

(b) punishable with death, imprisonment for life or imprisonment for a term which may extend to ten years under section 5 of this Act or under sub-section (4) of "section 5 of Indian official Secrets Act, 1923, as amended by section 6 of this Act,

State  
v.  
Parkash Chand  
Falshaw, C.J.

triable by any Court having jurisdiction within the local limits of the jurisdiction of the Special Tribunal and may in any such order direct the transfer to the Special Tribunal of any particular case from any other Special Tribunal or any other criminal Court not being a High Court".

A notification was issued by the Punjab Government in a Gazette Extraordinary, dated the 7th of January, 1963, by which Special Tribunals were created in 16 Districts in this State. At item No. 9 appears the Special Tribunal for the areas comprised in the District of Kapurthala, the Special Tribunal consisting of the District & Sessions Judge, the District Magistrate and the Senior Subordinate Judge all of whom were named. Column 5 specifies the offences which shall be tried by the Special Tribunal, and these are exactly on the lines set out above in section 14. The Defence of India Rules of 1962, including rule 125, sub-rule (2) of which is alleged to have been contravened in the present case, are specifically framed in exercise of the powers conferred by section 3 of the Act. It is, therefore, clear that any of the offences specified in section 14 and in the notification in this case must be tried by the Special Tribunal so long as the Proclamation of the state of Emergency remains in force, and I accordingly accept the revision petition and order that the case against Parkash Chand under rule 125(2) of the Defence of India Rules be tried by the Special Tribunal.

*B.R.T.*

CIVIL MISCELLANEOUS

*Before Inder Dev Dua and Prem Chand Pandit, JJ.*

THE MUNICIPAL COMMITTEE, AMRITSAR AND OTHERS,—  
*Petitioners,*

*versus*

THE STATE OF PUNJAB AND ANOTHER,—*Respondents.*

Civil Writ No. 878 of 1964.

*Punjab Local Authorities (Aided Schools) Act (XXII of 1959)—Whether ultra vires Art. 31 of the Constitution and whether a colourable piece of legislation—Ss. 3 and 5—Respective scope of—Notification No. 11067.C(8 C 1)—60/54766, dated 26th*

1965  
November, 15th

*September, 1960 under S. 5 of the Act—Whether valid—Resolution as required by S. 3 passed before the Act was enacted—Whether valid—Municipal Committee—Whether can rescind resolution passed under S. 3.*

*Held*, that the Punjab Local Authorities (Aided Schools) Act, 1959, is not *ultra vires* Article 31 of the Constitution of India. This Act provides for two contingencies under which the control, management and the property in possession of the aided schools is transferred to the State Government—one is mentioned in section 3 read with the Schedule, where the Committee itself passes a resolution in this respect and the second is stated in section 5, which comes into operation when the Committee does not pass a resolution under section 3 and where the Government either comes to the conclusion that the Committee has neglected to perform its duties in respect of aided schools or it is in the public interest to take over their management. Under section 3, the management, control and property in possession of the schools is transferred to the Government permanently, while under section 5, this transfer is for a limited period not exceeding ten years. Before taking action under section 5, the Government has to give notice to the Committee, but in cases of emergency, this notice is not necessary. In the first contingency, the management, control and property in possession of the aided schools is being taken with the consent of the Committee, which has passed a resolution to that effect. Therefore, it cannot be said that the property is being compulsorily acquired and, as such, the provisions of Article 31(2) are not attracted. So far as the second contingency is concerned, the State Government takes over the management and control of the school and the property in its possession for a limited period not exceeding ten years. Since the Government was taking over the control and management of the aided schools, it was thought necessary that the property in possession of these institutions should also be taken over and managed by it for that limited period. As the Committee was not agreeable to pass a resolution under section 3 of the Act, the Government's order under section 5 would amount to a compulsory requisition of the property in possession of the schools, which were thereafter to be managed by the Government and, as such, the provisions of Article 31(2) would apply. Since no compensation was being paid for this compulsory requisition, this legislation could be struck down as being in contravention of Article 31(2) of the Constitution, but it is saved by Article 31-A(1)(b) of the Constitution. In the present case, the management of the property in possession of the schools was being taken over for ten years in public interest and, as such, by virtue of the provisions of Article 31-A(1)(b), the contravention of Article 31(2) was of no consequence.

*Held*, that the Punjab Legislature, undoubtedly, had power to pass laws in respect of the taking over of the management and control of the aided schools run by the Local Authorities by virtue of entry 11 read with entry 5 appearing in List II of Schedule VII of the Constitution. The Act, by virtue of section 6, had also amended certain provisions of the Punjab Municipal Act, 1911, and the Punjab District Boards Act, 1883. This

could have been done under entry 5 mentioned above. Under these circumstances the Punjab Legislature could make this law, as the same was within its legislative competence. The Act also does not violate the fundamental rights guaranteed by the Constitutions. Consequently, it cannot be said that Punjab Act 22 of 1959 is in any way a colourable piece of legislation and it cannot be struck down on that ground as well.

*Held*, that notification No. 11067-C(8CI)-60/54766, dated 26th September, 1960 issued by the Punjab Government under section 5 of the said Act is valid. It was not necessary to mention in the notification that emergency existed and the failure to give the opportunity to the Municipal Committee to show cause against the proposed action did not result in any prejudice to the Committee and the notification cannot be quashed on this ground. It was the Legislature which gave retrospective effect to the notification and it was not any executive action which had made it retrospective. Consequently it cannot be held that the notification is, in any way, bad in law.

*Held*, that the Punjab Local Authorities (Aided Schools) Act, 1959 was published in the Punjab Gazette on 17th June, 1959 but section 1 thereof provided that it shall be deemed to have come into force on the first day of October, 1957. Consequently resolutions passed on 31st December, 1958 and 19th January, 1959, as required by section 3 of the said Act were valid.

