his having specifically asked for it in his representation submitted in reply to the show-cause notice. The show-cause notice was given to the respondent after the Governor of Haryana was provisionally satisfied that the punishment of dismissal was to be inflicted on the respondent. He was asked to submit his representation in writing. There is no complaint about the opportunity to submit the representation having been inadequate. He did in fact submit a detailed representation. There is no grievance on the side of respondent No. 1 that representation was not duly considered. His only claim is that the Governor was bound to give him a personal hearing before deciding his case. We are unable to find any law in support of this proposition. Respondent No. 1 was afforded adequate opportunity of showing cause against the proposed punishment, and it was after due consideration of the same that the highest State authority passed the impugned order. We are unable to find our way to interfere with the same.

(6) No other point was argued in this case by the learned counsel for the contesting respondent. In view of the authoritative pronouncements of the Supreme Court in the case of *Jagannath Prasad Sharma* (3), and *G. Sundaram* (4), and the observations of the Division Bench of the Kerala High Court in *K. C. Chandrasekharan's case*, (2), with which we are in respectful agreement, we allow this appeal, set aside the judgment of the learned Single Judge, and dismiss the writ petition of the first respondent with costs. Counsel's fee Rs. 100.

MEHAR SINGH, C.J.—I agree.

N. K. S.

LETTERS PATENT APPEAL

Before D. K. Mahajan and S. S. Sandhawalia, JJ.

COL. KEHAR SINGH,—*Appellant.*

versus

CHIEF SETTLEMENT COMMISSIONER, PUNJAB AND OTHERS,—*Respondents.*

Letters Patent Appeal No. 142 of 1968.

March 5, 1970.

Displaced Persons (Compensation and Rehabilitation) Act (XLIV of 1954—Sections 10 and 19—Displaced Persons (Compensation and Rehabilitation) Rules (1955)—Rule 102—Lands possessed by displaced persons on

quasi-permanent allotments—Conditions of such allotments—Whether unalterable—Section 10—Whether overrides the provisions of section 19 and rule 102.

Held, that a reference to section 10 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, shows that it merely entitles a displaced person to continue in possession of the land on the conditions on which it was held before the date of acquisition by the Central Government. It is impossible to read into these provisions that these conditions are unalterable and cannot be changed subsequently even in accordance with the other provisions of the Act read with the relevant Rules particularly section 19 and rule 102 framed thereunder. The object of the enactment of section 10 is patent and appears to be that when the evacuee property was acquired by the Central Government, the above-said provision was made for legalising the position of the persons who had been allotted property by the Custodian on quasi-permanent basis and were in possession of the said lands immediately before the enforcement of the Act. However, section 19 was expressly incorporated in the Statute which gives express authorisation to the Managing Officer to amend the terms of the allotment made to such displaced persons subject to the relevant rules. Section 10, therefore, merely protects possession till the payment of compensation but obviously subject to the provisions of section 19 of the Act. Section 10, therefore, cannot override the provisions of section 19 and the Rules framed thereunder. On the contrary a reading of the two provisions shows that section 10 is controlled by and subject to section 19 which expressly confers the power to cancel, terminate or amend the terms of any lease or allotment on the Managing Officer. (Para 7)

LETTERS PATENT APPEAL under Clause X of the Letters Patent against the order of Hon'ble Mr. Justice P. C. Pandit, dated 16th January, 1968, passed in Civil Writ No. 2671 of 1965.

H. S. WASU, SENIOR ADVOCATE, WITH B. S. WASU, & L. S. WASU, ADVOCATES, for the appellants.

B. S. JAWANDA ADVOCATE-GENERAL, PUNJAB, AND SUKHDEV KHANNA, ADVOCATE, for the respondents.

JUDGMENT

S. S. Sandhawalia, J.—This set of 20 appeals under clause 10 of the letters Patent raise common questions of law and fact and are directed against the same order of the learned Single Judge dated the 16th January, 1968. Before us Mr. H. S. Wasu, the learned counsel for all the appellants has raised identical arguments in support of these appeals. We propose to deal with all these appeals by this Judgment.

