No. 2, respectively, is that the nomination paper has been improperly rejected inasmuch as:—

(a) on the face of the nomination paper, the petitioner had stated his age as 26 years. The electoral roll, which was prepared on the 1st of January, 1965, in which his age is recorded as 20 years, could not be taken to be conclusive. In fact, no presumption is attached to the electoral roll in the matter of age. Only that person could be an elector who is 21 years of age when he is entered in the electoral roll. Under section 36(7) of the 1951 Act, if a person is entered as an elector, there is a conclusive presumption that he is not less than twenty-one years of age. Therefore, the Returning Officer should have proceeded on the basis that on the 1st of January, 1965, the petitioner was 21 years of age and necessarily on the date of the filing of the nomination paper, that is, 7th of January, 1969, the petitioner was more than 25 years of age; and

(b) that, in any case, it is proved on the record that the age of the petitioner was more than 25 years on the 7th of January, 1969, and therefore, his nomination paper could not be rejected because he was not 25 years of age on the day, he filed his nomination paper.

(8) On the other hand, the contention of Mr. J. S. Rekhi, learned counsel for respondent No. 1, Shri Harchand Singh, is that no attempt was made by the petitioner to show that his age recorded in the electoral roll was wrong and, therefore, the Returning Officer was justified in proceeding on the basis that the age of the petitioner was 20 years. In view of the fact, that no other material was placed before the Returning Officer, when he rejected the petitioner's nomination paper, his order is final and is not open to scrutiny in an election petition because on the material available to the Returning Officer, the order of rejection cannot be held to be, in any manner, improper.

(9) These respective contentions have to be determined to arrive at the conclusion, whether the rejection of the nomination paper was proper or not. Before examining these contentions, it will be proper to refer to the relevant provisions of the Representation of the People Act, 1950 (Act No. 43 of 1950) (hereinafter called the 1950

"Landlords" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorized, and, every person from time to time deriving title under a landlord".

(3) It will be apperent from this definition that every person who derives title from the landlord is the landlord. The result would be that all the descendants of the original landlord will be landlords individually in their own right and section 13 under which the application has been made provides that a landlord who wants to evict shall apply to the Controller in that behalf. Therefore, it is obvious that one of the landlords can make application for eviction of the tenant under the Act. What I have said above finds support from the decision by Chief Justice Falshaw in ***Vir Bhan*** v. ***Avtar*** Singh (4). The learned counsel for the petitioner contends that the decision of Chief Justice is incorrect in view of the decision of Capoor J., in *Hem Raj* v. *Moti Lal and others* (5). In my opinion, there is no conflict between the two decisions. So far as the case decided by Capoor J., is concerned, the petition of all the landlords had been rejected and only some of them wanted to get rid of that order and it was that situation that it was held that final order having been passed against all, some could not get that order vacated. That is not so in the instant case. I would, therefore, reject this contention of the learned counsel for the petitioner.

(4) So far as the merits of the case are concerned, the matter is concluded by findings of fact. The learned counsel's contention was that the Rent Controller had found that the premises were not ***bona fide*** needed by the landlord. In fact, it has been found that the landlords were not carrying their business at Malout. However, the appellate authority has come to a contrary conclusion. It has been found that the landlords are carrying their business in Malout and for that purpose they require the premises in dispute because they want to reside at Malout. The decision of the appellate authority is based

(4) I.L.R. 1963 (1) Pb. 473=1962 P.L.R. 1185.
(5) 1965 P.L.R. (Short Notes 25).

on evidence because the appellate authority has believed the statement of Kasturi Lal. In this situation, it cannot be said that the decision of the appellate authority is, in any way, erroneous. It is a settled rule that a decision on a question of fact is binding on this Court in revision unless it is not according to law or is otherwise irregular. No such error has been pointed out in the decision.

(5) Fo the reasons recorded above, this petition fails and is dismissed, but there will be no order as to costs.

(6) The learned counsel for the petitioner presses that his client may be granted time for vacating the premises. I allow three months' time from this day for this purpose. The tenant will be only given this concession provided he pays rent of all the three months in advance and also deposit the arrears accrued during the pendency of this case.