*Held*, that once the Municipal Committee passes a resolution under section 3 of the Act, it has no power to rescind it. The result of the Committee having passed a resolution under section 3 was that the management and control of these schools and the properties in their possession had been transferred in favour of the State Government and the Committee had thereafter no connection with the same. It is clearly mentioned in sub-section (2) of section 3 that with the passing of the resolution by the Committee, all rights and interests including the right of maintenance, management and control shall be transferred to and vest in the State Government and the rights and interests of the Local Authority in respect of such schools shall cease. There is no provision in the Act enabling the Committee to rescind its previous resolution and re-transfer the management and control of these schools and the properties in its favour. It is only the Legislature which can make the necessary provision either by making an amendment in the Act or by passing an independent Act enabling the Committees to rescind their previous resolutions or authorising the Government to re-transfer the management and control of these schools and the properties in their possession in favour of the Local Authorities.

*Petition under Articles 226 and 227 of the Constitution praying that a writ in the nature of mandamus or any other appropriate writ, order or direction be issued to the following effect:—*

- (i) That Act No. 22 of 1959 be declared as being violative of Articles 14, 19 and 31 of the Constitution of India as

also other Articles relating to the fundamental rights of the petitioners;

(ii) That the immovable property as also the movable property which has been taken over by the Punjab Government and which actually belongs to the Municipal Committee, the property being in the shape of schools, buildings, lands, etc., as also furniture, fittings etc. be handed over to the Municipal Committee, Amritsar; and the orders taking over this property be quashed;

(iii) Prohibiting the respondents from trying to recover from the petitioners contribution per year as given in Act No. 22 of 1959 as also the sum of over Rs. 53 lacs which has been mentioned by the Deputy Commissioner, Amritsar, in his order dated 10th April, 1964.

S. T. DESAI WITH P. D. MODY, H. L. SIBAL AND SUBHASH CHAUDHRY, ADVOCATES, for the Petitioners.

J. N. KAUSHAL, ADVOCATE-GENERAL WITH M. R. AGNIHOTRI, ADVOCATE, for the Respondents.

#### ORDER

Pandit, J.

PANDIT, J.—This judgment will dispose of two connected writ petitions (Civil Writ No. 878 of 1964 (*Municipal Committee, Amritsar v. State of Punjab*) and Civil Writ No. 2173 of 1964 (*Municipal Committee, Karnal v. State of Punjab*). As they raise common questions of law. It will be enough if we mention the facts in Civil Writ No. 878 of 1964, for the facts in the other writ petition are almost the same and if there is any difference, the same will be pointed out in the later part of this judgment.

This petition under Articles 226 and 227 of the Constitution has been filed by the Municipal Committee, Amritsar (hereinafter referred to as the Committee).

The Committee had been in existence for a large number of years and, amongst other things, was running several Primary, Middle and High Schools. The Punjab Government used to give grant-in-aid for the Primary and other Schools. The liability for incurring the extra expenditure beyond the grant, was, of course, that of the Committee. The Government decided to provincialise all the local-body schools with effect from 1st October, 1957

and for that purpose on 19th July, 1957 a letter was written by the Secretary to Government, Punjab, Education Department, to all the Deputy Commissioners (annexure B to the Writ Petition) in this respect and they were directed to inform all the Local Bodies not to open any new school or appoint any new teacher or upgrade the standard of any school. On 20th July, 1957, the District Inspector of Schools, Amritsar, sent a letter to the Executive Officer of this Committee for supplying the necessary information in respect of teachers, ministerial staff and Class IV servants working in their schools. On 31st July, 1957 (annexure C) the Committee passed a resolution to the effect that the schools should not be provincialised and the President and the Executive Officer should call upon the Chief Minister and the other Ministers concerned to explain their point of view in this behalf. In spite of this, the Committee received a copy of the letter dated 5th October, 1957 (annexure D) addressed by the Director of Public Instruction, Punjab, to all the District Inspectors of Schools in the State, informing the Committee that all schools which had been provincialised with effect from 1st October, 1957 would henceforth be known as Government High/Middle/Primary schools for boys or girls as the case might be. In the meantime on 26th September, 1957, the Director of Public Instruction, Punjab, informed the Local-Body schools in the State that the tuition fees etc. to be realised in such schools after 1st October, 1957 be credited to the Government in the treasury (annexure E). It appears that most of the buildings, in which the schools were being run by the Committee, belonged to it, although in some cases, according to the petitioner, they had taken certain buildings on rent. On 21st November, 1957 the Executive Officer of the Committee wrote a letter (annexure F) to the Deputy Commissioner, Amritsar, in which it was mentioned that no formal orders had been received from the Government asking the Committee to give possession of the Schools. It appeared that no procedure had so far been devised for taking over the possession formally and for the settlement of terms and conditions on which the buildings, furniture, fittings and other materials were to be transferred. The transfer of all these properties without any order was most irregular and lots of objections might crop up later on. It was requested that the Government be moved urgently in that connection, so that the Committee should have definite orders regarding

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

this matter. On 10th September, 1958, the Punjab Government wrote another letter to all the Deputy Commissioners (annexure G) in which it was stated that the maintenance of the buildings of the provincialised Local-Body schools in the urban areas of the State had been entrusted to the Public Works Department (Buildings and Roads Branch). The Municipal Committees were, therefore, asked to supply directly to the Executive Engineers concerned the lists of the school buildings along with their plans etc. Thereafter, another letter dated 30th September, 1958/4th October, 1958 (annexure H) was sent by the Government to all the Deputy Commissioners asking them to supply information in the *pro forma* enclosed, showing the contributions actually deposited into the treasuries by the Local Bodies in their respective Districts in respect of the provincialisation of their schools. Later, on 12th December, 1958 the Punjab Government addressed another communication (annexure J) to all the Deputy Commissioners to the effect that all the Local Bodies in their Districts might be advised to execute the transfer-deeds in respect of the school buildings etc., in favour of the Superintending Engineers concerned. In continuation of the letter, annexure J., the Punjab Government informed the Deputy Commissioners by means of another letter dated 26th December, 1958 (annexure K) that the Government desired that immediate steps should be taken for getting contributions from the Local Bodies and also for obtaining the transfer of buildings and equipment from them. They were requested to get the requisite resolutions passed by the Local Bodies in their districts. On 10th January, 1959 the Committee decided by means of a resolution (annexure M) not to pay any contribution for the present to the Government. It was not in favour of transferring the proprietary rights in its movable and immovable property in possession of the schools. The Committee was of the view that they were running the schools more efficiently than the Government and were not prepared to transfer them. On 14th January, 1959 (*vide* annexure L) another resolution was passed by the Committee reiterating its recent decision contained in their resolution dated 10th January, 1959. It was further resolved that the Government be requested to agree to revert the Municipal Board Schools of the Amritsar Township to the Committee and the Executive Officer was authorised to pursue the matter at personal level. The

