to the accused persons. This, however, is hardly a ground for denying the valid claim of privilege made by the State. It is settled law that where private interest and public weal clash with each other, private interest must makeway for the latter. It was such a situation which the Supreme Court had in mind when they observed in *Sodhi Sukhdev Singh's case* as follows:—

> "No doubt the litigant whose claim may not succeed as a result of the non-production of the relevant and material document may feel aggrieved by the result, and, the Court, in reaching the said decision, may feel dissatisfied; but that will not affect the validity of the basic principle that public good and interest must override consideration of private good and private interest."

(16) I would, therefore, while agreeing with the recommendation of the Sessions Judge, Karnal, set aside the order of the learned Chief Judicial Magistrate, dated the 22nd of June, 1966, and uphold the claim of privilege regarding the surveilance register made by the State. In the result this criminal revision is allowed.

R.N.M.

FULL BENCH

Before Mehar Sinh, C.J., Harbans Singh, D. K. Mahajan, Ranjit Singh Sarkaria and Bal Raj Tuli, JJ.

THE STATE OF PUNJAB,—*Appellant*

versus

BHAGAT RAM PATANGA,—*Respondent*

Letters Patent Appeal No. 70 of 1964

April 10, 1969

Punjab Municipal Act (III of 1911)—S. 16(1)(e)—Order of removal of a member of a Municipality under—Whether quasi-judicial—State Government—Whether required by law to state reasons for its decision to pass such order.

Held, that the order of removal of a Municipal Commissioner under section 16(1)(e) of Punjab Municipal Act, 1911 is a quasi-judicial order proceeding as it does on quasi-judicial proceedings of the nature as provided in the proviso to that provision.

(Para 8)

Held, that the State Government while removing a Municipal Commissioner under section 16(1) (e) of the Act may be expected to give an outline of the process of reasoning by which they reached their decision. Although appeal or revision from the State Government's order under section 16(1)(e) of the Act, removing a Municipal Commissioner and imposing disqualification on him to contest election to a municipality for a stated period, does not lie at all, yet an authority which is called upon to determine and adjudicate upon the rights of the parties is expected to give an outline of process of reasoning by which it reaches the decision.

(Para 8)

Case referred by Division Bench consisting of Hon'ble the Chief Justice Mr. Mehar Singh and the Hon'ble Mr. Justice Bal Raj Tuli on 7th of August, 1968, *to a larger Bench for decision of an important question of law involved in the case. The Full Bench consisting of Hon'ble the Chief Justice Mr. Mehar Singh, the Hon'ble Mr. Justice Ranjit Singh Sarkaria and the Hon'ble Mr. Justice Bal Raj Tuli further referred the case on 20th February,* 1969, *to a Bench of five Judges and the case was finally decided by a Bench consisting of the Five Judges consisting of Hon'ble the Chief Justice Mr. Mehar Singh, Hon'ble Mr. Justice Harbans Singh, Hon'ble Mr. Justice D. K. Mahajan, Hon'ble Mr. Justice Ranjit Singh Sarkaria and Hon'ble Mr. Justice Bal Raj Tuli on 10th April,* 1969.

Appeal under clause X of the Letters Patent against judgment of Hon'ble Mr. Justice A. N. Grover passed in Civil Writ 22 of 1963 *on 18th of September,* 1963.

M. R. Sharma, Deputy Advocate-General, Punjab and R. L. Sharma, Advocate, for the Appellant.

Anand Swarup, Senior Advocate with R. S. Mittal, Advocate, for the Respondent.

Judgment of Full Bench.

Mehar Singh, C. J.—A meeting of the Phagwara Municipal Committee took place on June 20, 1960, for the election of the President and the Vice-President of the Committee. It was presided over by the Sub-Divisional Officer (Civil). In consequence of

