dated October 12, 1965, making grant admissible to such members of scheduled castes as are engaged in scavenging—Certain professions described as unclean—Validity of—Such circular is not violative of Article 14—Classification between 'clean' and 'unclean' occupations is valid and reasonable and based on intelligible differentia having nexus with the object sought to be achieved i.e. to make special provisions for a sub-category of scavengers, country shoemakers, bone collectors etc.—Bazigars sikligars though belonging to scheduled caste (clean) have no right to grant of house building loans.

Held, that under Article 14 itself, a classification which is not arbitrary and has a reasonable nexus with the object sought to be achieved is permissible. In this situation, if the State feels that persons engaged in the professions of scavenging etc. deserve to be classified as a special class and special provision is required to be made for their advancement, no provision of the Constitution can be said to have been violated. The fact that scavengers, country shoemakers, bone collectors etc. are not as well placed in life as those belonging to other classes is well known and recognised in this part of the country. In such a situation, the classification introduced by the letter dated October 21, 1965 and the sanction of an amount of Rs. 28.00 lacs for construction of houses for this class of persons does not in any way infringe any enforceable right of the petitioners.

(PARA 3)

P. C. Goyal, Advocate, for the Petitioner.

S. S. Kang, DAG, Punjab, for Respondent No. 1 & 2.

Muneshwar Puri, Advocate, for Respondent No. 3, with Deepali Puri, Advocate.

ORDER

Jawahar Lal Gupta, J. (Oral)

(1) In the year 1979-80 an amount of Rs. 28.00 lacs was provided for construction of houses for persons working as Sweepers, Scavengers and tanners etc. The petitioners, who admittedly belong to the category of Scheduled Castes (Bazigar and Sikligar by caste) claim that all members of Scheduled Castes form one class and their exclusion which is based on instructions dated October 12, 1965 (annexure P-1) is violative of Articles 14 and 341 of the Constitution of India.

(2) Mr. P. C. Goyal, learned counsel for the petitioners submits that in accordance with the provisions of Article 341 of the Constitution, the list of Scheduled Castes in the State of Punjab has been duly notified. He contends that the members of all the castes included in the schedule have a right to be treated alike and that their classification on the basis of 'clean' and 'unclean' occupation is violative of Article 14 of the Constitution. On the other hand, learned counsel for the respondents point out that,—vide letter dated October 12, 1965, the class of persons doing the work of Scavenging, flaying skins, tanning leather, collection of bones of dead animals and country-shoemaking have been specifically classified as Scheduled Castes (unclean). In pursuance of these instructions, the Government had sanctioned a sum of Rs. 28.00 lacs for the construction of houses for the persons engaged in the aforementioned professions. This, according to the learned counsel for the respondents, is in strict conformity to the provisions of the Constitution.

(3) Under Article 341 of the Constitution, the President is competent to "specify the castes, races, or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State....." Accordingly, it is open to the President to specify a caste or a part of a caste to be a scheduled caste in relation to a State. It is thus apparent that under Article 341 itself a classification within a caste is permissible. Still further under Article 15(4) the State can make a special provision "for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes." If the State finds that out of scheduled castes, there are some who are more backward either socially or educationally, it would be competent to make a special provision for their advancement. Above, all, under

Article 14 itself, a classification which is not arbitrary and has a reasonable nexus with the object sought to be achieved is permissible. In this situation, if the State feels that persons engaged in the professions of scavenging etc. deserve to be classified as a special provision is required to be made for their advancement, no provision of the Constitution can be said to have been violated. The fact that scavengers, country shoemakers, bone collectors etc. are not as well placed in life as those belonging to other classes is well known and recognised in this part of the country. In such a situation, the classification introduced by the letter dated October 12, 1965 and the sanction of an amount of Rs. 28.00 lacs for construction of houses for this class of persons does not in any way infringe any enforceable right of the petitioners.

(4) Accordingly, I find no merit in this petition. It is dismissed. In the circumstances of the case, the parties are left to bear their own costs.

R.N.R.

Before Hon'ble A. L. Bahri & V. K. Bali, JJ.

M/S JAI BHAGWAN OM PARKASH,—Petitioner.

versus

THE DIRECTOR OF INSPECTION NEW DELHI AND
OTHERS,—Respondents.

Civil Writ Petition No. 6460 of 1987.

March 30, 1992.

Income Tax Act, 1961—S. 132—Income Tax Rules, 1962—Power to order search—Such power to be exercised strictly in accordance with law—Search warrant issued against firm A—Search of premises of Firm B—Letter of authorization containing name of partners of firm B as well—Validity of such search.

Held, that the exercise of power under section 132 of the Act of 1961, a serious invasion is made upon the rights, privacy and freedom of the tax-payer, the power must be exercised strictly in accordance with the law and only for the purposes for which the law authorises it to be exercised. If the conditions for the exercise of the power are not satisfied the proceedings would be liable to be quashed.

(Para 12)