N. K. S.

FULL BENCH

Before Harbans Singh, C.J., D. K. Mahajan, and Prem Chand Jain, JJ.

CHINT RAM AND ANOTHER,—*Petitioners.*

versus

STATE OF PUNJAB,—*Respondent.*

Criminal Revision No. 93-M of 1969

December 10, 1970.

Prevention of Food Adulteration Act (XXXVII of 1954)—Sections 7 and 16(1)(a)(i)—Fruit Products Order (1955)—Clauses 2, 7 and 10—Order—Whether has over-riding effect on the Act—Prevention of Food Adultration Rules (1955)—Rules 28, 29 and 30—Use of coal tar dyes in fruit products—Whether permissible.

Held, that Fruit Products Order, 1955, being under section 3 of Essential Commodities Act has an over-riding effect so far as the Prevention of Food Adultration Act is concerned. The order must displace the provisions of the Act wherever they are in conflict. No person can manufacture a fruit product unless he obtains a licence under the Fruit Products Order and there can be no violation of that order if its provisions are fully complied with. It is difficult to see that if a citizen complies with the provisions of a law

he can be held guilty of violating the provisions of another law. Such a situation is unthinkable. (Para 9)

Held, that Prevention of Food Adultration Rules, 1955, permit the use of certain coal tar dyes in food products. Rule 28 which is exactly the same as clause (2) of Part XXII of the Fruit Products Order gives the names of coal tar dyes or mixture thereof which may be used in food. Rule 29 prohibits the use of coal tar dyes in or upon any food other than those enumerated thereunder and 'fruit products' is under item (f). Rule 30 provides the maximum limit of permitted colours. It provides that any permitted coal tar colours or mixture of coal tar colours which may be added to any food shall not exceed 1.5 grains per pound of the final food or beverage for consumption. The only difference between the provisions of the Fruit Products Order and the Prevention of Food Adultration Act is in the quantum of the coal tar dye that can be used in a fruit product and that difference too is very very nominal.

(Para 8)

Case referred by the Hon'ble Mr. Justice Jindra Lal on 29th April, 1970, to a Full Bench for decision of an important question of law involved in the case. The Full Bench consisting of the Hon'ble the Chief Justice Mr. Harbans Singh, the Hon'ble Mr. Justice D. K. Mahajan and the Hon'ble Mr. Justice P. C. Jain, finally decided the case on 10th December, 1970.

Petition under section 561-A of the Code of Criminal Procedure praying that the proceedings in Criminal case No. 217/c pending in the Court of Shri H. S. Ahluwalia, Judicial Magistrate, 1st Class, Ludhiana, be quashed.

BALBIR SINGH BINDRA, AND MRS. SURJIT BINDRA, ADVOCATES, for the Petitioners.

S. S. KANG, DEPUTY ADVOCATE-GENERAL, PUNJAB, for the Respondents.

JUDGMENT.

Mahajan, J.—The present petition is under section 561-A of the Code of Criminal Procedure. The petitioners pray for quashing of the charge framed under section 16(1)(a)(i) of the Prevention of Food Adulteration Act. When this appllication was placed before Jindra Lal, J., the learned Judge, in view of his order of reference in Criminal Writ No. 6 of 1968, *M/s. J. B. Fruit Products (Registered) v: Municipal Committee, Jullundur*, ordered that this case be also heard by a Full Bench: By order of my Lord the Chief Justice this case has now been placed for hearing before a Full Bench. The necessity of placing this case before a Full Bench arose because the correctness of the decision in *State* v. *Raj Kumar*, (1), fell for consideration.

(2) Petitioner No. 1, Chint Ram, is the proprietor of Messrs High Land Fyne Fruit and Food Stuffs, Chowk Bharat Nagar, Model Town

(1) Cr. A. 996 of 1961 decided on 29th October, 1962.