the behaviour of the respondents in that meeting the appellant proceeded against each under section 16 (1) (e) of the Punjab Municipal Act, 1911 (Punjab Act 3 of 1911), hereinafter referred to as 'the Act', by issuing a show-cause notice, Annexure 'A' with each of the two petitions by the respondents, Bhagat Ram Patanga and Om Parkash Agnihotri, on December 5, 1960, why action be not taken against the particular respondent under that provision. In the case of Bhagat Ram Patanga respondent, the show-cause notice read — "It has been brought to the notice of the Government that on the 20th June, 1960, the Sub-Divisional Officer (Civil), Phagwara, convened a meeting of the newly elected members of the Municipal Committee, Phagwara, after the elections of the Committee, held on the 17th October, 1959, in order to administer oath of allegiance and to conduct the election of the President of the Committee to enable the new Committee to take over the charge. You also attended that meeting at the time of the election of the office of the President. You were supporter of the group headed by Shri Om Parkash Agnihotri, member of the Committee whose candidature was proposed for this office. During the course of the meeting when Shri Om Parkash Agnihotri became unruly and began to tear his clothes, beat his chest, and create a row, you managed to bring some outsiders in the Town Hall to cause disturbance at the meeting. Moreover you did not maintain decorum or care to obey the chair. By your aforesaid action you have flagrantly abused your position as a member of the Committee within the meaning of section 16(1) (e) of the Punjab Municipal Act, 1911. I am directed to call upon you to show cause under proviso to section 16(1)(e) *ibid.* You should not be removed from the membership of the Committee under section 16(1)(e) *ibid.* You should tender your explanation to the Deputy Commissioner, Kapurthala, with an advance copy to Government together with copy (copies) of document (s), if any, so as to reach them within a period of twenty one days from the date of despatch of this letter. In case no explanation is submitted by you within the stipulated period, it will be considered that you have no explanation to offer and Government may proceed ahead to notify your removal." An exactly similar show-cause notice was served on Om Parkash Agnihotri respondent. In reply Bhagat Ram Patangra respondent in his letter of December, 16, 1960, said — "As to what happened in the meeting on the 20th June, 1960, is the subject-matter of a

writ petition filed by the petitioner and five other Municipal Commissioners. * * * * *

* * * * *

It is in the fitness of things that when the matter is pending before the High Court of Punjab no action should be taken by the Government till the matter is decided by the High Court. As will be clear from the facts stated in paras Nos. 5 to 11 of the writ petition, the conduct of the petitioner (respondent Bhagat Ram Patanga) was not at all blameworthy. On the other hand a great injustice was done to the petitioner and other five Municipal Commissioners who have filed the writ, by the Sub-Divisional Officer (Civil), Phagwara, who adopted illegal methods for converting the majority of Shri Om Parkash Agnihotri (respondent) into minority. The behaviour of the Sub-Divisional Officer, Phagwara, was high-handed and absolutely unwarranted. The persons who came in the hall where the meeting was being held belong to the party of the opposite group of Shri Bhag Ram and they were made to sit in the room of the Executive Officer and had entered the meeting hall at the instance of the opposite party. They started manhandling Shri Om Parkash Agnihotri (respondent) and one of them tore his shirt. The allegation that the petitioner did not maintain the decorum and that he did not obey the chair is totally denied. In fact he did not flout the authority of the chair but unfortunately the attitude of the chair was partial and one-sided. The provisions of section 16(1) (e) of the Punjab Municipal Act are not at all attracted in the present case. What happened in the meeting has nothing to do with the petitioner's flagrantly abusing his position as a member of the Committee." The reply, dated December 17, 1960, of Om Parkash Agnihotri respondent was word for word copy of the explanation rendered by Bhagat Ram Patanga respondent. The incident in the meeting of the Committee took place on June 20, 1960. Bhagat Ram Patanga resondent filed his petition under Article 226 of the Constitution on January 5, 1963. It appears that Bhagat Ram Patanga and five other members of the Committee filed a petition against the election of Bhag Ram as President of the Phagwara Municipal Committee which was Civil Writ No. 1095 of 1960. That petition apears to have been filed before the show-cause notices were served on the respondents. It was, however, dismissed after the service of those notices on the respondents on the ground that it involved disputed matters of fact.

(2) After consideration of the explanation of Bhagat Ram Patanga respondent, the following order was made against him on September 11, 1962—"Whereas the Governor of Punjab after giving an opportunity to Shri Bhagat Ram Patanga, Member, Municipal Committee, Phagwara, of tendering an explanation under the proviso to section 16 of the Punjab Municipal Act, 1911, is satisfied that the said Shri Bhagat Ram Patanga has flagrantly abused his position as a member of the aforesaid Committee: Now, therefore, in exercise of the powers vested to him under clause (e) of sub-section (1) of section 16 *ibid,* the Governor of Punjab is pleased to remove the said Shri Bhagat Ram Patanga from the membership of the Municipal Committee, Phagwara, from the date of publication of this notification in the official gazette and is further pleased to disqualify the said Shri Bhagat Ram Patanga for a period of three years from the aforementioned date under sub-section (2) of section 16 *ibid.*" Exactly similar order was made on the same date with regard to Om Parkash Agnihotri. Each one of the two respondents filed a separate petition challenging the legality and validity of his removal from the membership of the Phagwara Municipal Committee and his disqualification for three years from contesting election to the same Committee. The appellant, the State of Punjab, resisted both the petitioners.

