(9) Yet another submission made by the learned counsel for the petitioner is that Inspector-General of Police, Punjab, was the appointing authority of the petitioner and only that authority could take action against him and the authorities of the State where he is serving on deputation have no such power to take action against him. There is hardly any merit in this contention of the learned counsel. The action that has been initiated is not a disciplinary one; the impugned action is in the natre ouf criminal proceedings envisaged by the provisions of section 7 of the Essential Services Act, which the authorities of the Union Territory of Chandigarh are competent to take, as already noticed.

(10) No other point has been urged by the learned counsel for the parties in this case.

(11) In view of the above discussion, I do not find any merit in this application and, therefore, the prayer for bail as well as for quashing the F.I.R. is declined and the application is dismissed.

N. K. S.

CIVIL MISCELLANEOUS

Before Bal Raj Tuli, J.

HARDIAL SINGH,—*Petitioner*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents*

Civil Writ No. 2056 of 1968

August 3, 1970

Punjab Exise and Texation Department (State Service Class III-A) Rules (1956)—*Rules* 5(*a*), 7-*B*, 9(*b*), 9(*c*) *and* 19—*Constitution of India* (1950—*Articles* 14 *and* 309—*Power of relaxation under Rule* 19—*Whether excessive delegation of legislative power—Rule* 19—*Whether* ultra vires *Article* 309—*Such power—Whether arbitrary and violates Article* 14—*Promotion of a government officer on the acceptance of representation—Consequent reversion of another officer—Show cause notice affording opportunity against such acceptance to the reverted officer—Whether essential.*

Held, that by giving the power, under rule 19 of Punjab Excise and Taxation Department (State Service Class III-A) Rules (1956), of relaxation from the provisions of any of the rules to the Government, the Governor, as the framer of the rules, has not effaced himself and the relaxation

does not amount to the annihilation of the provisions or the policy adumbrated in the rules. The power to relax is neither arbitrary nor unguided and, therefore, cannot be said to be excessive delegation of legislative power. Under the general service regulations every member of the Service has the right to make a representation to the Governor against any order which affects him prejudicially. Any improper or unjust relaxation can, therefore, be brought to the notice of the Governor in every case by means of a representation by an aggreived person and the Governor will then scrutinise whether the relaxation has been properly and justly made. Hence the power of relaxation given by rule 19 to the Government is not violative of Article 309 of the Constitution

(Paras 7 and 8)

Held, that the power to relax under rule 19 has been given to the State Government which can be exercised in favour of any class or category of persons. There is no question of "pick and choose". Moreover, the Government has to form an opinion that it is necessary or expedient to do so and has to record reasons in writing while granting relaxation. This is an adequate safeguard against the exercise of arbitrary or discriminatory power and it is not open to the Government under this rule to grant relaxation to one person of a class or category and not to grant to another person of the same class or category who is similarly situated. If the Government exercises that power of relaxation in a discriminatory manner, that exercise of power will be struck down but it cannot be held that the power of relaxation is *ultra vires*. The reasons in support of an order of relaxation can be scrutinised by the Governor in any representation made to him or by the High Court if any petition under Article 226 of the Constitution is filed. If the reasons are not considered to be relevant or adequate, the order of relaxation can be struck down but that is no ground to hold that the power of relaxation delegated to the Government is arbitrary, naked or without any guidance, which will lead to discriminatory orders being passed. Thus rule 19 of the rules is *intra vires* Article 14 and constitutionally valid.

(Para 9)

Held, that where a government officer is promoted on the acceptance of his representation and another officer is consequently reverted, a notice of the representation should be given to the reverted officer affording him opportunity to show cause against the acceptance of the representation. The non-issue of the notice violates the principle of natural justice as it affects civil rights of the reverted officer. (Para 14)

Petition under Article 226 of the Constitution of India praying that a writ in the nature of certiorari, *prohibition or any other appropriate writ, order, or direction be issued quashing the impugned order dated the 15th June*, 1968 (*Annexure B*) *and further praying that the implementation of the impugned order be stayed till the final decision of the petition.*

KULDIP SINGH, M. J. S. SETHI AND DALJIT SINGH, ADVOCATES, for the petitioner.