(2) The facts in L. P. A. No. 142 of 1968, relevant to Civil Writ No. 2671 of 1965, which stands dismissed by the order of the

learned Single Judge may alone be noticed. Col. Kehar Singh the appellant was a displaced person from West Pakistan where he owned first grade land in district Montgomery. In 1949-50 in lieu of the land abandoned by him in West Pakistan, an area of approximately 21 Standard Acres, out of which 16.1 Standard Acres were in village Khusropur and 5.10 Standard Acres in village Sufipind in Tahsil and District Jullundur, was allotted to him. The above-said two villages due to their proximity to the town and cantonment of Jullundur carried additional value under the quasi-permanent scheme as contained in Tirlok Singh's Land Resettlement Manual and a cut of $18\frac{3}{4}\%$ was applied to the appellant's holding when he was allotted land in the said villages. Subsequently in 1952, the Director of Rehabilitation submitted a proposal to the Financial Commissioner, Relief and Rehabilitation-cum-Custodian, that the premium cut of the five villages, namely Sufipind, Dhim, Barring Khusropur and Alladinpur be enhanced from $18\frac{3}{4}$ per cent to 50 per cent, as similarly situated villages near Jullundur City carried a similar cut of 50 per cent. This proposal further suggested that in two other neighbouring villages, namely, Sheikhpind and Kotla where no premium cut had been applied, there also a cut of 50 per cent should be applied. This proposal was duly accepted by Financial Commissioner, Relief and Rehabilitation-cum-Custodian by his order dated the 3rd of February, 1952, and it is not disputed that this received the approval of the Governor of Punjab. The validity of this decision was challenged by the appellants along with several other persons affected thereby by way of writ petition No. 266 of 1952 in this Court on the 1st of November, 1952. This petition, however, was dismissed after notice to the opposite party on the 17th of December, 1953, and subsequently a Letters Patent Appeal against the Judgment also met a similar fate.

(3) In the meantime on the 2nd of July, 1952, rule 14.6 of the Administration of Evacuee Property (Central) Rules 1950, (hereinafter called as 1950 Rules) was amended and it was provided that quasi-permanent allotment in Punjab and Pepsu would be cancelled only on the grounds mentioned in sub-clauses (i) and (iii) of the amended sub-rule (6). This rule came into force before the decision dated the 3rd of February, 1952, referred to above could be actually implemented. The appellant and others then took up the position that their case was not covered by

clauses (i) and (ii) of rule 14 (6) and the Rehabilitation Authorities could take advantage of sub-clause (iii) only after obtaining the requisite approval of the Central Government. In 1955 the Rehabilitation Authorities moved the Central Government for the required approval and on the 11th of October, 1955, the Central Government by virtue of the powers vested in them under rule 14 (6) (iii) (d) of the 1950 rules, accorded their sanction to the variation being made in the seven villages in question as a result of enhancement of the valuation. However, the Displaced Persons (Compensation and Rehabilitation) Act 1954 had come into force and under section 12 of the said Act, all allotted rural evacuee agricultural lands in Punjab were acquired by the Central Government on the 24th of March, 1955. These lands having become acquired evacuee property the authorities constituted under the Administration of Evacuee Property Act 1950 ceased therefore to have any jurisdiction over the same. After obtaining the sanction of the Central Government, the Rehabilitation Authorities started cancelling the allotments in the aforesaid seven villages by enhancing a premium cut from $18\frac{3}{4}$ per cent to 50 per cent with respect to the five villages and imposing a premium cut of 50 per cent in the other two villages of Sheikhpind and Kotla. The affected persons in the villages of Sheikhpind and Kotla challenged these orders in the heirarchy of the Rehabilitation Courts right up to the Deputy Custodian General and thereafter moved this Court in Civil Writ No. 30 of 1956 which was, however, dismissed *in limine* on the 31st of January, 1956. Special leave under Article 136 of the Constitution having been secured, the Supreme Court set aside the order of this Court and held that after coming into force 1954 Act and the notification made thereunder on the 24th of March, 1955, under section 12 of that Act, the land allotted to the Displaced Persons in the said two villages ceased to be evacuee property and became part of the pool created thereunder and consequently, the Central Government had no power left under the Act under the Administration of Evacuee Property Act 1950, and the rules framed thereunder. When the appellant's allotment was sought to be reduced by applying the fifty per cent cut on the 15th of July, 1961, he filed Civil Writ No. 1484 of 1961 and the same was allowed by S. B. Capoor and Pandit JJ. on the 21st of May, 1963. Later on the authorities constituted under the 1954 Act again started fresh proceedings for cancellation of the allotment on the 22nd of June, 1964, and the Managing Officer acting under section 19 of that Act read with rule 101 of the displa-