(3) The petitioners of the respondents were heard by Grover J., and by his order under appeal of September 18, 1963, the learned Judge accepted the petitions quashing the order of the appellant in each case. It was urged before the learned Judge that even if the allegations made against the respondents were to be accepted as correct, which were, however, emphatically denied and according to the counter version of the respondents it were the supporters of Bhag Ram who had created trouble, and although such a conduct would be most condemnable and reprehensible, it would nevertheless not be covered by the expression 'has flagrantly abused his position as a member of the Committee'. It is on this consideration alone on the basis of which the learned Judge proceeded to come to the conclusion that the conduct of each one of the respondents in the meeting of the Phagwara Municipal Committee called in connection with the election of its President and Vice-President was not 'flagrant abuse of his position as a member of the Committee' by him, as the learned Judge was of the opinion that it is only in the discharge of his duty as member

that if a person is guilty of flagrant abuse of his position that his case would be covered by section 16(1)(e) of the Act and that 'on the showing of the Government itself the orders made were plainly *ultra vires* the section even if it be assumed that they were passed *bona fide*, and that the grounds which led to the making of those orders were neither germane nor relevant to the provisions of section 16(1)(e) of the Act. Whatever misconduct was attributed to the petitioners (respondents) was not of such a nature as could have the remotest connection with the discharge of their duty as members of the Committee and although lack of decorum and dignity and introducing incitement and unruly element in a solemn meeting of the Committee was much to be deprecated, if true, but that could not justify the removal of the petitioners (respondents) on the ground that they had flagrantly abused their position as members of the Committee." The learned Judge sought support of his conclusion from the observations of Dulat J., in the Full Bench case of *Joginder Singh* v. *State of Punjab and another* (1), but, on facts, that was a case nothing parallel to the present cases, and the observations of Dulat J., in that case, concurred to by the other learned Judges, do not support this conclusion of the learned Judge. So, the learned Judge proceeded to quash the orders of the appellant State Government removing each one of the respondents from the membership of the Phagwara Municipal Committee and disqualifying him from being elected to the same for a period of three years. This was on September 18, 1963.

It is against the judgment and order of the learned Single Judge, that the appellant State has filed two appeals under clause 10 of the Letters Patent, No. 70 of 1964 against Bhagat Ram Patanga respondent, and No. 71 of 1964 against Om Parkash Agnihotri, respondent. These appeals first came for hearing before my learned brother Tuli J., and myself, when on August 7, 1968, we made reference of these two appeals to a larger Bench. The reasons for the same are reproduced as below.

(4) "In *Chander Parkash Angrish* v. *The State of Punjab* (2), what was alleged against the member of the municipal committee was that he had abused the chairman of the committee at a meeting of the same. The member was removed of from the membership of the

(1) I.L.R. (1963) 1 Punjab 588=1963 P.L.R. 267 (F.B.).
(2) C.W. 1243 of 1958 decided on 7th August, 1959.