Committee communicated these resolutions to the authorities concerned. It appears, however, that the Government again asked for information in respect of contribution due from the committee on account of the provincialisation of the schools. The information sought for was in respect of the amount already deposited up to 31st March, 1959. The Committee, however, informed the District Inspector of Schools that it had decided not to pay any contribution. Since the Committee and some other Municipal Committees were not willing to pay the contributions and transfer the properties, movable or immovable in the shape of buildings, furniture, record etc., in possession of the schools, the Government enacted an Act called the Punjab Local Authorities (Aided Schools) (Punjab Act No. 22 of 1959) (hereinafter referred to as the Act). This Act was published in the Punjab gazette on 17th June, 1959. It was provided therein that the Act shall be deemed to have come into force on 1st October, 1957. On 24th February, 1960 the Committee passed another resolution (annexure N), by which the Committee reiterated its decision to request the Punjab Government to restore the Local Body schools to the Committee and assure the Government that it would abide by the Government instructions regarding service rules and grades of the teachers. This was followed by another resolution passed on 9th June, 1960 (annexure O) to the effect that the Committee was not willing to pass a resolution under section 3 of the Act transferring its schools and properties to the State Government and the Government be requested to transfer the staff of the Schools to the Committee, especially those who wished to come back to the service of the Committee. It was further mentioned that the question of payment of the contribution did not arise, because the Schools were taken over by the Government without the Committee's consent. On 26th September, 1960 the Punjab Government, in exercise of its powers under the proviso to section 5 of the Act, issued a notification (annexure P) taking over the management of the schools specified in the Schedule for a period of ten years, since they were satisfied that it was necessary in the interest of the students to do so. On 12th December, 1960 the Government informed the Committee (annexure Q) that the question of the de-provincialisation of the Local Body schools had been carefully considered by them, but they found no justification for revising their original decision. On 14th June, 1961 the Committee passed another resolution (annexure R) to the

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  
—  
Pandit, J.

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

effect that a deputation of the Committee should see the Chief Minister and other Ministers for requesting them to hand over the management of the Schools to the Committee. On 3rd January, 1962 the Committee passed by a majority of 14 to 1 a resolution (annexure R-1) to the effect that the Committee should pay the contribution to the Government with effect from 1st October, 1957 on the basis of the formula laid down by the Government in this behalf. It was further resolved that the Committee should allow the Government to retain the use of the buildings and other movable property of the schools free of charge, but the proprietary rights in these properties should continue to belong to the Committee. It appears that the Urban Local Bodies Conference was held at Dalhousie and in the meeting of their Standing Committee held on 21st June, 1962, they resolved that they were of the view that there was no justification for the State Government to charge any contribution from the Municipal Committees on account of the provincialisation of the Municipal Board Schools. It was also decided by them that the Municipal Committee, Amritsar, be requested to reconsider its decision regarding the payment of this contribution with respect to their provincialised schools. A copy of this resolution was forwarded by the President of the Municipal Committee, Bahadurgarh, to the President of the Municipal Committee, Amritsar. This resolution was considered by the Committee on 28th March, 1963 (annexure S) and it was decided that the resolution passed by the Standing Committee be adopted. It was further decided that a deputation of five members be nominated by the President and they should wait on the Minister Incharge to represent the Committee's view point. The Deputy Commissioner was in the meanwhile insisting upon the Committee to pay the amount of contribution. The Committee, therefore, again passed a resolution on 18th November, 1963 (annexure T) by which it decided not to make any contribution to the Government in respect of the provincialised schools and strongly protested against the refusal of the Deputy Commissioner to accord sanction to the expenditure likely to be incurred on the journey to Chandigarh by the deputation of the Committee. In January, 1964 the Secretary to Government, Punjab, Local Government Department, wrote a letter to the Deputy Commissioner, Amritsar (annexure U) that the payment of the contribution for the maintenance of the provincia-



lised schools was the statutory liability of the Local Bodies. Since the Municipal Committee, Amritsar, had failed to pass the necessary resolution undertaking this liability, it was requested that the provisions of section 234 of the Punjab Municipal Act, 1911, might be invoked. A copy of this letter was forwarded to the Executive Officer of the Committee. On 10th April, 1964 the Deputy Commissioner, Amritsar, issued a notice to the Committee under section 234(1) of the Punjab Municipal Act (annexure V) requiring it to pay an amount of Rs. 53,66,146 on account of the contribution for the maintenance of the provincialised schools for the period 1957-58 to 1963-64, failing which steps would be taken to realise the said amount under the provisions of sub-section (2) of section 234 of the Municipal Act. On 21st April, 1964 the Committee considered the notice dated 10th April, 1964 (annexure V) issued by the Deputy Commissioner, Amritsar, and the Members requested the President of the Committee to reopen their resolution dated 3rd January, 1962 (annexure R. 1). This resolution was reopened by the President and the Members generally expressed the view that the notice given by the Deputy Commissioner, Amritsar, under section 234 of the Punjab Municipal Act, was not legal and valid. After lengthy discussion, it was decided that the President should nominate a Sub-Committee of three members who should proceed to Chandigarh along with the Legal Adviser, the Secretary and one other person and engage an eminent and senior Advocate of the Punjab High Court for filing a writ petition and obtaining a stay order etc., from the High Court. The present writ petition was then filed in May, 1964, challenging the *vires* of the Punjab Local Authorities (Aided Schools) Act, 1939, and for suitable directions for the restoration of the properties in possession of the schools taken over by the Punjab Government and prohibiting the Government from recovering the amount of contribution from the Committee. It may be mentioned that during the course of arguments it was also contended by the learned Counsel for the petitioner that the notification, annexure P, was bad in law and liable to be quashed.

The first argument raised by the learned counsel for the petitioner is that Punjab Act No. 22 of 1959 is *ultra vires* the Constitution. The two grounds urged in this respect are — (a) that the Act is of a confiscatory nature

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  
—  
Pandit, J.