ced Persons (Compensation and Rehabilitation) Rules, 1955, enhanced the premium cut from 18¾ per cent to 50 per cent and cancelled the appellant's allotment to the extent of 4.8 Standard Acres. The appellant moved an appeal against this order before the Assistant Settlement Commissioner exercising the power of the Settlement Commissioner, Punjab, who, however, rejected the same on the 31st of July, 1964. A revision petition was moved against the said rejection but that also was dismissed by the order dated the 23rd July, 1965, which was impugned in the writ petition moved in this Court on the 4th of September, 1965.

(4) Before the learned Single Judge three preliminary objections were raised on behalf of the respondent-State by the learned Advocate-General for the Punjab which were repelled and as none of them have been agitated before us, we deem it unnecessary to refer to them. Three main contentions were raised before the learned Single Judge. On the first contention, the learned Judge found that the Custodian was entitled to enhance the premium cut from 18¾ per cent to 50 per cent and the decision of the Custodian, to that effect, dated the 3rd of February, 1952, which was approved by the Governor, was valid in law. The second contention raised was whether the decision of the Custodian dated the 3rd of February, 1952, even if valid could be implemented subsequently by the Managing Officer and on this the learned Judge found that the order dated the 3rd of February, 1952, was merely a policy decision changing the quasi-permanent scheme as mentioned in Tarlok Singh's Land Resettlement Manual to the extent limited therein. It was further found that this order had not varied the allotment of the appellant which had actually been so done by the orders of the Managing Officer dated the 15th of July, 1961, and the subsequent order dated the 22nd of June, 1964. On a detailed consideration the learned Judge held that the policy decision dated the 3rd of February, 1952, even though held valid could not be implemented by the Managing Officer under rule 14.6 of the Administration of Evacuee Property (Central) Rules 1950. The last and the third contention was whether the Managing Officer could cancel the allotment of the appellants under section 19 of the Displaced Persons (Compensation of Rehabilitation) Act 1954 read with rule 102 framed under the said Act. This was answeerd against the appellant and it was held that under the above-said

provisions, the Managing Officer, was entitled to do so for sufficient reasons and on an examination of the reasons given in the relevant orders of the Managing Officer, the same were found to be adequate and cogent for the exercise of the power thereunder, consequently the writ petition of the present appellants and the connected ones were dismissed by the learned Single Judge.

(5) Mr. H. S. Wasu on behalf of the appellant raised primary reliance on sub-clause (6) of rule 14 of the Administration of Evacuee Property (Central) Rules, 1950. The relevant sub-clause (6) is in the following terms :—

"Notwithstanding anything contained in this rule, the Custodian of Evacuee Property in the State of Punjab shall not exercise the power of cancelling any allotment of rural evacuee property on a quasi-permanent basis, or varying the terms of any such allotment, except in the following circumstances:—

(i) Where the allotment, was made although the allottee owned no agricultural land in Pakistan;

(ii) Where the allottee has obtained land in excess of the area to which he was entitled under the scheme of allotment of land prevailing at the time of allotment.

(iii) Where the allotment is to be cancelled or varied—

(a) in accordance with an order made by a competent authority under section 8 of the East Punjab Refugees (Registration of Land Claims) Act, 1948;

(b) on account of the failure of the allottee to take possession of the allotted evacuee property within six months of the date of allotment;

(c) in consequence of a voluntary surrender of the allotted evacuee property, or a voluntary exchange with other available rural evacuee property, or a mutual exchange with such other available property;

(d) in accordance with any general or special order of the Central Government;

Provided that where an allotment is cancelled or varied under clause (ii), the allottee shall be entitled to retain such portion of the land to which he would have been entitled under the scheme of quasi-permanent allotment of land;

Provided further that nothing in this sub-rule shall apply to any application for revision, made under section 26 or section 27 of the Act, within the prescribed time, against order passed by a lower authority on or before 2nd July, 1952."