committee under section 16(1)(e) of the Act with a disqualification of three years from contesting election to the committee on such misbehaviour and unruly conduct. He filed a petitioner under Article 226 of the Constitution to challenge the validity and legality of his removal and S. B. Capoor J., while dismissing the petitioner, observed—'Bye-law 117 of the Model Business Bye-laws provides that the chairman may name an unruly member for report to Government under section 16(1)(e) of the Act. The last paragraph of the proceedings of the meeting of the 6th of August, 1957 (copy annexure 'A') shows that the petitioner was not allowing the president to proceed with the meeting and he and others were too rowdy to allow respondent 2 to proceed with the next item on the agenda, so that he was obliged to adjourn the meeting. In these circumstances this Court would not in a writ petition under Article 226 of the Constitution of India as laid down in *Union of India* v. *T. R. Verma* (3), at page 884, enter into the disputed questions of fact which cannot satisfactorily be decided without taking evidence.' This case rather speaks against the opinion of Grover J., in his order under appeal. No other case has been brought to our notice during the hearing of the arguments on this matter except *Panna Lal* v. *The Secretary to Government, Haryana, Local Government Department* (4), in which Tek Chand J., considered the meaning of the word 'flagrantly' as used in section 16(1)(e) of the Act, and the learned Judge observed—" 'flagrantly' means glaringily, notoriously, scandalously. Literally flagrant means blazing, burning, flaming, flowing. In respect of an offence or a misconduct, it is used in the sense of glaring, notorious, scandalous, that is to say 'flaming into notice'. The framers of the statutory rules were drawing a distinction between a mere abuse of one's position and a 'flagrant abuse' to which the epithets of 'enormous', 'heinous' or 'glaringly wicked' could be applied. A position is said to be abused when it may be put to a bad use; or for a wrong purpose. In the sense of abusing one's position, and the term has meaning varying in shades from irregular and improper use not necessarily with a bad motive, to an intended or deliberate corrupt practice. The statutory rule as worded clearly suggests that abuse of one's position, unless flagrant, would not result in removal of a member of the committee. The word 'flagrantly' before 'abused his position' cannot be overlooked. It indicates a stress being laid upon

(3) A.I.R. 1957 S.C. 882.
(4) 1968 P.L.R. 244.

the nature of abuse of position which must in the circumstances be glaring, notorious, enormous, scandalous or wicked." If this observation of the learned Judge is taken into consideration, obviously the conduct of both the respondents would rather answer to their having flagrantly abused their position as members of the Committee. They had no business to be in the meeting of the Committee on the particular date, but as members of the same. They were participating in the meeting of the Municipal Committee in their capacity as its members. The Committee had met to elect its President and Vice-President. It was in the course of the proceedings to that effect that the respondents so conducted themselves as was not consistent with the conduct on their part as members of the Committee, in other words, they did not conduct themselves in the manner as their position as members of the Committee participating in the election of its President and Vice-President required. Their behaviour was to say the least scandalous. They could only indulge in that behaviour because of their having occupied the position of members of the Committee, otherwise they could not be in the meeting. So they abused their position as members of the Committee to behave in the manner in which they behave during the course of the proceedings of the Committee for election of its President and Vice-President. I should immediately have been disposed to the view that there is no adequate justification for reaching the conclusion that such behaviour was extraneous or unconnected with the position of the respondents as members of the Committee. I should have been disposed to take an entirely different view from that of the learned Single Judge and would not have interfered in their petitions against the orders of the appellant. However, if this was the only matter for consideration, it was sufficient for the disposal of the present appeals, but another matter has been raised by the learned counsel for the respondents, which matter cannot be disposed of by this Bench.

(5) The reason for that is that the point raised by the learned counsel for the respondents seems to find support from a Division Bench decision of this Court in *Sahela Ram* v. *The State of Punjab* (5), given by Grover and Pandit JJ., In that case the State Government had made an order under section 15 of the Punjab Agricultural Produce Markets Act, 1961, removing a certain member of a Market Committee from its membership, and the learned Judges struck down

(5) C.W. 2189 of 1963 decided on 26th May, 1967.

the order on the grounds that it was a quasi-judicial order, that such order must give reasons for the decision arrived at in it, and that no reasons had been recorded by the State Government in the order impugned in that case. Of course no reasons have been given by the appellant in the orders under consideration in these appeals. The learned Judges had proceeded to this approach following, firstly, *Sahela Ram* v. *The State of Punjab* (6), in which a Full Bench of this Court held that an order removing a member of a Market Committee under section 15 of the Punjab Agricultural Produce Markets Act, 1961,—which section is parallel to section 16 of the Act,—is a quasi-judicial order; and secondly, two decisions of their Lordships of the Supreme Court reported as *Madhya Pradesh Industries Ltd.* v. *Union of India* (7), and *Bhagat Raja* v. *Union of India* (8). But the last-mentioned two cases were under the Mines and Minerals (Regulation and Development) Act, 1957, and cases under that Act affect other persons as also properties of very considerable value, and then their Lordships observed that the rejection of a revision application by the Central Government under the provisions of that Act must give reasons because an appeal under Article 136 of the Constitution could come before the Supreme Court. It is obvious that where the power is appellate or revisional, then (a) the original authority must give reasons for its order to enable the appellate or the revisional authority to review such order according to law, and (b) the appellate and the revisional authority must give reasons for its order so that the parties before it may know on what basis its review of the order of the original authority has proceeded. So that it appears that, on facts, apparently the two Supreme Court cases do not seem to bear analogy to a case under section 16(1)(e) of the Punjab Municipal Act. There is no appeal provided from the order of the State Government under that provision. It has been urged by the learned counsel for the appellant that this is a new argument raised in these appeals under clause 10 of the Letters Patent for the first time by the respondents and they should not be permitted to do so, but it is pointed out that when the learned Judges of the Division Bench in *Sahela Ram* v. *The State of Punjab* (5), proceeded to interfere with the order of the State Government in that case, they also did so when the petitioner in that case had not taken that as a ground of attack against the impugned order in the petition itself. We are of the opinion that