The Municipal Committee, Amritsar and others v. The State of Punjab and another  
 Pandit, J.

inasmuch as the Government is taking over the property of the Committee without paying any compensation. This infringes the provisions of Article 31 of the Constitution and (b) that the Act is a colourable piece of legislation, because the purpose for which the Act was enacted was to manage and control the Local Authorities Schools receiving grants-in-aid from the Punjab State, but the real object, as was apparent from the provisions of the Act, was to deprive the Committee of its ownership rights in the properties in possession of the schools and to take away a part of the income of the Committee in the form of contribution, to be paid by the Committee to the Government every year. The colourable nature of this legislation, according to the argument of the learned counsel for the petitioner, lies in its device to evade limitations imposed by Article 31(2) of the Constitution.

In order to decide these questions, it is necessary to examine the various provisions of the Act and then see whether they in any way infringe Article 31 of the Constitution. The object of the Legislature in framing this this Act was given in the statement of objects and reasons published in the Punjab Gazette Extraordinary, dated March 30, 1959. It is in the following words—

“All Local Bodies Schools in the State have been provincialised with effect from the 1st October, 1957. However, there is no provision in the existing Punjab Municipal Law and the Punjab District Boards Act, requiring these bodies to part with their movable and immovable property or to make contributions to Government. It is desirable that the procedure to this effect may be laid down by adopting a legislative measure. Hence this Bill is presented to the State Legislature to meet this requirement.”

This Act received the assent of the President on June 9, 1959, and was published in the Punjab Gazette on June 17, 1959. As its preamble shows, it was enacted to provide for the management and control of Local Authorities Schools receiving grants-in-aid from the State of Punjab. This Act had retrospective operation and according to section 1 thereof, it was deemed to have come into force on 1st October, 1957. Section 2 contains the definitions of

the various words employed in this Act and those relating to the "aided school" and "school" are as under—

"aided school" means a school under the management of a Municipal Committee or a District Board receiving aid from the State Government.

"school" includes the land, buildings, play-grounds and hostels of the school and the movable properties such as furniture, books, apparatus, maps and equipments pertaining to the school."

The Municipal  
Committee,  
Amritsar and  
others  
v. The State of  
Punjab and  
another

Pandit, J.

In section 3, it was provided that a Local Authority might pass a resolution to transfer the management and control of its aided schools to the State Government and communicate the same to it. Sub-section (2) of section 3 lays down that on receiving such a resolution the State Government may direct that the aided schools shall be taken over under its management and control and thereafter all rights and interests including the right of maintenance, management and control shall be transferred to and vest in the State Government and the rights and interests of the Local Authority in respect of such schools shall cease. Section 4 authorised the State Government to withdraw the grant-in-aid from any Local Authority in respect of aided schools, if the resolution mentioned in section 3 had not been passed and communicated to the State Government within a period of three months from the date on which this Act was published in the official gazette. According to section 5, the State Government, whenever it was satisfied that a Local Authority had neglected to perform its duties in respect of aided schools or that it was necessary in public interest to take over their management for a period not exceeding ten years, it might, after giving the Local Authority a reasonable opportunity for showing cause against the proposed action, make an order to take over the management. A proviso was added to this section, according to which, in cases of emergency, where the State Government was satisfied that such a course was necessary in the interests of the students, it might, without giving such notice, take over the management of such schools after publication of a notification to that effect in the official gazette. According to the provisions of section 6, where a Local Authority had passed a resolution under section 3 or the State Government had taken over the management of aided

**The Municipal Committee, Amritsar and others v. The State of Punjab and another** schools of a Local Authority under section 5, the Punjab Municipal Act, 1911, and the Punjab District Boards Act, 1883, should be deemed to have been amended in the manner specified in the Schedule appended to the Act with effect from 1st October, 1957. There is another section in this Act, namely, section 7, but we are not concerned with the same in the present controversy.

**Pandit, J.**

The Schedule appended to this Act runs as under—

“THE SCHEDULE

(See Section 6)

A. THE PUNJAB MUNICIPAL ACT, 1911.

(Punjab Act No. III of 1911).

1. After clause (f) of sub-section (1) of section 52, the following clause shall be added, namely:—

“g” seventhly, such sum to be paid annually by the committee to the State Government by way of contribution as is equivalent to—

(i) the total provision made in the budget for the year 1957-58 under the main head ‘Education’ excluding educational grants and the provision made for ‘original works’ relating to schools, and

(ii) a sum representing one per centum of the total income from its own resources for the year 1957-58, in lieu of the deductions made for ‘original works’ made under clause (i):

Provided that in respect of the financial year 1957-58 the committee shall make a payment to the State Government of the sums which have remained unexpended on 31st March, 1958, out of the provisions under the head ‘Education’ in the budget of 1957-58.”

2. To section 59, the following proviso shall be added, namely:—

“Provided that where a committee has passed a resolution under section 3 of the Punjab Local

Authorities (Aided Schools) Act, 1959, or the State Government has taken over management of aided schools of a committee under section 5 of that Act, all rights and interests in the establishment, maintenance and management of the aforesaid schools immediately before the 1st October, 1957, including all interests in the lands, buildings, play-grounds, hostels of the said schools as also in the movable properties like furniture, books, apparatus, maps and equipment pertaining thereto shall be deemed to have been transferred to the State Government on that date, and all unspent balances in respect of grants and contributions received for the maintenance and promotion of these schools shall be deemed to have been surrendered to the State Government."

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

\* \* \* \*  
\* \* \* \*

Section 52(1) of the Punjab Municipal Act relates to the setting apart of the Municipal fund and applying the same for different purposes as mentioned in clauses (a) to (f). After clause (f) of sub-section (1), clause (g) was added by the impugned Act. Section 59 of the Punjab Municipal Act is in these terms—

"The Committee may, with the sanction of the State Government, transfer to Government any property vesting in the committee under section 56 or section 57, but not so as to affect any trusts or public rights subject to which the property is held."

A proviso to this section was added by Punjab Act No. 22 of 1959.