Road, Ludhiana. He is carrying on the business of manufacturing fruit products under a license obtained from the Government of India under the Fruit Products Order, 1955. This Order was issued by the Central Government in exercise of its powers under section 3 of the Essential Commodities Act, 1955 (Act No. 10 of 1955). Petitioner No. 2 is an employee and agent of petitioner No. 1. Food Inspector, Jullundur, took samples of table sauce manufactured by the petitioner and called for a report from the Public Analyst. The report was that the table sauce was found to be coloured with coal-tar dye. The Food Inspector on that basis filed a complaint against the petitioners under section 16(1)(a)(i) of the prevention of Food Adulteration Act in the Court of the Judicial Magistrate, Ludhiana. At the hearing the petitioners ' objected that they could not be prosecuted under the said provision in view of the Division Bench decision of this Court in *State* v. *Raj Kumar* (1). They prayed that they be discharged.. The learned Magistrate, by his order, dated 16th of October, 1969, held that "there was not enough ground to discharge the accused altogether", and thereafter proceeded to frame the charge. With regard to the decision of this Court in *Raj Kumar's case,* (1), the learned Magistrate made the following observations :—

> "Mr. Sharma, the Food Inspector, has contended that the sauce has been specifically mentioned to be an article of food in para A. 16.12 of Appendix (B) Definitions and Standards of quality, laid down under Rule 5 of the Prevention of Food Adulteration Rules and amendment has been made in this behalf by notification No. 1533 published on July 8, 1968, which shows that this fact was alive to the mind of the Legislature who wanted the vendors to conform to both standard laid down in Fruit Products Order and these Rules. Moreover, according to Mr. Sharma, the Fruit Products Order only bars a prosecution under that Act and not under the Prevention of Food Adulteration Act. The point has some substance in Mr. Sharma's contention. The judgment of the High Court of course is to the contrary but the copy produced before me is only an uncertified copy. The matter requires more thorough investigation."

(3) To say the least, the Magistrate was not at all justified in ignoring the High Court judgment and proceeding to frame charge against the accused, when, the High Court judgment in unmistakable terms in similar circumstances held that no charge can be

framed for violation of the Prevention of Food Adulteration Act in case the product was in conformity with the specifications laid down in the Fruit Products Order.

(4) Beforep roceeding to deal with the various provisions of the Act and the Fruit Products Order, it will be proper to set down the relevant part of the decision of the Division Bench, to which my Lord the Chief Justice was a party, in *State* v. *Raj Kumar* (1) :—

> "The learned Assistant Advocate-General who appeared on behalf of the State, urged that tomato ketchup was covered by the provisions of the Pure Food Act and that the schedule laid down the standards to which it must conform and, therefore, the respondent could be proceeded against under the Pure Food Act notwithstanding the fact that he was also, as a manufacturer, covered by the provisions of the Fruit Products Order, 1955, as amended up to 1958. According to sub-clause (d)(vii) of rule 2 of the Fruit Products Order (hereinafter referred to as the Order), tomato products, ketchup and sauces are included in the definition of 'fruit product'. For the manufacture of any of these fruit products, a manufacturer has to obtain a licence from the Central Government and the products so manufactured have to conform to the specifications laid down in Part II of the Second Schedule of the Order. It was conceded on behalf of the State that two of the specifications are similar to those given in the Pure Food Act, while the third is different. This Order lays down a special procedure for controlling the manufacture of the fruit products and, consequently, these special provisions would certainly override the general provisions of the Pure Food Act, and there is no force in the argument of the learned counsel that he would be liable to be prosecuted under the Pure Food Act. A manufacturer may be supplying his products to a large number of retailers in different parts of this State as well as outside it and if he is going to be prosecuted at all these places where his products are being sold that would cause untold harassment. Furthermore, if he has conformed to the specifications laid down in the Schedule, he is doing all that is required of him under the terms of the licence and it would be unfair to hold him

liable under the general provisions of the Pure Food Act. It is aparently for that reason that a manufacturer of fruit products cannot be proceeded against unless and until sanction is given in this respect by the Licensing Officer."

(5) The contention of the petitioners is that no charge can be framed against them without the sanction of the authority prescribed under the Fruit Products Order, and that the said order overrides the provisions of the Act.

(6) Clause (2) (d) of the Order defines 'fruit products' and the product of the petitioners falls under item (vii). Clause 4 provides that :—

"No person shall carry on the business of a manufacturer except under and in accordance with the terms of an effective licence granted to him under this Order in Form 'B'."