Basing himself upon the above-said provisions, the contention has been raised that the allotment of the appellant could not have been cancelled nor its terms varied except in accordance with the provisions above said. It was hence vehemently argued that the order of the Custodian affirmed by the Governor of Punjab on the 3rd of February, 1952, raising the cut for the village in question from 18¾ per cent to 50 per cent was invalid as the same was not warranted by the provisions of the above-said sub-clause (6). This submission appears to be based on a misapprehension. It deserves notice that the proceedings for the enhancement of the valuation of the land of the village and the consequent raising of the cut to 50 per cent were initiated as early as the year 1951. After due verification by the subordinate Rehabilitation Authorities by actual visits on the spot, the proposal to enhance the cut was finally approved by the Director General of Rehabilitation (Mr. P. N. Thapar) and subsequently received the seal of approval by the order of the Governor on the 3rd February,1952. The significant fact is that sub-clause (6) of Rule 14 on which main reliance is being placed was substituted for the old sub-rule by notification No. S.R.O. 1290, dated the 22nd July, 1952. Similarly part (iii) of this sub-clause was introduced even later by notification No. 351, dated the 13th of February, 1953, substituting an earlier provision therefor. It would thus appear that at the time when the proceedings were initiated and the final order dated the 3rd February, 1952, was passed, the relevant provisions of sub-clause (6) of rule 14 were not yet on the statute book and the action taken prior to their promulgation was thus perfectly valid and in accordance with law. The order dated the 3rd of February,

1952, therefore, did not have to conform to a provision which has been introduced subsequently. It was not the contention of the learned counsel that sub-clause (6) above-said is to take effect retrospectively nor do we find anything in the said Rule to accord any such effect to the same. In this context, therefore, it is irrelevant to examine the validity of the order dated the 3rd of February, 1952, in the light of a provision which was introduced subsequently and which, as we have above held, does not have retrospective effect. Even otherwise we do not find any conflict between the said order and the provisions of sub-clause (6) of Rule 14.

(6) The second contention advanced by Mr. Wasu is based on the provisions of section 10 of the Displaced Persons (Compensation and Rehabilitation) Act 1954. It was submitted that the provisions of the above-said section entitled the appellant to continue in possession of the land on the same conditions on which it was held by him immediately before the 24th of March,1955, when it was acquired by the issuance of the relevant notification under the Act. It was vehemently argued that the conditions on which this was held were not to be varied by the Managing Officer under section 19 of the Act.

(7) To appreciate the contention it is necessary to set down the relevant part of section 10 of the Displaced Persons (Compensation and Rehabilitation) Act 1954:—

> "*Special procedure for payment of compensation in certain cases*:—Where any immovable property has been leased or allotted to a displaced person by the Custodian under the conditions published—
>
> (a) by the notification of the Government of Punjab in the Department of Rehabilitation No. 4895-S or 2892-S, dated the 8th July, 1959, or
>
> (b) by the notification of the Government of Patiala and East Punjab States Union in the Department of Rehabilitation No. 8R or 9R, dated the 23rd July, 1949, and published in the official Gazette of that State dated the 8th August, 1949.

and such property is acquired under the provisions of this Act and forms part of the compensation pool, the displaced person shall, so long as the property remains vested in the Central Government, continue in possession of such property on the same conditions on which he held the property immediately before the date of the acquisition, and the Central Government may, for the purpose of payment of compensation, to such displaced person transfer to him such property on such terms and conditions as may be prescribed.

Explanation : * * *."

A reference to the language of the above-said provisions would show that this merely entitles the appellant to continue in possession of the said land on the conditions on which it was held immediately before the 24th of March, 1955. It is impossible to read into these provisions that these conditions were unalterable and could not be changed subsequently even in accordance with the other provisions of the Act read with the relevant Rules and in this context particular reference may be made to section 19 and rule 102 framed thereunder. The object of the enactment of section 10 is patent and appears to be that when the evacuee property was acquired by the Central Government, they made the above said provision for legalising the position of the persons who had been allotted property by the Custodian and were in possession of the said lands immediately before the enforcement of 1954 Act. However, section 19 was expressly incorporated in the Statute which gave express authorisation to the Managing Officer to amend the terms of the allotment made to such displaced persons subject to the relevant rules. Section 10, therefore, merely protects possession till the payment of compensation but obviously subject to the provisions of section 19 of the Act. In our view, section 10 could not override the provisions of section 19 and the Rules framed thereunder. On the contrary a reading of the two provisions would show that section 10 is controlled by and subject to section 19 which expressly confers the power to cancel, terminate or amend the terms of any lease or allotment on the Managing Officer. This contention of Mr. Wasu, therefore, must necessarily fail.