A reading of the above provisions of the Act would show that there are two contingencies under which the control, management and the property in possession of the aided schools is transferred to the State Government—(1) is mentioned in section 3 read with the Schedule, where the Committee itself passes a resolution in this respect and (2) is stated in section 5, which comes into operation when the Committee does not pass a resolution under section 3 and where the Government either comes to the conclusion that the Committee has neglected to perform its

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

duties in respect of aided schools or it is in the public interest to take over their management. Under section 3, the management, control and property in possession of the schools is transferred to the Government permanently, while under section 5 this transfer is for a limited period not exceeding ten years. Before taking action under section 5, the Government has to give notice to the Committee, but in cases of emergency this notice is not necessary. In the first contingency, the management, control and property in possession of the aided schools is being taken with consent of the Committee, which has passed a resolution to that effect. Therefore, it cannot be said that the property is being compulsorily acquired and, as such, the provisions of Article 31(2) are not attracted. So far as the second contingency is concerned, the State Government takes over the management, and control of the school and the property in its possession for a limited period not exceeding ten years. Since the Government was taking over the control and management of the aided schools, it was thought necessary that the property in possession of these institutions should also be taken over and managed by it for that limited period. As the Committee was not agreeable to pass a resolution under section 3 of the Act, the Government's order under section 5 would amount to a compulsory requisition of the property in possession of the schools, which were thereafter to be managed by the Government and, as such, the provisions of Article 31(2) would apply. Since no compensation was being paid for this compulsory requisition, this legislation could be struck down as being in contravention of Article 31(2) of the Constitution. It may be mentioned that the learned Advocate-General contended that the right to manage and control an institution was not covered by the term "property" as mentioned in Article 31 of the Constitution. For this submission, he placed his reliance on two Supreme Court decisions in *Tilkayat Shri Govindlalji Maharaja v. State of Rajasthan and others* (1) and *Raja Bira Kishore Dev, Hereditary Superintendent, Jagannath Temple, P. O. and District Puri v. The State of Orissa* (2), which had followed *Tilkayat Shri Govindlalji Maharaja's case*. These authorities have no application to the facts of the present case. In *Tilkayat Shri Govindlalji Maharaja's case*, it was held that the right to manage the property, such as the Manager possessed or the right to administer the trust property for

(1) A.I.R. 1963 S.C. 1638.

(2) A.I.R. 1964 S.C. 1501.

the benefit of the beneficiary, which the trustee had, could not be regarded as the right to property under Article 31 of the Constitution. In the present case, the Municipal Committee was undoubtedly the owner of the property, which was being taken over by the Government. This Act is, however, saved by Article 31-A (1) (b), which is in the following terms—

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

“Article 31-A (a). Notwithstanding anything contained in Article 31, no law providing for—

(a) \* \* \* \* \*  
\* \* \* \* \*

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property; or

(c) \* \* \* \* \*  
\* \* \* \* \*

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Article 19 or Article 31”.

In the present case, the management of the property in possession of the schools was being taken over for ten years in public interest and, as such, by virtue of the provisions of Article 31-A (1) (b), the contravention of Article 31 (2) was of no consequence. Learned counsel for the petitioner submits that Article 31-A (1) (b) does not apply to the facts of the instant case, because here the management and control of an institution, namely, the school, was being taken over by the Government, whereas this Article applied where the management of any property was being taken over by the Government for a limited period in the public interest. This argument is without any merit, because the property may belong to anybody, whether it be an individual, or a Committee or an industrial or commercial undertaking or any kind of other institution. In all these cases, where the management of the property is taken over for a limited period in public interest, this Article would be attracted and the legislation would not be hit by the provisions of Article

The Municipal  
Committee,  
Amritsar and  
others  
v.

The State of  
Punjab and  
another

Pandit, J.

31 of the Constitution. Under these circumstances, it cannot be said that Punjab Act No. 22 of 1959 was, in any way, affected by the infringement of the provisions of Article 31 of the Constitution.

As regards the second ground as to whether this Act is a colourable piece of legislation or not, it may be mentioned that the ground of holding it to be so is that the real object of the Legislature in passing this enactment was to deprive the Committee of its property without payment of any compensation. In other words, the attack was based on the provisions of Article 31(2), the contravention of which, as I have already mentioned above, is of no effect whatsoever. While explaining the expression "colourable legislation" Suba Rao J, in *Gullapalli Nageswara Rao and others v. Andhra Pradesh State Road Transport Corporation and another* (3) in para 7, observed thus—

"The legal position may be briefly stated thus: The Legislature can only make laws within its legislative competence. Its legislative field may be circumscribed by specific legislative entries or limitation by Fundamental Rights guaranteed by the Constitution. The Legislature cannot overstep the field of its competency directly or indirectly. The Court will scrutinise the law to ascertain whether the Legislature by device purports to make a law, which, though in form appears to be within its sphere, in effect and substance, reaches beyond it. If, in fact, it has power to make the law, its motives in making the law are irrelevant."

The Punjab Legislature, undoubtedly, had power to pass laws in respect of the taking over of the management and control of the aided schools run by the Local Authorities by virtue of entry 11 read with entry 5 appearing in List II of Schedule VII of the Constitution. The Act, by virtue of section 6, had also amended certain provisions of the Punjab Municipal Act, 1911, and the Punjab District Boards Act, 1883. This could have been done under entry 5 mentioned above. Under these circumstances the Punjab Legislature could make this law, as the same was within its legislative competence. The Act, as already explained above, does

(3) A.I.R. 1959 S.C. 308.



not violate the fundamental rights guaranteed by the Constitution. Consequently, it cannot be said that Punjab Act 22 of 1959 is in any way a colourable piece of legislation and it cannot be struck down on that ground as well.