Clause 7 provides that :—

"Every manufacturer shall manufacture fruit products in conformity with the sanitary requirements and the appropriate standard of quality and composition specified in the Second Schedule to this Order. Every other fruit and vegetable Product not so specified shall be manufactured in accordance with the standard of quality and composition laid down in this behalf by the Licensing Officer."

Clause 10 provides that :—

"No person shall sell, or expose for sale, or despatch or deliver to any agent or broker for the purpose of sale, any fruit products which do no conform to the standards of quality and composition specified in the Second Schedule."

(7) In Second Schedule the sanitary requirements of a factory manufacturing fruit products are specified in Part 1(A). Parts XII and XIII deal with tomato puree and paste and tomato to ketchup and sauces. It is with these Parts that we are concerned in the present proceedings. In the column of 'general characteristics' of these Parts

it is provided that permitted colours can be added to the manufactured product. Clause (2) of Part XXII permits the use of the following coal tar dyes or a mixture thereof :—

	Colour	Common name	Colour index	Chemical class
1.	Red	Ponceau 4 R	185	Azo
		Carmoisine	179	Azo
		Red 6 B	57	Azo
		Red BB	225	Azo
		Acid Magenta II	692	Triphenylmenthane
		Fast Red B	182	Azo
		Amaranth	184	Azo
		Erythrosine	773	Xanthene
2.	Yellow	Tartrazine	640	Phrazolone
		Sunset Yellow PCF	*	Azo
3.	Blue	Blue VRS	672	Triphenylmethane
		Indigo Carmine	1180	Indigoid
4.	Balck	Brilliant Black	BN	Bisazo

* F. D. & C. Index No. 6

Clause (3) specifies the maximum limit of any permitted coal tar colours or mixture of permitted coal tar colours that can be added to any fruit product. Such colours cannot exceed 0.46 grms. per kilogram of the final fruit product for consumption.

(8) Now adverting to the Prevention of Food Adulteration Act, 1954, it is interesting to note that the Rules framed thereunder permit the use of certain coal tar dyes. In this connection, reference may be made to rule 28 which is exactly the same as clause (2) of Part XXII of the Fruit Products Order. Rule 29 prohibits the use of coal tar dyes in or upon any food other than those enumerated thereunder and 'fruit products' is under item (f). Rule 30 provides the maximum limit of permitted colours. It provides that any permitted coal tar colours or mixtures of coal tar colours which may be added to any food shall not exceed 1.5 grains per pound of the final food or beverage for consumption. The only difference between the provisions

of the Fruit Products Order and the Prevention of Food Adulteration Act is in the quantum of the coal tar dye that can be used in a fruit product and that difference too is very very nominal. It may be mentioned at this stage that in the present case it is not contended that the coal tar dye in the table sauce is more than the quantum permitted either by the Fruit Product Order or by the Prevention of Food Adulteration Act. What is contended is that the use of coal tar dyes is totally prohibited, a contention which cannot be sustained either under the one or the other provision and in this situation it is obvious that no charge could have been framed against the petitioners under section 16(1)(a)(i) of the Prevention of Food Adulteration Act.

(9) The position taken by the learned Magistrate is rather anomalous and the only way to satisfactorily resolve is to hold that the Fruit Products Order must displace the provisions of the Prevention of Food Adulteration Act wherever they are in conflict. No person can manufacture a fruit product unless he obtains a licence under the Fruit Products Order and there can be no violation of that order if its provisions are fully complied with. It is difficult to see that if a citizen complies with the provisions of a law he can be held guilty of violating the provisions of another law. Such a situation is unthinkable. Moreover, provisions of section 6 of the Essential Commodities Act, 1955, which are in the following terms, make it abundantly clear that any order under section 3 of the said Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act—

> "Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act."

The Fruit Products Order being under section 3, will certainly have an overriding effect so far as the Prevention of Food Adulteration Act is concerned.

(10) After giving the matter my careful consideration, I have come to the conclusion that the decision in *Raj Kumar's case* (1), is correct and is not open to question either on principle or authority. The learned counsel for the State did not urge any cogent argument which could in any way make me take the view that the provisions of the Fruit Products Order have to yield to those of the Prevention of Food Adulteration Act. In fact, there is no inconsistency between