D. N. RAMPAL, ASSISTANT ADVOCATE-GENERAL, (PUNJAB) for respondent No. 1.

M. R. AGNIHOTRI, ADVOCATE, for respondent No. 2.

B. S. SHANT, ADVOCATE, for respondents 6, 7 and 8.

R. P. SAHNI, ADVOCATE, for respondent 3.

JUDGMENT

B. R. TULI, J.—(1) The petitioner joined service as a Clerk in the Excise and Taxation Department of the Punjab Government at Lahore on May 27, 1941. He was promoted as Senior Steno-typist in 1944 and was promoted as Stenographer on January 7, 1949, after the partition of the country. He was promoted as Taxation Sub-Inspector in June, 1950, and on the merger of the posts of Taxation Inspectors and Taxation Sub-Inspectors, he became a Taxation Inspector with effect from April 1, 1966. By an order of the Punjab Government dated March 28, 1968, (copy annexure R-3/1), the petitioner and twelve other Taxation Inspectors, including respondents 6 to 9, were promoted as Assistant Excise and Taxation Officers on purely temporary basis. By the same order, four members of the ministerial staff of the Excise and Taxation Commissioner's Office, including respondents 3 to 5, were promoted as Assistant Excise and Taxation Officers on purely temporary basis. By another order of the same date (copy annexure 'A'), all the thirteen Taxation Inspectors and three members of the ministerial staff, respondents 3 to 5, were posted at various places mentioned against their names. In this order, the petitioner is shown at No. 13 while respondents 6 to 9 are shown at serial Nos. 2, 3, 5 and 12. Respondents 3 to 5 are shown at serial Nos. 14, 15 and 16. It is inferred from this order that amongst the Taxation Inspectors promoted as Assistant Excise and Taxation Officers, the petitioner was the juniormost. Respondent 2, S. S. Pahwa, was also then a Taxation Inspector and was not promoted to the post of Assistant Excise and Taxation Officer on the ground that he was not a graduate. He made a representation to the State Government on April, 1968, which was accepted and he was promoted as Assistant Excise and Taxation Officer by an order of the State Government dated June 15, 1968, by relaxing the provisions of rules 5(a) and 7-B of the Punjab Excise and Taxation Department (State Service Class III-A) Rules, 1956 (hereinafter called the Rules), from the date his junior was promoted as such and the petitioner was reverted as Taxation Inspector on the ground that he was the

juniormost. It was further directed that respondent 2 would retain his original seniority as Assistant Excise and Taxation Officer, irrespective of his earlier supersession. It was also made clear that the appointment of respondent 2 as Assistant Excise and Taxation Officer was subject to the approval of the Punjab Public Service Commission and also subject to the condition that he would be liable to reversion as soon as suitable candidates for regular appointment by direct recruitment or otherwise became available. The petitioner has challenged the order of the State Government dated June 15, 1968, promoting respondent 2 as Assistant Excise and Taxation Officer and reverting the petitioner to his substantive post of Taxation Inspector on various grounds set out in the petition and in Civil Misc. 4118 of 1968.

(2) Written statements have been filed on behalf of respondents 2, 3, 6, 7 and 8. The petitioner filed a replication to which a reply was also filed.

(3) At the hearing, the learned counsel for the petitioner has pointed out that the appointments of respondents 2 to 9 were made by relaxing the provisions of rules 5(a), 7-B, 9(b) and 9(c) of the Rules under the powers conferred on the State Government by rule 19 thereof, which could not be done as rule 19 is ultra vires Articles 14 and 309 of the Constitution.

(4) Before dealing with this contention, I may point out that there is no contest between the petitioner and respondents 2 and 6 to 9 on the one hand and respondents 3 to 5 on the other, for the reason that respondents 3 to 5 belonged to the ministerial staff of the Excise and Taxation Commissioner's Office while the petitioner and other respondents belonged to the category of Taxation Inspectors. Under rule 6, separate quota is fixed for each of these categories and there is no contest between one category and the other. The contest is between the members of the same category. Rule 9 prescribes the conditions for the recruitment of members of the ministerial staff of the establishment of the Excise and Taxation Commissioner, Punjab, and reads as under :—

> "No person shall be appointed to the service by transfer under the provisions of clause (b) of rule 5 who—
>
> (a) has not completed five years' continuous Government service ;

(b) has attained the age of 40 years on or before the first day of October immediately before the date on which the names are considered for appointment, and

(c) is not a Graduate of recognised University :

Provided that Government may relax the age limit and educational qualifications in suitable cases."