The second contention raised by the learned counsel for the petitioner was that the notification dated 26th September, 1960 (annexure P) issued by the Punjab Government under section 5 of the Act was bad in law and liable to be quashed, inasmuch as (a) it having been issued under the proviso to section 5, the mention of emergency should have been made therein. In the absence of that, before issuing the notification a reasonable opportunity for showing cause against the proposed action had to be given to the petitioner, which was, admittedly, not done in the present case. The notification itself shows that the Government never applied its mind to this aspect of the matter and, in fact, there were no grounds before it for coming to the conclusion that the emergency existed; and (b) the notification having been issued in September, 1960, could not be made retrospective, that is, with effect from 1st October, 1957, when possession of these schools was taken by the Punjab Government. An executive action under the law could never be made retrospective and there was nothing in the Act to validate such an action. The learned Advocate-General, on the other hand, submitted that it was not necessary to decide about the validity of this notification, because in the instant case later, on 3rd January, 1962 the petitioner-committee itself passed a resolution (annexure R-1) under section 3, transferring the management and control of the schools to the Punjab Government and agreeing to pay the contribution with effect from 1st October, 1957, on the basis of the formula laid down by the State Government in this behalf. By virtue of this resolution, the control and management of the schools together with the properties in their possession had been permanently transferred in favour of the State Government. Once the petitioner-committee had passed such a resolution, it could not go back upon it and rescind it, because by the operation of law, the property had vested in the Punjab Government and the State could not be divested of the same by the unilateral act of the Committee. In the alternative, his submission was that the notification (annexure P) issued by the State Government was quite valid in law.

Before examining the legality of the notification, it would be proper to see as to whether the resolution passed

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

by the petitioner-committee under section 3 was valid and if so, whether the same had, as a matter of fact, been rescinded by the Committee as urged by the learned counsel for the petitioner and, secondly, whether in law it could be so rescinded. Section 3 (1) of the Act requires that a Local Authority may pass a resolution to transfer the management and control of aided schools to the State Government and communicate the same to it. According to sub-section (2) of this section, on receiving such a resolution, the State Government may direct that the aided schools shall be taken over under its management and control and thereafter all rights and interests including the right of maintenance, management and control shall be transferred to and vest in the Punjab Government and the rights and interests of the Local Authority in respect of such schools shall cease. It is by virtue of the proviso added to section 59 of the Punjab Municipal Act by the Schedule annexed to the Act that all rights and interests in the establishment, maintenance and management of the aided schools immediately before 1st October, 1957, including all interests in the lands, buildings, play-grounds, hostels of the said schools as also movable properties shall be deemed to have been transferred to the State Government. In the present case, the resolution runs thus—

“The President placed before the House the case, regarding the provincialisation of the M. B. Schools with effect from 1st October, 1957 and the question of payment of contribution and transfer of school buildings and other movable property relating to these schools to the State Government. He informed the House that as per Committee's resolution No. 269-F, dated 14th June, 1961, the matter had been discussed with the Education Minister and the Director, Public Instruction, Punjab, and that they had agreed to take steps to open new schools and to upgrade some of the existing schools to meet the growing requirements of the people after the Committee makes payment of the contribution due to Government on this account and transfer the school buildings and other movable school properties.

Shri D. D. Bhatia, proposed that payment of the contribution towards the provincialised M. B.

Schools, on the basis of the formula laid down by the State Government in this behalf be made with effect from 1st October, 1957 and the municipal school buildings and other movable school properties be transferred to the State Government.

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another

Shri C. L. Jaura, seconded.

Shri P. D. Maheshwary, proposed an amendment that the proprietary rights of the Committee with regard to the school buildings, belonging to the the Committee, be retained and the use of these buildings, free of charge, by Government for the purposes of running the schools may be allowed; and that the State Government may set up an advisory board for these schools and the Municipal Committee may be given proper representation thereon.

Pandit, J.

Shri D. D. Bhatia, accepted the amendment.

Shri Kirpal Singh, proposed that neither the contribution towards the provincialised M. B. Schools be paid nor the School properties movable or immovable be transferred to the State Government and that the money thus saved be spent on other development works of the Committee.

S. Mohinder Singh, seconded.

Votes on the proposal of Shri Kirpal Singh. For 2 against 11. It fell through.

Votes on the proposal of Shri D. D. Bhatia. For 14 against 1.

Carried by majority."

A reading of this resolution would show that the Committee agreed to the provincialisation of their schools and also consented to the payment of the contribution with effect from 1st October, 1957 in accordance with the formula laid down by the State Government. It, however, made clear that the proprietary rights of the Committee with regard to school buildings, belonging to the committee, would be retained by it and it was merely the use of these buildings, free of charge, for the purposes of running the schools, which was being allowed to the Government. It may be made clear that according to the learned Advocate-General, provincialisation of the schools meant the taking over the management and control of

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  
Pandit, J.

the schools as envisaged in the Act. If the Committee had passed a resolution in terms of section 3(1), namely, that it had decided to transfer the management and control of the aided schools to the State Government and had communicated the resolution to the Government, then the other incidents mentioned in the Act would have followed. But in the present case, we find that the Committee did not pass such a resolution, but passed a conditional one, because it refused to transfer the proprietary rights of the Committee in the school buildings in favour of the Government, and only allowed the use of these buildings free of charge. Such a resolution, in my view, does not fulfil the requirements of the Act and by no stretch of imagination can it be said that the consent of the Committee was given to the transfer of all its interests in the buildings to the Government. The underlying object of the provisions of section 3 of the Act was that the Committee should give its consent to the transfer of the ownership rights in the properties in possession of the schools in favour of the Government, so that the provisions of Article 31(2) should not be attracted and it may not become a case of compulsory acquisition against their wishes, because in that case compensation had to be given to it. Since the present resolution clearly mentions that the Committee was not willing to transfer proprietary rights in the school buildings in favour of the Government, therefore, it cannot be said that the petitioner-committee passed a valid resolution in terms of section 3 of the Act. Moreover, in the resolution itself it is not specifically mentioned that the Committee had agreed to transfer the management and control of the aided schools to the State Government as required under section 3(1) of the Act. Further, there is nothing on the record to show that the Government had issued any directions to the effect that the aided schools should be taken over under its management and control as envisaged in section 3(2) of the Act. That being so, the other questions, namely, as to whether the Committee had, as a matter of fact, rescinded this resolution or it could in law do so, do not arise for decision.

Now, let us examine the legality of the notification (annexure P), the relevant part of which runs thus—

“LOCAL GOVERNMENT DEPARTMENT COMMITTEE NOTIFICATION.

Dated Chandigarh, the 26th September, 1960.