(6) I.L.R. (1967) 1 Punjab and Haryana 260. (F.B.).
(7) A.I.R. 1966 S.C. 671.
(8) AI.R. 1967 S.C. 1606.

the question whether an order of the State Government under section 16 of the Punjab Municipal Act is or is not to be struck down because it does not give reasons for its making by the State Government, even though no other flaw can be pointed out in it, is rather important question which is not only likely to arise in cases under this particular Act, but may well arise under other statutes having similar provisions such as section 15 of the Punjab Agricultural Produce Markets Act, 1961, and that this question should, therefore, be disposed of by a larger Bench.

(6) It is because we are referring this case on the last mentioned question to a larger Bench, therefore, we leave the first question also for consideration of the same Bench, for it is also a matter of importance as to what exactly is the meaning and scope of clause (e) of subsection (1) of section 16 of the Act and whether misbehaviour or misconduct during the meeting of a Municipal Committee is something extraneous and irrelevant to the position of a member of it, or whether it is something which can be said to be abuse of a flagrant nature of his position as such member."

(7) The two appeals then came before a Bench consisting of my learned brothers R. S. Sarkaria and B. R. Tuli, JJ., and myself on February 20, 1969. In the reference order of that date we affirmed the conclusion reached by the Division Bench that 'the conduct of each one of the respondents amounts to flagrant abuse of his position as a member of the Phagwara Municipal Committee', and we said that there was no need of further reference of this part of the case to a still larger Bench. The Full Bench case reported as *Sahela Ram* v. *The State of Punjab* (5), was considered, and it was pointed out that it has been held in that case that an order under a similar provision as in the Punjab Agricultural Produce Markets Act, 1961, section 15, is a quasi-judicial order, and in the judgment, when discussing the nature of the order under that provision, support was sought from judgments of various learned Judges of this Court under section 16(1)(e) of the Act, in which judgments the learned Judges were disposed to the view that an order under the last-mentioned provision is of a quasi-judicial nature. Having referred to *Sahela Ram's case*, we proceeded to make reference of these two appeals to a larger Bench of five Judges on two considerations—(a) that 'not very order preceded by a quasi-judicial proceeding is necessarily a quasi-judicial order', and (b) that 'the statutory procedure in the proviso to section

16(1) of the Act having been literally and completely complied with, was there anything more left to be done by the appellant for taking action according to section 16(1)(e) of the Act?' In regard to the first consideration I had in mind *B. Johnson and Co. (Builders), Ltd.* v. *Minister of Health* (9), which seems to find support also from *Union of India* v. *H. C. Goel* (10). In regard to the second consideration I had in mind the proviso to sub-section (1) of section 16 of the Act, which provides complete procedure for the removal of a member of a municipality and gives the details of the nature of hearing to which he is entitled before an adverse order is made against him, and this remark in Halsbury's Laws of England, Third Edition, Volume II, page 61,—"The tribunal is not (unless so required by statute) obliged to set out in its adjudication the reasons which led it to its decision, but if it does state them the superior court will consider the question whether they are right in law, and if they are wrong in law, will quash the decision." In so far as section 16(1) of the Act is concerned, the statute does not require that the State Government while proceeding under that provision should give reasons for its decision. In these appeals three questions arise, (a) whether the decisions and orders of the appellant removing each one of the two respondents under section 16(1)(e) of the Act from the membership of the Phagwara Municipal Committee are quasi-judicial, (b) if the answer to the above question is in the affirmative, whether the appellant was required by law to state reasons for its decisions, and (c) if the answer to the second question is in the affirmative, whether the appellant has in fact set out any reason for its decisions against the respondents, removing them from the membership of the Phagwara Municipal Committee and imposing a disqualification for three years on each to contest an election to that municipality?

