

Prem Singh v. The Union Territory of Chandigarh, etc.
(S. P. Goyal, J.)

The whole purpose of sending the memorandum specimen impression of seal which was used to seal the packet is that the public analyst may be able to compare the memorandum and the impression of seal with each other, it is not that these are to be sent in separate bundles and separately by post or by messenger.

(13) Before we part with the judgment, we must observe that the food adulteration has reached its saturation point. Hardly anything pure is available in the market. Even medicines are adulterated. It is the most heinous crime against the society and persons like the respondent are playing havoc with the human lives by supplying adulterated stuff to the consumers. In spite of the stringent measures of the Act, adulteration has not in any manner decreased. It is high time that the State may think of adopting some other measures to curb this crime. One such measure can be that there may be a whole time department under the charge of a person with missionary zeal at the State level with its branches at the district and tehsil headquarters to deal with such social offences.

(14) No other point is urged.

(15) For the reasons recorded above, this appeal is allowed and the order of the learned Additional Sessions Judge, Amritsar acquitting the respondent is set aside. The respondent is convicted and sentenced till rising of the Court and to a fine of Rs 3,000 or in default to undergo rigorous imprisonment for a period of one year.

H.S.B.

Before S. P. Goyal, J.

PREM SINGH,—Petitioner.

versus

THE UNION TERRITORY OF CHANDIGARH, ETC.,—Respondents.

Civil Writ Petition 1704 of 1977.

February 10, 1978.

Punjab Municipal Act (III of 1911)—Sections 242 and 244—
Reconstitution of a Notified Area Committee by dropping some
members—Whether amounts to removal of such members—Show

cause notice to such members—Whether necessary—Government—Whether bound to give reasons for reconstitution.

Held, that if a Notified Area Committee has been reconstituted and even though as a consequence thereof some members have ceased to be members of the said Committee, it cannot be said that the order of reconstitution amounts to an order of removal in respect of any member from the membership of the Committee. The powers of the Government under Section 244 of the Punjab Municipal Act, 1911 to cancel or modify any order passed thereunder is absolute and the Government has the absolute right to cancel or modify any notification constituting a Notified Area Committee without assigning any reason. There is no requirement under the said section for the issuance of any notice to any member of the Committee or to give reasons for supersession of the existing committee and the constitution of a fresh committee. The power under section 244 of the Act is therefore absolute and the Government is not required to give any reasons before superseding a Committee and reconstituting it.

(Para 3)

Amended Writ Petition under Articles 226/227 of the Constitution of India praying that—

- (i) *a writ in the nature of certiorari quashing the notification annexure P/3, dated the 4th June, 1977, be issued.*
- (ii) *a writ in the nature of Mandamus directing the respondents that the petitioner may be permitted to participate as Member of the Notified Area Committee Mani Majra till the final disposal of the Writ Petition, be issued.*
- (iii) *any other Writ, Order or Direction as this Hon'ble Court may deem fit under the circumstances of the case, be also issued.*
- (iv) *advance notices to the respondents as per High Court Rules and Orders be dispensed with as otherwise mischief would be done in the meantime, and the petitioner will suffer irreparable loss.*
- (v) *certified copies of annexures P/1, P/2 and P/3 may be dispensed with as the same are not readily available.*

It is further prayed that during the pendency of the Writ Petition, operation of annexure P/3 may kindly be stayed.

H. S. Toor, Advocate, for the Petitioner.

R. K. Chhibhar Advocate (Government Pleader, Union Territory, Chandigarh).

Prem Singh v. The Union Territory of Chandigarh, etc.
(S. P. Goyal, J.)

JUDGMENT

S. P. Goyal, J.—(1) The petitioner Prem Singh, a resident of Mani Majra (Union Territory of Chandigarh), was elected Sarpanch of Gram Panchayat of the village on August 19, 1973. The whole of the area of Gram Sabha Mani Majra was, however, declared a notified area under section 241 of the Punjab Municipal Act, on April 12, 1976, with the result that the said Sabha and Gram Panchayat ceased to exist from the said date. For the administration of the notified area a Committee consisting of eight members was constituted,—*vide* notification Annexure P-1, dated April 12, 1976, issued under clause (d) of sub-section (1) of Section 242 of the Punjab Municipal Act (hereinafter referred to as 'the Act') and the petitioner was appointed as one of its members. The term of the office of the President and Members of the Notified Area Committee, as entered in the said notification, was three years. The notification constituting the Committee was later on superseded and a new Committee consisting of nine members was constituted,—*vide* notification dated June 4, 1977, Annexure 'P-3', which did not include the name of the petitioner. The petitioner, therefore, filed the present petition under Articles 226 and 227 of the Constitution of India for quashing the impugned notification Annexure 'P-3', mainly on the ground that the impugned notification has the effect of removing him from the membership of the Notified Area Committee; that the notification has been issued *mala fide* because of his opposition to the official resolution Annexure 'P-2', dated May 24, 1977, that the notification was bad as it contained no reason for the removal of the petitioner from the membership of the Committee and that the petitioner could not be removed from the said office without affording him an opportunity to show cause against the removal.