Under the proviso to rule 9, the Government has been authorised in categorical terms to relax the age limit and educational qualifications in suitable cases and the relaxation of rules 9(b) and 9(c) in favour of respondents 3 to 5 was made under that proviso and not under rule 19. The power of relaxation under the proviso to rule 9 has not been challenged, and, therefore, it cannot be held that the relaxation made in favour of respondents 3 to 5 was without jurisdiction or justification. The proviso to rule 9 does not require the Government to state reasons when relaxing the age limit and educational qualifications in suitable cases, as is the requirement of rule 19. The order of the Government dated March 28, 1968 (annexure R-3/1) is, therefore, valid in so far as it relates to respondents 3 to 5.

(5) The learned counsel for the petitioner has also stated at the Bar that he does not contest the relaxation made in favour of respondents 3 to 5 for their promotion as they belonged to a category different from that of the petitioner. These respondents were made parties to the writ petition for making a submission that they were junior to the petitioner as Assistant Excise and Taxation Officers and, if a reversion was occasioned, the juniormost amongst them should be reverted and not the petitioner. That plea has, however, not been pressed, in view of the fact that respondents 3 to 5 belonged to a different category and there is no contest between the petitioner and those respondents. Since respondent 2 belonged to the category of the petitioner, on his promotion, the juniormost amongst the Taxation Inspectors promoted as Assistant Excise and Taxation Officers had to be reverted. The petitioner is, therefore, not entitled to any relief against respondents 3 to 5.

(6) The first point argued by the learned counsel for the petitioner is that rule 19 of the Rules is unconstitutional on the ground of excessive delegation of legislative power of the Governor under Article 309 of the Constitution in favour of the Government. This

plea was not specifically taken in the petition or the Civil Miscellaneous Application referred to above but I have permitted the learned counsel to argue the same. Rule 19, as originally framed in 1956, read as under :—

> "19. *Dispensation and relaxation in hard cases.*—Where the Governor is satisfied that the operation of any of these rules will cause undue hardship in any particular case, he may by order dispense with or relax, to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner."

From the language of this rule, it is clear that the power vested in the Governor and the relaxation could be made to avoid undue hardship in any particular case and not generally. By notification No. 8807-E&T(II)—64/1083, dated February 12, 1965, this rule was substituted by the following rule :—

> "Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons."

The language of the rule makes it clear that (i) the Government has to form the opinion that it is necessary or expedient so to do and (ii) it has to record reasons in writing for granting relaxation from any of the provisions of these rules. The argument is that the power of the Governor to frame rules for State Services under Article 309 of the Constitution is a legislative function as the rules are to be operative till the legislature makes some other rules and that the Governor could not delegate that legislative power to any authority howsoever high in a manner so as to efface himself nor could he set up a parallel legislative body to amend the rules in such a manner as to take away the essential requisites thereof. It is submitted that rule 7-B, as framed by the Governor, is completely effaced and another rule is substituted in its place by the Government to the effect that persons who are not graduates of a recognised University can also be recruited to the Service. Reliance for this submission is made on a judgment of a Division Bench of this Court (Shamsher Bahadur and Narula, JJ.) in *Umrao Singh* v. *The State of Punjab and others*, (1). In that case the constitutional validity of section 77 of

(1) 1969 C.L.J. 563.

the Punjab Cooperative Societies Act, 1961, was challenged on the ground that it suffered from excessive delegation of legislative power. That section read as under :—

> "77. The Government may, by general or special order, to be published in the official Gazette, exempt any co-operative society or any class of cooperative societies from any of the provisions of this Act, or may direct that such provisions shall apply to such societies or class of societies with such modification as may be specified in the order."

(7) Under the powers vested in the Government under section 77 of the said Act a notification was issued on July 6, 1963, authorising the election of Directors in different zones instead of in a general meeting as required by sections 24 and 26 of the Punjab Co-operative Societies Act, 1961, read with rule 22 of the Rules framed under that Act. The argument advanced in that case was that the statutory provisions of the Act as well as the statutory rules provided in specific and clear terms that the election of the Board of Directors was to be held in a general meeting whereas the impugned instructions prescribed a procedure for election of Directors which was foreign to the statutory provisions and indeed in contravention of them. Creation of zonal electorates provided an altogether different basis for elections and was in breach of the policy adumbrated in the rules under the Act whereunder the Directors were to be elected in a general meeting by all the members of the co-operative society while under the instructions Directors from the zones could be elected by the share-holders of those zones only. The learned Judges considered various judgments of their Lordships of the Supreme Court and some judgments of this Court and came to the conclusion that section 77 of the Punjab Co-operative Societies Act suffered from the blemish of excessive delegation and was, therefore, declared to be *ultra vires*. The impugned instructions were consequently quashed. To my mind, that case is distinguishable from the present case and rule 19 cannot be declared to be *ultra vires* Article 309 of the Constitution. The rules under consideration in the present case prescribed the service conditions for the persons to be employed in the Excise and Taxation Department. For that purpose method of recruitment, essential qualifications, manner of determining seniority, and other matters connected with the Service have been provided for. In rule 6 quotas on percentage basis for different sources of recruitment mentioned in rule 5 have been prescribed. If that rule has to