(8) The first two questions may be taken together. In *Sahela Ram's case*, the matter was reviewed at quite a length and the cases on the subject decided in this Court, and the relevant decisions of the Supreme Court to the date of the decision in that case, were considered, and it was held by the Full Bench that an order removing a member of a Market Committee, whose removal is in exactly the same manner as that of a member of a municipal committee under section 16(1)(e) of the Act, is a judicial or a quasi-judicial order as the authority removing such a member, in doing so, acts judicially.

(9) (1947) 2 All. E.R. 395.

(10) A.I.R. 1964 S.C. 364.

After that decision now only three cases decided by their Lordships of the Supreme Court need be considered. The first of those cases is *Bachhittar Singh* v. *State of Punjab* (11). In that case Bachhittar Singh, appellant had been dismissed from service after enquiry and the case was considered having regard to the provisions of Article 311(2) of the Constitution, and their Lordships at page 397 made this observation, relevant for the present purpose,—"Departmental proceedings taken against a Government servant are not divisible in the sense in which the High Court understands them to be. There is just one continuous proceeding though there are two stages in it. The first is coming to a conclusion on the evidence as to whether the charges alleged against the Government servant are established or not and the second is reached only if it is found that they are so established. That stage deals with the action to be taken against the Government servant concerned. The High Court accepts that the first stage is a judicial proceeding—and indeed it must be so because charges have to be framed, notice has to be given and the person concerned has to be given an opportunity of being heard. Even so far as the second stage is concerned Article 311(2) of the Constitution requires a notice to be given to the person concerned as also an opportunity of being heard. Therefore, this stage of the proceeding is no less judicial than the earlier one. Consequently any action decided to be taken against a Government servant found guilty of misconduct is a judicial order and as such it cannot be varied at the will of the authority who is empowered to impose the punishment. Indeed, the very object with which notice is required to be given on the question of punishment is to ensure that it will be such as would be justified upon the charges established and upon the other attendant circumstances of the case. It is thus wholly erroneous to characterise the taking of action against a person found guilty of any charge at a departmental enquiry as an administrative order." The second case is that of *Union of India* v. *H. C. Goel* (10), which was also a case of dismissal of a Government servant from service and at page 369 of the report their Lordships observed—"In dealing with writ petitions filed by public servants who have been dismissed, or otherwise dealt with so to attract Article 311(2), the High Court under Article 226 has jurisdiction to enquire whether the conclusion of the Government on which the impugned order of dismissal rests is not suported by any evidence at all. It is true that the order of dismissal which may be passed against a Government servant found

(11) A.I.R. 1963 S.C. 395.

guilty of misconduct, can be described as an administrative order; nevertheless, the proceedings held against such a public servant under the statutory rules to determine whether he is guilty of the charges framed against him are in the nature of quasi-judicial proceedings and there can be little doubt that a writ of certiorari, for instance, can be claimed by a public servant if he is able to satisfy the High Court that the ultimate conclusion of the Government in the said proceedings, which is the basis of his dismissal is based on no evidence. In fact, in fairness to the learned Attorney-General, we ought to add that he did not seriously dispute this position in law." The last case is *Bhagat Raja* v. *Union of India* (8), which though a case under the Mines and Minerals (Regulation and Development) Act, 1957, but these observations of their Lordships at page 1613-1614, made after a full review of the previous decisions of the Supreme Court on the subject, are relevant for the present purpose—"Take the case where the Central Government sets aside the order of the State Government without giving any reasons as in *Harinagar Sugar Mills' case* (11). The party who loses before the Central Government cannot know why he had lost it and would be in great difficulty in pressing his appeal to the Supreme Court and this Court would have to do the best it could in circumstances which are not conducive to the proper disposal of the appeal. Equally, in a case where the Central Government merely affirms the order of the State Government, it should make it clear in the order itself as to why it is affirming the same. It is not suggested that the Central Government should write out a judgment as Courts of law are wont to do. But we find no merit in the contention that an authority which is called upon to determine and adjudicate upon the rights of parties subject only to a right of appeal to this Court should not be expected to give an outline of the process of reasoning by which they find themselves in agreement with the decision of the State Government." The conclusions that are available from the observations of their Lordships in these three cases may, for the purpose of the present appeals, be stated to be (a) that the order of removal of a municipal commissioner under section 16(1)(e) of the Act is a quasi-judicial order proceeding as it does on quasi-judicial proceedings of the nature as provided in the proviso to that provision, and (b) that the State Government while removing a municipal commissioner under section 16(1) may be expected to give an outline of the process of reasoning by which they reached their decision. No doubt *Bhagat Raja's case* was a case of a revision to the