(8) It was then urged that the earlier orders imposing the cut on the appellant dated the 11th October, 1955, had been held to be invalid by their Lordships of the Supreme Court in *Basant Ram and others* v. *Union of India and others* (1), and consequently a similar cut could not be re-imposed by the authorities acting under the Displaced Persons (Compensation and Rehabilitation) Act, 1954. Though factually it is correct that the earlier orders dated 11th October, 1955, have been set aside, it does not flow from the Judgment above-said that the orders impugned in the writ petition could not have been passed subsequently under the provisions of the statute which would be applicable. In fact the ratio of the above-said judgement primarily was that the orders had been passed under the Administration of Evacuee Property Act after the same had ceased to apply to the relevant lands as they had become part of the compensation pool after the issuance of the notification under the 1954 Act. Their Lordships had in fact observed as follows:—

> "It follows, therefore, that when the notification of March 24, 1955, was made and the evacuee property in these two villages ceased to be evacuee property and became part of the compensation pool it would only be dealt with under the Act and if any variation or cancellation of allotment was to be made it could only be done under the provisions of section 19 of the Act and there was no power left in the Central Government to act under Rule 14 (6) (iii) (d) of the Rules framed under the Central Act 31 of 1950 with respect to his land after the notification of March 24, 1955."

The above observations would, therefore, clearly show that their Lordships themselves held that the variation or cancellation of the allotment could in fact be made only under section 19 of the 1954 Act. This is exactly what has been done by the impugned orders. That their Lordships did not preclude any further action in the matters is patent from the penultimate paragraph of the judgement in the following terms:—

> "We should however, like to make it clear that we express no opinion on the controversy between the appellants and the interveners who are left to such remedies as may be available to them under the law."

(1) A.I.R. 1962 S.C. 994.

(9) The last submission of Mr. Wasu was that the Managing Officer could not cancel the allotment of the appellant even under section 19 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, read with Rule 102 of the relevant rules framed thereunder. It was contended that the impugned order dated the 22nd of June, 1964, was not within the ambit of rule 102. The relevant provisions may be quoted for facility of reference—

Section 19.

"Power to vary or cancel lease or allotment of any property acquired under this Act:—

(1) Notwithstanding anything contained in any contract or any other law for the time being in force but subject to any rules that may be made under this Act, the Managing Officer or Managing corporation may cancel any allotment or terminate any lease or amend the terms of any lease or allotment under which any evacuee property acquired under this Act is held or occupied by a person, whether such allotment or lease was granted before or after the commencement of this Act.

(2) Where any person—

(a) has ceased to be entitled to the possession of any evacuee property by reason of any action taken under sub-section (1), or

(b) is otherwise in unauthorised possession of any evacuee property or any other immovable property forming part of the compensation pool;

he shall, after he has been given a reasonable opportunity of showing cause against his eviction from such property, surrender possession of the property on demand being made in this behalf by the Managing Officer or managing corporation or by any other person duly authorised by such officer or corporation.

(3) * * * *

(4) * * * *

(5) * * * *

Rule 102.

Cancellation of the allotments and leases.—

A managing officer or a managing corporation may in respect of the property in the compensation pool entrusted to him or to it, cancel an allotment or terminate a lease or vary the terms of any such lease or allotment if the allottee or lessee, as the case may be—

(a) has sublet or parted with the possession of the whole or any part of the property allotted or leased to him without the permission of a comptent authority or

(b) has used or is using such property for a purpose other than that for which it was allotted or leased to him without the permission of a competent authority, or

(c) has committed any act which is destructive of or permanently injurious to the property, or

(d) for any other sufficient reason to be recorded in writing;

Provided that no action shall be taken under this rule unless the allottee or the lessee, as the case may be, has been given a reasonable opportunity of being heard."

