

LETTERS PATENT APPEAL

Before S. S. Sandhwalia and M. R. Sharma, JJ.

MEHTA LAL CHAND,—Appellant.

versus

The Union of India, etc.,—Respondent.

Letter Patent Appeal No. 12 of 1968

March 16, 1972.

Displaced Persons (Compensation and Rehabilitation) Act (XLIV of 1954)—Section 33—Revision under—Whether can be dismissed summarily without giving a personal hearing to the petitioner—Such hearing—Whether should be given on principles of natural justice.

Held, that under rule 105 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, as amended in 1963, the Central Government is not duty bound to hear a petitioner while summarily dismissing a revision petition even though the matter complained of involves a determination of the rights relating to property. When the rule-making authority added proviso to rule 105 in 1963, the entire question relating to the principles of natural justice was before its mind. Thus when the rule-making authority itself has negated the right of hearing even in respect of dismissal of a petition under section 24(4) of the Act, it can be inferred that it did not intend that the Central Government should afford any hearing to a petitioner while disposing off his petition under section 33 of the Act even on principles of natural justice.

Appeal under Clause 10 of the Letters Patent against the judgment of Hon'ble Mr. Justice R. S. Narula, dated 6th October, 1967 passed in Civil Writ No. 1631 of 1962.

H. S. Gujral, Advocate with Mr. G. S. Gandhi, Advocate, for the appellant.

H. L. Mittal, Advocate for Legal Representatives of Suchet Singh, respondent.

JUDGMENT

SHARMA, J.—As common questions of law arise in these three cases, namely, L.P.A. No. 12 of 1968, C.W. No. 1090 of 1969 and C.W. No. 3106 of 1968, all these cases can be disposed of by one judgment, which we propose to do.

(2) L.P.A. No. 12 of 1968, arises out of C.W. No. 1631 of 1962: Mehta Lal Chand, petitioner in that petition, was a displaced person from West Pakistan. He was entitled to allotment of agricultural

land in lieu of the land left behind by him. While he was still an unsatisfied allottee, he made a report to the Rehabilitation authorities that Suchet Singh (now represented by his successors after his death) had received double allotment in different villages and that his allotment in village Dhut Kalan, being unreserved, should be cancelled and the same land be allotted to the petitioner. The claim of the petitioner was negated by the subordinate Rehabilitation authorities. He filed a petition before the Government under section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter called 'the Act'). This petition was dismissed by the Central Government in a summary manner without affording any hearing to the petitioner. He challenged this order in the above-mentioned writ petition, which came up for hearing before a Single Bench of this Court who,—*vide* his order, dated October 6, 1967, dismissed the same. The learned Single Judge following an earlier Division Bench judgment of this Court, reported in *Ranjit Singh v. The Union of India and others* (1), held that the Central Government was not called upon to give a personal hearing to the petitioner before deciding his petition under section 33 of the Act.

(3) Feeling aggrieved against the order of the learned Single Judge, the appellant has come up in appeal before this Court.

(4) Learned counsel for the appellant, Mr. H. S. Gujral, has vehemently argued that the view taken in the earlier Division Bench judgment is not correct and the same deserves to be reconsidered. According to him, principles of natural justice were attracted to the facts and circumstances of this case and since the Central Government passed an order adversely affecting the rights of the appellant, they were bound to accord him a hearing. The powers exercised by the Central Government u/s 33 of the Act were revisional powers, and his client was entitled to a hearing even if the revision was to be summarily dismissed as Order 41, Code of Civil Procedure, applied to the case by virtue of rule 105 of the Rules framed under the Act. We see no force in the submission made by the learned counsel and are of the view that the amendment of Rule by which the proviso was added to this in 1963 has set the matter beyond any pale of controversy. What remains to be seen is whether the Central Government is bound by the principles of natural justice while summarily disposing of a petition under section 33 of the Act or not.

(1) 1962 P.L.R. 44.

(5) The matter regarding the applicability of principles of natural justice has been authoritatively dealt with in *Union of India v. Col. J. N. Sinha and another* (2), by the Supreme Court of India in the following terms:—

“As observed by this Court in *Kraipak and others v. Union of India* (3), ‘the aim of rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words they do not supplant the law, but supplement it’. It is true that if a statutory provision can be read consistently with the principles of natural justice, the Courts should do so because it must be presumed that the legislatures and the statutory authorities intend to act in accordance with the principles of natural justice. But if on the other hand a statutory provision either specifically or by necessary implication excludes the application of any or all the principles of natural justice then the court cannot ignore the mandate of the legislature or the statutory authority and read into the concerned provision the principles of natural justice. Whether the exercise of a power conferred should be made in accordance with any of the principles of natural justice or not depends upon the express words of the provision conferring the power, the nature of the power conferred, the purpose for which it is conferred and the effect of the exercise of that power.”