(2) The petition has been opposed by the respondents, who denied the allegation of *mala fide* and averred that the petitioner had no right to challenge the impugned notification Annexure 'P-3' and that the Government has the absolute right to cancel or modify any notification under Section 241 or order under Section 242 of the Act at any time.

(3) Apart from the challenge on the ground of *mala fide*, the remaining three grounds are based on the assumption that the impugned order is in fact an order of removal of the petitioner from the

office rather than an order of reconstitution of the Notified Area Committee. The assumption, however, is without any basis. By the impugned notification the committee has been reconstituted and even though as a consequence thereof the petitioner has ceased to be a member of the said Committee, but for that reason, it cannot be said that the impugned notification amounts to an order of removal of the petitioner from the membership of the Committee. The power of the Government under section 244 of the Act, to cancel or modify any order under section 242 of the Act, or the vires of section 244 have not been challenged in this petition and the Government by virtue of the provisions of the said section has the absolute right to cancel or modify the notification constituting a Notified Area Committee without assigning any reason. There is no requirement under the said Section for the issuance of any notice to any member of the Committee or to give reasons for modifying the notification so as to supersede the existing Committee and to constitute a fresh Committee. The decision of this Court given in *Municipal Committee and others v. State of Punjab and others* (1), which is based on the provisions of Section 238(1) of the Act would obviously have no application to the present case, because under that Section before superseding the Municipal Committee, the State Government has to form an opinion that the Committee is not competent to perform or persistently makes defaults in the performance of its duties imposed on it by or under the Act or any other law or exceeds or abuses its power. The power of the State Government is, thus, controlled by the provisions of the said Section itself and is not an absolute power to supersede the Municipal Committee. The power under Section 244 of the Act being absolute and its vires having not been challenged, none of the grounds urged by the petitioner has any legs to stand.

(4) As regards the *mala fide* nature of the impugned notification, the allegation made in the petition is that the same has been issued to secure the removal of the petitioner from the membership of the Committee, because of his opposition to the resolution Annexure 'P-2', dated May 24, 1977. The allegation of the petitioner is, however, wholly misconceived. The decision to reconstitute the Committee had been finalised in the month of April, 1977 long before the passing of the said resolution. Moreover, none of the members of the Committee, including the official members, were at any time consulted in the matter or had any say in the matter. From the perusal of

(1) 1966 Cur. L.J. 290.

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the record it is evident that the move to constitute the Committee was initiated at the instance of the Chief Commissioner, Union Territory, Chandigarh when the matter was referred to him for the removal of Shrimati Shakuntla Devi from the membership of the Committee as she had ceased to be a resident in the Notified Area. Though the petitioner has been accused of certain acts of omission and commission as a member of the Committee, which were derogatory to the interest of the Committee, yet none of them formed the reason for the reconstitution of the Notified Area Committee. Consequently the allegation of the petitioner that the impugned notification has been issued *mala fide* because of the alleged misconduct of the petitioner is without any substance and has to be ruled out.

In view of the above discussion, I find no merit in this petition and the same is hereby dismissed but without any order as to costs.

H.S.B.

Before S. S. Sandhawalia, J.

DELHI AUTOMOBILES PRIVATE LTD.,—Petitioner.

versus

MARUTI LIMITED—Respondent.

Company Petition No. 126 of 1977.

March 6, 1978.

Companies Act (1 of 1956)—Sections 433(f) and 439—Main object of the Company failed and business paralysed—Substratum of the Company virtually disappeared—Existing assets insufficient to meet its liabilities—Winding up of the Company—Whether just and equitable.

Held, that where the main object of the Company was the manufacture of motor cars, automobiles and other mechanical vehicles and the Company was floated for this purpose but has not been in a position to manufacture small passenger cars nor has there been any commercial manufacture or sale of cars at any stage, it is evident that the very object for which the Company was incorporated has failed and therefore the substratum of the Company virtually disappeared. Moreover, the Company is unable