No. 11067-C (8 CI)-60/54766.—Whereas the Governor of Punjab is satisfied that it is necessary in the

interest of the students to take over for a period of ten years the management of the schools specified in the Schedule here below and administered by the Municipal Committee, Amritsar, in the Amritsar District.

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another

Now, therefore, in exercise of the powers conferred by the proviso to section 5 of the Punjab Local Authorities (Aided Schools) Act, 1959, the Governor of Punjab is pleased to take over for a period of ten years the management of the said schools."

Pandit, J.

#### SCHEDULE

\* \* \*

\* \* \*

It is noteworthy that in the writ petition no prayer has been made by the petitioner-committee to the effect that this notification should be quashed and the only objection taken was that it could not be given retrospective effect. Regarding the first ground on which this notification is being challenged now before us, it is pertinent to mention that it has been clearly stated therein that the Governor of the Punjab was satisfied that it was necessary in the interest of the students to take over the management of the schools for a period of ten years and further that this notification was being issued in exercise of the powers conferred by the proviso to section 5 of the Act. This proviso states that in cases of emergency, where the State Government is satisfied that taking over the management of the schools for a period not exceeding ten years is necessary in the interests of students, it may, without giving a reasonable opportunity to the Local Authority for showing cause against the proposed action, take over the management of such schools after publication of a notification to that effect in the official gazette. The notification has, undoubtedly, mentioned that this proviso was being applied, after the Governor of the Punjab was satisfied that it was necessary in the interests of the students to take over the management of the schools for a period of ten years. This proviso will be applied only when the State Government is satisfied that it is necessary in the interests of the students to take over the

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  
-----  
Pandit, J.

management of the schools. The moment the State Government is so satisfied, it becomes a case of emergency and it is not necessary to give reasonable opportunity to the Local Authority for showing cause against the proposed action. Since it has been specifically stated in this notification that the Governor of the Punjab was satisfied that it was in the interests of the students to take over the management and the notification was being issued in exercise of the powers conferred by the proviso to section 5, it was not necessary to mention the word "emergency" therein. Secondly, this objection fails, because the validity of the notification would not depend upon the recital of the word "emergency" in the same, but upon the actual formation of the opinion about the emergency and the making of the order in consequence. This was so held by the Supreme Court in *Swadeshi Cotton Mills Co. Ltd., v. State Industrial Tribunal, U. P.* (4). It was further held in this authority that if by inadvertence or otherwise the recital of the formation of the opinion was not mentioned in the preamble to the order, that defect could be remedied by showing by other evidence in proceedings, for example, by filing an affidavit where challenge is made to the validity of the order on this ground. In the present case, the question of the filing of the affidavit by the State did not arise because, as already mentioned above, the petitioner-Committee never challenged this notification on this ground in the writ petition. Their only objection was that this notification could not be given retrospective effect. Thirdly, the facts of this case, as enumerated above, clearly show that the emergency as envisaged in the proviso to section 5 was there, inasmuch as the Government had taken over the management of the schools with effect from 1st October, 1957 and the Committee was not paying any contribution since then. Since even after the coming into force of the Act, the Committee was again reluctant to pass the resolution under section 3, there was no other alternative left with the Government, but to pass the notification under the proviso to section 5. Fourthly, even if it be assumed for the sake of argument that it was not a case of emergency and it was necessary to give a reasonable opportunity to the Local Authority for showing cause against the proposed action, in the instant case it was not necessary to do so, because the object of giving this opportunity was that the

(4) A.I.R. 1961 S.C. 1381.

Local Authority should be able to say as to what objections they had against the proposed taking over of the management of the schools. In the present case, however, the annexures, referred to above, clearly show that the Committee had clearly mentioned its views on this subject and the same had been conveyed to the Punjab Government. The failure to give the required opportunity would not, therefore, result in any prejudice to the Committee and this Court will not, therefore, quash the notification on this ground in these proceedings.

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  
-----  
Pandit, J.

As regards the second ground, it is significant to mention that the notification does nowhere say that it will have retrospective effect and will come into force with effect from 1st October, 1957. It was not disputed before us that the Legislature could pass a law retrospectively. In the present case, it was Punjab Act 22 of 1959, which was made retrospective. Section 1(3) thereof says that it shall be deemed to have come into force on the first day of October, 1957. Secondly, by virtue of section 6 of the Act, on the issue of the notification under section 5, the Punjab Municipal Act, 1911, was deemed to have been amended in the manner specified in the Schedule appended to the Act with effect from 1st October, 1957. The result of this was that on the issue of the notification under section 5, the Punjab Municipal Act stood amended retrospectively with effect from 1st October, 1957. In the Schedule a proviso was added to section 59 of the Punjab Municipal Act. Under this proviso, when the State Government had taken over the management of the aided schools of the Committee by issuing a notification under section 5 of the Act, all rights and interests in the establishment, maintenance and management of the said schools immediately before 1st October, 1957, including all interests in the lands, buildings, play-grounds, hostels of these schools, as also in the movable properties like furniture, books, apparatus, maps and equipment pertaining thereto was to be deemed to have been transferred to the State Government on that date, that is, 1st October, 1957. This means that with the issue of the notification under section 5, the right of management and control of the aided schools and the properties in their possession stood transferred in favour of the Government with effect from 1st October, 1957. Since the management and control of these schools was, admittedly, taken over by the Government with effect from 1st October, 1957 under an executive action, therefore, by the passing of the Act and the issuance

The Municipal Committee, Amritsar and others  
 v.  
 The State of Punjab and another  
 -----  
 Pandit, J.

of the notification under section 5, the previous executive action of the Government was validated. This conclusion finds further support from the statement of objects and reasons given by the Legislature for enacting this Act, referred to above, where it was clearly stated that all the Local Bodies Schools in the State had been provincialised with effect from 1st October, 1957. Since there was no provision in the existing Municipal Law requiring the Municipal Committees to part with their movable and immovable properties or to make contributions to Government, therefore, it was considered desirable to pass a law in that respect. This resulted in the passing of Punjab Act 22 of 1959 by the Legislature. Under these circumstances, it is clear that it is the Legislature which has given retrospective effect to the notification and it was not any executive action which had made it retrospective. There is thus no force in the second ground as well. Consequently, it cannot be held that the notification is, in any way, bad in law.