(12) AI.R. 1961 S.C. 1669.

Central Government and no appeal or revision from the State Government's order under section 16(1) of the Act, removing a municipal commissioner and imposing disqualification on him to contest election to a Municipality for a stated period, lies at all, but the broad approach by their Lordships to such questions has to be applied to cases like these as well. So the answer to questions (a) and (b) above has to be in the affirmative.

(9) In so far as the last question is concerned, the incident took place on June 20, 1960, when the meeting of the Phagwara Municipality was conducted by the Sub-Divisional Officer (Civil) for the purpose of electing its President and Vice-President. The versions of both sides, the appellant and the respondents, have already been reproduced above. The learned counsel for the appellant has produced before us the executive file relating to the cases with regard to the two respondents. The Sub-Divisional Officer (Civil) of Phagwara apparently reported the incident to his Deputy Commissioner at Kapurthala, who in his turn apprised the Commissioner of Jullundur Division of the same. The letter of the Commissioner of Jullundur Division is dated September 21, 1960, addressed to the Secretary to Punjab, Government in the Local Government Department. He enclosed with his letter copy of the memorandum on the incident by the Deputy Commissioner of Kapurthala and then proceeded to say—"It appears that these members (respondents) were in the wrong and misbehaved in the course of the meeting held on the 20th June, 1960, From their conduct, there is a possibility of the repetition of such misbehaviour on their part when meetings of the Municipal Committee, Phagwara, are convened by the President elected and the interests of the Committee are likely to suffer." He then supported the recommendation of the Deputy Commissioner for removal of both the respondents from membership of the Phagwara Municipality. The respondents had filed a writ petition seeking that the proceedings of the meeting of the Phagwara Municipal Committee of June 20, 1960, be quashed and that petition was dismissed by Mahajan, J., on November 23, 1961. The executive file shows that the Government waited for the decision of this Court in that petition. The matter was then taken up by the Minister-in-charge. Om Parkash Agnihotri respondent had also been elected a member of the Punjab Legislative Assembly and the note of the Minister-in-charge of March 17, 1962, shows that he wanted to discuss this matter with that respondent and said in th note that the respondent, Om Parkash Agnihotri be informed to see him on March 26, or 27, 1962. The file further shows that a

letter, dated March 22 and 23, 1962, was issued to Om Parkash Agnihotri, respondent, by the Secretary to the Home Minister asking him to see the Minister-in-charge on April 3, 1962. The file does not show that Om Parkash Agnihotri, respondent, ever met the Minister. The Minister then noted that he wanted to see the judgment of the High Court and further wanted to know what would be the effect of an order of removal with regard to Om Parkash Agnihotri, respondent, and imposition of disqualification on him to contest election to the Municipal Committee. On his status as member of the Punjab Legislative Assembly. The judgment of the High Court was then procured and shown to the Minister. Office then noted that the status of Om Parkash Agnihotri, respondent, as member of the Legislative Assembly would not be affected by action according to section 16(1) of the Act against him, but suggested that the advice of the Legal Remembrancer be obtained. The Assistant Legal Remembrancer endorsed the opinion in the office-note that the removal of Om Parkash Agnihotri, respondent, from the membership of the Phagwara Municipality would not entail any disqualification for his continuing as member of the Punjab Legislative Assembly. This was on June 12, 1962. On that on June 19, 1962, the office put up a detailed note. In that note the incident of June 20, 1960, as narrated by the Sub-Divisional Officer (Civil), was given in sufficient detail. It was then said that the respondents denied the incident. Reference was also made to the opinion of the Assistant Legal Remembrancer and to the judgment of this Court and the last paragraph of the note read—"This case is, therefore, submitted to officers for obtaining orders of Home Minister whether Sarvshri Om Parkash Agnihotri and Bhagat Ram Patanga, may be removed from the membership of Municipal Committee, Phagwara and further disqualified for elections for a period of three years." On this note, on July 12, 1962, the Home Minister made this note—"Chief Minister may like to see and guide. It affects on M.L.A." The Chief Minister on August 12, 1962, made this note—"Action should be taken as recommended by the Deputy Commissioner and the Commissioner. An M.L.A., who is a chosen representative of the people is expected to behave in a better way." The Home Minister then on September 6, 1962, approved the office suggestion in its note of June 19, 1962, the operative part of which has already been reproduced above. One thing is clear from looking into this executive file that both the Home Minister, the Minister-in-charge, and the Chief Minister, applied their minds to the case against both the respondents. The Home Minister first