be given effect to, the persons already in service have to be promoted under clauses (a) and (b) of rule 5. The members of the Service were eligible for promotion to the higher ranks under the rules without the academic qualification as prescribed in rule 7-B before that rule was added. The Governor can legitimately be presumed to have envisaged that the prescribing of academic qualifications might cause hardship to certain members of the Service who were previously eligible for promotion to the higher posts but could not be promoted merely because they did not possess the academic qualification in spite of their long experience in the Department. It might also have been envisaged that a sufficient number of graduates might not be available from amongst the categories of persons eligible for promotion under clauses (a) and (b) of rule 5. For the members of the ministerial staff under clause (b) of rule 5(a) special provision was made in rule 9 authorising the Government to relax the age-limit and the educational qualifications, but not the minimum length of service. This rule, therefore, gives guidance to the Government that in appropriate cases of Taxation Inspectors also, who were already in the service of the Department, academic qualification can be relaxed but the Government, before relaxing that qualification, has to form an opinion that it is expedient and necessary to do so and has also to record its reasons in writing for granting the relaxation. It cannot be said that by giving the power of relaxation from the provisions of any of the rules to the Government, the Governor, as the framer of the rules, has effaced himself or that the relaxation amounts to the annihilation of the provisions or the policy adumbrated in the rules. The power to relax is neither arbitrary nor unguided and, therefore, cannot be said to be excessive delgation of legislative power. It has also to be borne in mind that under the general service regulations every member of the Service has the right to make a representation to the Governor against any order which affects him prejudicially. Any improper or unjust relaxation can, therefore, be brought to the notice of the Governor in every case by means of a representation by an aggrieved person and the Governor will then scrutinise whether the relaxation has been properly and justly made. In the instant case the order of relaxation (copy R-3/1) is headed as 'Order of the Governor of Punjab' and can be taken to have been made by him or with his approval.

(8) For the reasons given above, I hold that the power of relaxation given by rule 19 to the Government is not of the kind as was given by section 77 of the Punjab Co-operative Societies Act and

this rule is, therefore, not violative of Article 309 of the Constitution.

(9) The next attack to the constitutional validity of rule 19 is that it is violative of Article 14 of the Constitution. There is no force in this submission for the simple reason that the power to relax has been given to the State Government which can be exercised in favour of any class or category of persons. There is no question of "pick and choose." Secondly, the Government has to form an opinion that it is necessary or expendient to do so and has to record reasons in writing while granting relaxation. This is an adequate safeguard against the exercise of arbitrary or discriminatory power and it is not open to the Government under this rule to grant relaxation to one person of a class or a category and not to grant to another person of the same class or category who is similarly situated. If the Government exercises that power of relaxation in a discriminatory manner, that exercise of power will be struck down but it cannot be held that the power of relaxation is *ultra vires*. The reasons which are stated by the Government in support of the order of relaxation can also be scrutinised by the Governor in any representation made to him or by this Court if any petition under Article 226 of the Constitution is filed. If the reasons are not considered to be relevant or adequate, the order of relaxation will be struck down but that is no ground to hold that the power of relaxation delegated to the Government is arbitrary, naked or without any guidance, which will lead to discriminatory orders being passed. I am, therefore, of the opinion that rule 19 of the Rules is *intra vires* and constitutionally valid.

(10) The order of relaxation passed on March 28, 1968, in so far as it relates to 13 Taxation Inspectors including the petitioner cannot be struck down on the ground that the requirements of rule 19 have not been carried out, that is, there is no statement that the Government had formed the opinion that it was necessary or expedient to grant the relaxation nor have any reasons been stated for relaxation being made. The learned Assistant Advocate General has produced before me the record relating to the Selection of 13 Taxation Inspectors which shows that the Excise and Taxation Commissioner, Punjab, had considered the cases of 29 Taxation Inspectors for selecting 13 out of them to fill the vacancies then existing and he rejected respondents 2 and 6 to 9 on the ground that they were not graduates and recommended 13 names which did not include