(6) We have now to see with reference to the provisions of the statute whether the Central Government while deciding the petition of the appellant under section 33 of the Act violated the principles of natural justice or not. In order to come to this conclusion, it is necessary to notice sections 24 and 33 of the Act and rule 105 of the Rules framed thereunder:—

“Section 24: Power of revision of the Chief Settlement Commissioner:—

(1) The Chief Settlement Commissioner may at any time call for the record of any proceeding under this Act in which a Settlement Officer, an Assistant Settlement Officer, an Assistant Settlement Commissioner, an

(2) 1970 S.L.R. 748.

(3) 1969 S.L.R. 445.

Additional Settlement Commissioner, a managing officer or a managing corporation has passed an order for the purpose of satisfying himself as to the legality or propriety of any such order and may pass such order in relation thereto as he thinks fit.

- (2) Without prejudice to the generality of the foregoing power under sub-section (1), if the Chief Settlement Commissioner is satisfied that any order for payment of compensation to a displaced person or any lease or allotment granted to such a person has been obtained by him by means of fraud, false representation or concealment of any material fact, then notwithstanding anything contained in this Act, the Chief Settlement Commissioner may pass an order directing that no compensation shall be paid to such a person or reducing the amount of compensation to be paid to him, or as the case may be, cancelling the lease or allotment granted to him; and if it is found that a displaced person has been paid compensation which is not payable to him, or which is in excess of the amount payable to him, such amount or excess, as the case may be, may on a certificate issued by the Chief Settlement Commissioner, be recovered in the same manner as an arrear of land revenue.
- (3) No order which prejudicially affects any person shall be passed under this section without giving him a reasonable opportunity of being heard.
- (4) Any person aggrieved by any order made under sub-section (2) may, within thirty days of the date of the order, make an application for the revision of the order in such form and manner as may be prescribed to the Central Government and the Central Government may pass such order thereon as it thinks fit."

"Section 33: Certain residuary powers of Central Government.—The Central Government may at any time call for the record of any proceeding under this Act and may pass such order in relation thereto as in its opinion the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act or the rules made thereunder."

"Rule 105: Provisions of Order XLI of the Code of Civil Procedure apply to appeals and revisions.—Except as otherwise expressly provided in the Act or in these rules, the

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procedure laid down in Order XLI of the Code of Civil Procedure, 1908 (Act V of 1908) shall, so far as may be applicable apply to the hearing and disposal of appeals and revisions under the Act:

Provided that in the case of a revision under sub-section (4) of section 24 of the Act, it shall not be necessary to give an oral hearing if, after sending for the record, if necessary, and considering the petition for revision, the Central Government thinks fit to dismiss the revision."

It may, however, be mentioned that the proviso to rule 105 was added by a gazette notification, dated July 13, 1963 published in the Gazette of India on July 20, 1963.

(7) The scheme of section 24 shows that the Chief Settlement Commissioner was empowered to call for the record of any proceedings in which any of his subordinate officers had passed an order for the purpose of satisfying himself as to the legality or the propriety of the same. Sub-section (2) of the said section confers revisional powers on the Chief Settlement Commissioner to rectify any defect, which may appear in the orders passed by any of his subordinate authorities regarding the payment of compensation to a displaced person or in respect of any lease or allotment granted to such a displaced person, etc., etc. Sub-section (3) of the same section provides that no order prejudicially affecting a person shall be passed without affording him a reasonable opportunity of being heard. Sub-section (4) of the said section is important because it entitles the aggrieved person to file a revision petition before the Central Government against any order passed by the Chief Settlement Commissioner under sub-section (2) mentioned-above. In short, the revisional power of the Central Government was limited to cases in which the Chief Settlement Commissioner on being approached on the revisional side did not pass a satisfactory order regarding the payment of compensation to a displaced person or regarding any lease or allotment granted in favour of such a person, etc.

(8) Rule 105, as it stood before amendment, was couched in very wide terms. It laid down that the procedure prescribed in Order 41 of the Code of Civil Procedure shall, in so far as it may be applicable apply to the hearing and disposal of appeals and revisions under the Act. By necessary implication, it could be said that if the rule had remained as it was, then the Central Government while disposing of revisions under section 24(4) of the Act was also under a duty to hear the petitioner before disposing of his revision petition.

(9) It appears that the rule-making authority reconsidered the matter after some judicial pronouncements and with a view to saving the time of the Central Government which would have been consumed in giving hearing to the affected persons added a proviso to the said rule. The effect of the amended rule is that the Central Government is not duty-bound to hear a petitioner, while summarily dismissing a revision petition even though the matter complained of was that the compensation of a displaced person had been decreased or the allotment granted in his favour had been varied to his disadvantage. Thus, even where the matter involved a determination of the rights relating to property the legislature expressly provided that the Central Government need not give a petitioner an oral hearing.