A reference to the provisions of rule 102 would clearly show that the Managing Officer was relying on sub-clause (d) thereof as the earlier clauses have admittedly no application to the case of the appellant. For doing so, he in consonance therewith gave patently valid and cogent reasons for his action. A reference to the order dated the 22nd of June, 1964, would show that three factors mainly influenced him for the sufficiency of action taken by him in the case of the appellant. These are as follows:—

(1) that the appellant was not holding any suburban area in Pakistan, while Sufipind and Khusropur where allotments have been given to him were in the closest proximity of the Jullundur Town and Contonment and were thus suburban villages;

(2) that the evacuee land in the said two villages was at par with similar villages like Basti Baba Khel and Basti Baba Pir Das which carried a premium cut of 50 per cent from the very beginning and it was through a patent error that the cut for the villages of Sufipind and Khusropur had been eroneously fixed at 18¾ per cent;

(3) that this patent mistake was rectified and the premium cut was increased by the Custodian whilst the allotment was still quasi-permanent, that is, on the 3rd of February, 1952, when the Displaced Persons (Compensation and Rehabilitation) Act had not yet come into force.

These reasons were found adequate, cogent and relevant by the learned Single Judge and before us also the learned counsel for the appellant has not been able to make any serious challenge to the same. It is further not denied that the appellant had been given the fullest reasonable opportunity of being heard before necessary action of imposing a cut under rule 102 has been taken. What, however, deserves to be high-lighted is that in the present case the authorities were acting to rectify a glaring mistake in assessing the value of the two villages which were patently suburban and of equal, if not superior value than the other similarly situated villages where the cut had been fixed from the very beginning at 50 per cent. This error was noticed by the Rehabilitation Authorities as early as 1951 and detailed enquiries and assessments on the spot were got made. On the 25th of January, 1952, Thakar Vikram Singh, the then Director of Rehabilitation had submitted a note to the Financial Commissioner, Relief and Rehabilitation which after noticing a spot inspection by a Committee of high powered Rehabilitation officials recorded as follows:—

"Our unanimous opinion is that these five villages have been wrongly put at the bottom for purposes of levying premium. Their situation advantages are as good as those of Basti Pir Dad and Babakhel; but the soil is definitely superior to that of the latter two villages. It is, therefore, quite fair to raise the premium of 18¾ per cent to 50 per cent in these given villages."

The above-said recommendation was then duly considered by the Financial Commissioner, Relief and Rehabilitation and received his

concurrence and was finally put up for approval of the Governor, which was accorded on the 3rd of February, 1952. All this would show that the authorities had acted *bona fide* to correct a glaring error in the evaluation of the said villages and this was one of the material factors taken into consideration by the Managing Officer, for acting under the provisions of Rule 102 (d). The orders of the Managing Officer were upheld by the higher authorities and we are unable to detect any factual or legal infirmity in the action taken under section 19 read with Rule 102. The last contention of Mr. Wasu, therefore, also cannot succeed.

(10) In view of the foregoing discussion, we find no merit in these appeals which are dismissed but in the circumstances of all these cases we would make no order as to costs.

D. K. MAHAJAN, J.—I agree.

FULL BENCH

Before Harbans Singh, C.J., Gurdev Singh and Prem Chand Jain, JJ.

GARIB SINGH,—*Appellant.*

versus

HARNAM SINGH,—*Respondent.*

Letters Patent Appeal No. 132 of 1971.

July 15, 1971.

Punjab Pre-emption Act (I of 1913)—Section 21-A—Sale of agricultural land or village immovable property—Vendee associating a stranger in the sale—Whether can resist the claim of pre-emption on his own qualifications or status—Such vendee acquiring the interest of the stranger co-vendee by gift or sale—Right to resist the pre-emption—Whether survives.

Held, that where the sale is in favour of several persons, it is the status of the lowest of the vendees that has to be taken into account in determining whether the pre-emptor has a preferential right. A vendee associating with himself a stranger in the sale sinks to the level of the stranger and loses his own right to resist a suit for pre-emption. Hence the vendee, who associates with himself in the sale a stranger cannot resist the claim for pre-emption on the basis of his own qualifications or status. (Para 22).