respondents 2 and 6 to 9 but included the petitioner. When this proposalw ent to the Secretariat, it was pointed out that in the selection made in October, 1967, the Government had decided to relax the rule with regard to academic qualifications and had considered the names of non-graduates also and promoted them as Assistant Excise and Taxation Officers. This was done with a view to avoid any hardship to the senior officials who were under-graduates and if they were to be ignored this time, it would cause heart burning to them. On this note of the office, the Deputy Secretary, Excise and Taxation, Punjab, pointed out that "last time we relaxed the rules and so far as promotion of Taxation Inspectors and Excise Inspectors to the posts of Assistant Excise and Taxation Officers was concerned, non-graduates were also made eligible and that it would not be proper not to continue that relaxation." He was of the opinion that relaxation should be consistent; otherwise many complications would arise and in fact the Excise and Taxation Commissioner should have sent his proposals keeping that in view. Thereafter, the matter was placed before the Financial Commissioner, Taxation, who is also the Secretary of the Department and his note on the file dated March 7, 1968, shows that he discussed the case with the Excise and Taxation Commissioner and the Deputy Secretary, Excise and Taxation, in detail and it was decided to relax the academic qualifications of being a gradute for promotion of Inspectors to the posts of Assistant Excise and Taxation Officers on the basis of the decisions taken previously provided the Inspectors were otherwise suitable for promotion on the basis of their service records. The matter was then placed before the Excise and Taxation Minister who generally agreed with the recommendations of the Financial Commissioner, Taxation, regarding relaxation of rules on the points raised in his note. The Minister further considered the cases of individual Taxation Inspectors and selected 13 out of them who were then promoted by order dated March 28, 1968. It is thus clear that the Government carefully considered the matter and recorder the reasons in favour of granting relaxation to the 13 Inspectors and also felt it necessary to do so because of the decisions taken in the previous year, the discontinuance of which would have caused heart-burning to the senior members of the Service who had legitimately aspired for promotion according to the rules prior to the insertion of rule 7-B. The order granting relaxation being administrative in character, it is not necessary that the order itself should cortain the reasons. It is sufficient if the reasons are

recorded on the file before the formal notification is issued. From the record produced before me, I have satisfied myself that the reasons have been so recorded. This order, is, therefore, not liable to be quashed.

(11) The order dated June 15, 1968, promoting respondent 2 as Assistant Excise and Taxation Officer and ignoring the petitioner has to be quashed on the ground that this order was passed without any notice to the petitioner although the petitioner was affected by that order. It is true as has been urged by the respondents, that the petitioner, having been pomoted on a temporary basis, did not have any right to hold the post as it was provided in the order itself (annexure R-3/1) that—

> "the appointments of all these officials as Assistant Excise and Taxation Officers will be subject to the approval of the Punjab Public Service Commission and also subject to the condition that they will be liable to reversion as soon as suitable candidates for regular appointment by direct recruitment or otherwise become available."

(12) The reversion was also not by way of punishment but was as a consequence of the acceptance of the representation of respondent 2. However, the order of reversion did involve civil consequences for the petitioner inasmuch as he has suffered in emoluments of the temporary higher post and his continuous length of service in the higher rank and the order of seniority in consequence thereof in the higher rank on cofirmation have been adversely affected. The reversion was also not made because he was not approved by the Public Service Commission or that suitable candidates for regular appointment by direct recruitment or otherwise had become available. As pointed out above, his reversion was the result of the acceptance of the representation of respondent 2 and the petitioner would not have been reverted if that representation had not been accepted. In these circumstances it was incumbent on the Government to give notice to the petitioner to show cause against the representation of respondent 2 on the principal laid down by their Lordships of the Supreme Court in *State of Orissa* v. *Dr. (Miss) Binapani Dei and others* (2). In that case their Lordships observed—

> "It is true that the order is administrative in character, but even an administrative order which involves civil consequences, as already stated, must be made consistently with

(2) A.I.R. 1967 S.C. 1269.

the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof and after giving an oppotunity to the first respondent of being heard and meeting or explaining the evidence."

(13) Following that judgment I held in *Ajeeb Singh Bakshi* v. *State of Haryana and another* (3), as under :—

"Whether a notice should be given in a particular case where the order is administrative, it will depend on the particular facts of that case. If an administrative order in due course and in the interest of administration is passed, possibly there may be no question of giving the notice to the person affected thereby but where civil consequences are involved, the notice must be given."