(10) Now, as the very title of section 33 suggests that the powers of the Central Government stated therein are of residuary nature, it appears that the statute has vested this power in the Central Government to take cognizance of complaints from whatever source they come in order to see that the provisions of the Act are being applied in a proper manner by all the subordinate authorities. Even a passer-by, who has no interest whatsoever in seeking allotment of land or other benefits under the Act may move the Central Government. In suitable cases, the officer invested with the powers of the Central Government may act *suo motu* in the interests of justice. The action of the Central Government in a petition by a stranger would not be motivated with the desire of giving any relief to him, but to see that the property in the compensation pool is not being frittered away. If an applicant, who has no right to claim any benefit under the Act, were to urge that the Central Government should have given him a notice before summarily rejecting his petition the plea could be dismissed on the short score that he had no right to bring in the petition. The sum and substance of the entire discussion is that the powers of the Central Government under section 33 cannot be equated with the revisional powers which it exercised under section 24(4) of the Act.

(11) At the time, when the rule-making authority added a proviso to rule 105, the entire question relating to the principles of natural justice *vis-a-vis* the proceedings before the Central Government was before its mind's eye. When it negated the right of hearing even in respect of dismissal of a petition under section 24(4) of the Act, it can safely be inferred that the rule-making authority did not intend that the Central Government should afford any hearing to a petitioner to prejudice it under section 33 of the Act.

(12) To hold otherwise would lead to manifestly absurd results, for if a person whose rights to property are involved and his petition can be dismissed summarily without a hearing then it does not stand to reason that a mere stranger having no rights or claims against the compensation pool should be granted a hearing before his petition under section 33 of the Act is dismissed in a summary manner.

(13) We are of the opinion that the view taken by the Division Bench in *Ranjeet Singh's case* (1) (*supra*) as also the one taken by the learned Single Judge in order under appeal is correct and in accordance with the true interpretation of the statutory provisions.

(14) Our attention has also been drawn to a Single Bench decision of Delhi High Court in *Labh Singh Atma Singh v. Union of India and others* (4) which has taken the same view.

(15) No other point was raised in this appeal.

(16) In C.W. No. 1090 of 1969, Mr. Wasu has raised another point. He submitted that the Department had been accepting rent from his client and for that reason he could not be regarded as an unauthorised occupant. Our attention was, however, drawn to Annexure 'D' which is an order dated September 27, 1967, passed by the Chief Settlement Commissioner. The material portion of the order runs as under:—

“He has himself alleged in the grounds of revision petition that he filed application for regularisation of his occupation.”

When the petitioner himself admitted before the subordinate authorities that his possession was irregular, it would not be open now for him to contend before this Court that the authorities have wrongly held against him on this point. In any case, this is a pure question of fact and it is not open to us to give a contrary finding in these proceedings.

(17) In C.W. No. 3106 of 1968, Mr. Wasu submitted that the earlier petition filed by his client had been dismissed as infructuous on the understanding that if she brought further evidence from Pakistan her case would be considered on merits. He submitted that his client brought a document of lease dated April 14, 1945, and a

receipt dated May 8, 1946, which showed that his client actually held land in Pakistan. We, however, find that this aspect of the case was duly considered by an officer delegated with the powers of the Central Government in the following terms:—

“One of these documents is deed of lease dated 14th April, 1945. This deed was purported to have been executed by Mohd. Din in favour of the petitioner. It did not bear the signature of the lessor. The other document was the receipt dated 8th May, 1946 which was executed by Shri Harbans Lal son of the petitioner, showing that he received a lease-money for the period 8th May, 1946 to 8th May, 1947”.

(18) We are of the view that the reasons given by the authority invested with the powers of the Central Government in rejecting the claim of the petitioner were proper in law and do not call for any interference in these proceedings.

(19) In view of what has been stated above, L.P.A. No. 12 of 1968, C.W. No. 1090 of 1969 and C.W. No. 3106 of 1968 are dismissed but with no order as to costs.

SANDHAWALIA, J.—I agree.

B. S. G.

CIVIL MISCELLANEOUS

Before Bal Raj Tuli, J.

GOBIND RAM ETC.,—Petitioners.

versus

THE STATE OF PUNJAB ETC.,—Respondents.

Civil Writ No. 655 of 1972.

March 21, 1972.

Punjab Cooperative Societies Act (XXV of 1961)—Sections 45 and 85—Punjab Cooperative Societies Rules (1963)—Rule 45—Constitution of India (1950)—Articles 19 and 226—Grant of loan by a cooperative bank for the purchase of diesel engines—Registrar issuing instructions for the utilization of the loan for the purchase of diesel engines of a particular ‘make’ and from a particular dealer—Such instructions—Whether valid—Rule 45—Whether ultra vires section 85—Interference without jurisdiction by the Registrar with the right of a member of a co-operative society to obtain loan—Whether can be challenged by way of writ petition.

Held, that section 45 of the Punjab Cooperative Societies Act, 1961, does not empower the Registrar, Cooperative Societies, or the State Government to