looked into the judgment of this Court, then sought the advice of the Legal Remembrancer, and thereafter the guidance of the Chief Minister. The Chief Minister could not have made the note that he actually made unless he had waded through the file and given careful attention to it. So the fact of the matter is that both the Ministers applied their minds to the case against the two respondents. The argument on the side of the respondents that the State Government did not apply its mind while making the orders against the respondents but merely proceeded on the recommendations of the Deputy Commissioner and the Commissioner is thus not true in substance. The office-note of June 19, 1962, which was accepted in the end by the Home Minister, clearly shows that the version of the incident given by the Sub-Divisional Officer (Civil) of Phagwara was accepted as true and not the denial entered by the respondents or a different version of the incident given by the rspondents, in other words, their version was not believed. In these matters the executive files do not contain judgments in such cases in the manner in which the same are prepared and written in Courts of law, but the executive file in the present cases leaves not the least doubt, as in the words of their Lordships in *Bhagat Raja's case,* that an outline of the process of reasoning by which the Home Minister reached his decisions with regard to the respondents is to be found in this executive file. Here is a case in which the incident is not denied by anybody, but two versions of it were before the Home Minister. One was the version as coming from a responsible officer, the Sub-Divisional Officer (Civil) Phagwara, who presided over the meeting of the Phagwara Municipal Committee of June 20, 1960, and the other was the version of the incident rendered by the respondents in their explanations to the show-cause notices served on them pursuant to the proviso to section 16(1) of the Act. It was only a question of believing or disbelieving one or the other version and no more. There appears the broad outline of the manner in which the State Government in the cases of the respondents reached its decisions. So here is a case in which in fact the reasoning on the part of the appellant, the State Government, in these cases appears in the executive file according to the dictum of their Lordships in *Bhagat Raja's case,* when the appellant took decisions with regard to the two respondents for their removal as also for imposing disqualification on them. Apparently, on the facts of these cases, the answer to the third question is in the affirmative. However, the learned counsel for the respondents has referred to *Sahela Ram* v. *The State of Punjab* (5), which, after the decision

of the Full Bench already referred to above, came for disposal before a Division Bench consisting of Grover and Pandit JJ., on May 26, 1967. In that case there were certain charges of misconduct against Sahela Ram, while he was chairman of the Market Committee, and the learned Judges proceeding on the final notification removing him from the membership of the Market Committee came to the conclusion that the final notification contained no reasons for the action taken against Sahela Ram by the State Government. But the judgment of the learned Judges delivered on May 26, 1967, does not show that the learned Judges were shown the executive file on which decision was taken by the State Government with regard to the action that was taken against him. The learned Judges merely proceeded on the wording of the notification removing Sahela Ram from the membership of the Market Committee of Hissar. So that the present are somewhat different cases, in which cases I should have been disposed to the opinion that the final notification in regard to each respondent, when read along with the reasons given for his removal and imposition of disqualification on him and the explanation rendered by him, provides sufficient reason for the State Government rejecting the version of each respondent, accepting that of the Sub-Divisional Officer (Civil) of Phagwara. So the judgment of the Division Bench in *Sahela Ram's case* is of no assistance to the respondents in the present appeals.

(10) The three questions, as posed above, having been answered in the manner just stated and the cases being for final disposal before this Bench, the conclusion is then clear that these appeals of the appellant succeed. Accordingly, the two appeals are accepted, the order of the learned Single Judge is reversed, and the writ petitions of the respondents are dismissed with costs, counsel's fee being Rs. 100 in each appeal.

K.S.K.

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