In that case I also held that—

" . . . . the notice should have been given to the petitioners because they would have endeavoured to satisfy the Commissioner that rule 16 of the Punjab District Service Rules, which had been invoked by the Government and insistence was made that the appointment should be made in accordance therewith was not applicable to the case of recruitment but would come into play only after the petitioners had been selected for the posts of Assistant Superintendents (R&R) and their seniority had to be fixed in the Punjab District Subordinate Services."

(14) Similarly in the present case if the notice of the representation of respondent 2 had been given to the petitioner, he might have satisfied the authority considering the representation that the service record of respondent 2 did not justify his promotion as Assistant Excise and Taxation Officer. It is pertinent to note that the Excise and Taxation Commissioner, while considering the cases of 29 Taxation Inspectors for selecting 13 out of them, had rejected respondent 2 only on the ground that he was not a graduate. In spite of this, when the Minister made the final choice of 13 Taxation Inspectors, respondents 6 to 9 were selected, although they were not graduates but respondent 2 was not selected and from that fact

(3) 1969 S.L.R. 400.

it can be legitimately inferred that his service record was not found sufficiently satisfactory to entitle him to promotion. It was a vital matter for the petitioner in order to protect his temporary promotion which would have, in due course, matured into permanent promotion unless he was found unsuitable for the post or had to be reverted on administrative grounds, such as the availability of other suitable candidates by direct appointment. For these reasons, I am of the opinion that notice of the representation of respondent 2 should have been given to the petitioner who should have been afforded an opportunity to show cause against its acceptance. The non-issue of that notice violated the principles of natural justice as it affected civil rights of the petitioner. Narula, J. has also held in *Paras Ram* v. *State of Punjab* (4), that—

> " ..... It is entirely for the Government to select the best person on merits with due regard to the seniority without necessarily appointing the senior-most man. Once a selection has, however, been made by an authority competent to select and it is sought by a superior administrative authority to set aside the selection or to alter it, such superior authority has no jurisdiction to do so without affording the person, who might be prejudicially affected by the proposed order, an adequate opportunity of being heard. This is the fundamental requirement of natural justice which cannot be waived under any circumstances. . . ."

The learned Judge also relied on the decision of their Lordships of the Supreme Court in *Dr. (Miss) Binapani Die's case* (2), (*supra*).

(15) It has been urged on behalf of the respondents that the petitioner has since been promoted as Assistant Excise and Taxation Officer with effect from February 13, 1970, by order dated January 21, 1970, and for this reason the petition has become infructuous. I do not find any merit in this submission for the reason that if the representation of respondent 2 is ultimately rejected, the order of reversion of the petitioner made on June 15, 1968 would not be deemed to have taken effect and he might have to be given the benefit of continuous service from that date or any other benefits accruing to him as a result thereof.

(4) C.W. No. 1978 of 1969 decided on 13th March, 1970.

(16) For the reasons given above I accept this writ petition, and the order dated June 15, 1968 (copy annexure 'B' to the writ petition) is quashed, and respondent 1 is directed to re-decide the representation of respondent 2 after notice to the petitioner and any other Taxation Inspector who might be affected thereby. In the circumstances, I leave the parties to bear their own costs.

N.K.S.

CIVIL MISCELLANEOUS

Before Bal Raj Tuli, J.

M/S SHAMBU RAM NATHA RAM,—*Petitioner*

versus.

THE EXCISE & TAXATION OFFICER,—*Respondent.*

Civil Writ No. 408 of 1970

August 4, 1970.

Central Sales Tax Act (LXXIV of 1956)—section 14 (vi)—Punjab General Sales Tax Act (XLVI of 1948)—Entry (3) in Schedule 'C'—"Cotton seeds"—Whether "oil seeds" as defined in the two Acts.

Held, that "Cotton-seeds" are "oil seeds" as defined in entry (3) of Schedule 'C' to the Punjab General Sales Tax Act, 1948, as well as in section 14(vi) of the Central Sales Tax Act, 1956, because oil produced from the cotton-seeds is used in industry for the manufacture of Vanaspati ghee which is meant for human consumption. (Para 5)

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of certiorari, mandamus or any other appropriate writ, order or direction be issued quashing the assessment order, dated 14th January, 1970 passed by the respondent and restraining the respondent from demanding or recovering the tax of Rs. 1,055.83 Paise from the petitioner or from taking any step or proceeding in enforcement of the said order and further praying that during the pendency of the writ petition, recovery of the tax under the impugned order be stayed and the cost of this petition be awarded to the petitioner.

HARBANS LAL, ADVOCATE, for the petitioner.

D. N. RAMPAL, ASSISTANT ADVOCATE-GENERAI (PB.), for the respondent.