It may be mentioned that the learned counsel for the petitioner submitted that some of the schools taken over by the Government were unaided. This contention was, however, repelled by the learned Advocate-General who stated that all the schools in the instant case were aided. He, however, conceded that the Act and the notification would not apply to unaided schools. We, however, cannot in these proceedings go into the disputed question of fact as to which schools in the present case were aided and which were not. Suffice it to say, that the unaided schools will be unaffected by the provisions of the Act and the notification issued by the Government under section 5.

The result is that this writ petition fails and is dismissed. In the circumstances of this case, however, we will leave the parties to bear their own costs.

Now coming to Writ Petition No. 2173 of 1964, it was submitted by the learned Counsel for the petitioner in this case that he has nothing more to add to the arguments already advanced by the learned counsel for the petitioner in Civil Writ No. 878 of 1964 and the decision in that case would decide the fate of his writ petition as well. The learned Advocate-General, however, pointed out that in this case no notification under section 5 of the Act had been issued, because the Municipal Committee of Karnal had already passed two unqualified resolutions,



dated 31st December, 1958 and 19th January, 1959 (annexures K and K-1 to the Writ Petition) transferring the management, control and the property in possession of the schools in favour of the Government. Therefore, the properties had vested in the Government with the consent of the Committee and the provisions of Article 31(2) of the Constitution were not attracted and no compensation was, therefore, payable to the Committee in this behalf.

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  
—  
Pandit, J.

The resolutions run thus—

*“Resolution, dated 31st December, 1958.—*The transfer of all the movable properties, such as furniture, equipment, record, forms, books, apparatus, maps etc., pertaining to the Ex-Municipal Schools, to the Education Department is hereby approved. The Municipal Committee owns only one building in which the Ex-Municipal Primary School No. 1 for boys, is situate in Bason Gate. This building along with the site be transferred to the P.W.D., Punjab.”

*“Resolution, dated 19th January, 1959.—*Whereas the State Government has taken over the management of the schools specified in the schedule in pursuance of the policy of provincialisation of schools belonging to local bodies with effect from the 1st October, 1957, and whereas it is necessary to provide for future resources for the running of these schools.”

Now, therefore, the Municipal Committee, Karnal, hereby resolves to—

- (a) transfer to the State Government all rights and interests in the establishment, maintenance and management of the aforesaid schools immediately before 1st October, 1957, including all interests in the lands, buildings, playgrounds, hostels of the said schools as also in the movable properties like furniture, books, apparatus, maps and equipment pertaining thereto;
- (b) surrender all unspent balances in respect of grants and contributions received for the maintenance and promotion of these schools;

The Municipal  
Committee,  
Amritsar and  
others  
v.  
The State of  
Punjab and  
another  

---

Pandit, J.

(c) contribute annually, commencing from 1st April, 1958:—

(i) A sum equivalent to the total provision made in the budget for the year 1957-58 under main Head 'Education' after deducting the total provisions made on account of income under head II-Education and the provisions made for expenditure on public libraries under head 11-F and for original works relating to these schools; and

(ii) a sum representing 1 per centem of the total income from its own resources from the year 1957-58 in lieu of the deduction made for original works under clause (i);

(d) in respect of the financial year 1957-58, to make a payment to the State Government of the sums which have remained unexpended on 31st March, 1958, out of the provision under the head 'Education' in the budget of 1957-58."

The question that arises for decision is whether these resolutions can be held to have been passed under section 3 of the Act, because Punjab Act 22 of 1959 was published in the Punjab gazette on 17th June, 1959, whereas these resolutions, as already mentioned above, were passed on 31st December, 1958 and 19th January, 1959. If the Act had been on the statute book on 31st December, 1958, then there would be no difficulty in holding that both these resolutions will be deemed to have been passed under section 3 of the same, but the Act, however, was published in the gazette in June, 1959. In section 1 thereof, however, it is clearly stated that the Act shall be deemed to have come into force on the first day of October, 1957. It was not contended before us that the Punjab Legislature was not competent to pass on Act having retrospective operation. If that be so, then the Act would be deemed to have come into force with effect from 1st October, 1957 by fiction of law. In other words, it would be taken that this Act was on the statute book on 1st October, 1957. Consequently, both these resolutions will be deemed to have been passed under section 3 of the Act, because the Committee had transferred the management and control of these schools together with the properties in their possession in favour

of the Government. In this case there was no necessity for the Government to issue any directions as mentioned in sub-section (2) of section 3, because the resolution dated 19th January, 1959 itself starts by saying that the State Government had taken over the management of these schools. The consequence of such a resolution having been passed by the Committee is mentioned in the later part of sub-section (2) of section 3 and the Schedule annexed to the Act. By these resolutions all rights in the management and control of these schools, as also the properties in their possession, stood transferred in favour of the Government.

The second question that requires consideration is, firstly, whether the Committee could in law rescind these resolutions and, secondly, whether, as a matter of fact, it had done so.

The result of the Committee having passed resolution under section 3, as mentioned above, was that the management and control of these schools and the properties in their possession had been transferred in favour of the State Government and the Committee had thereafter no connection with the same. It is clearly mentioned in sub-section (2) of section 3 that with the passing of the resolution by the Committee, all rights and interests including the right of maintenance, management and control shall be transferred to and vest in the State Government and the rights and interests of the Local Authority in respect of such schools shall cease. There is no provision in the Act enabling the Committee to rescind its previous resolution and retransfer the management and control of these schools and the properties in its favour. It is only the Legislature which can make the necessary provision either by making an amendment in the Act or by passing an independent Act enabling the Committees to rescind their previous resolutions or authorising the Government to retransfer the management and control of these schools and the properties in their possession in favour of the Local Authorities. In this view of the matter, the other question, namely, as to whether, as a matter of fact, the Committee had rescinded its previous resolution, does not arise for decision.

The result is that this petition also fails and is dismissed. In the peculiar circumstances of this case, however, there will be no order as to costs.

INDER DEV DUA, J.—I agree.

B. R. T.

The Municipal  
Committee,  
Amritsar and  
others  
v.

The State of  
Punjab and  
another

---

Pandit, J.

Dua, J.