CIVIL MISCELLANEOUS

Before S. K. Kapur, J.

C. DEMODAR REDDY,—*Petitioner*

versus

UNION OF INDIA AND ANOTHER,—*Respondents*

C.W. 725-D of 1963.

1965

September, 3rd

States Reorganisation Act (XXXVII of 1956)—Ss. 119, 120 and 121—Purpose of—All-India Services (Discipline and Appeal) Rules, 1955—Rule 4(b)—Enquiry against a member of Indian Administrative Service in respect of acts of omission and commission committed by him while in service in the erstwhile Hyderabad State—Whether can be initiated by Andhra Pradesh Government after merger—Constitution of India (1950)—Art. 226—High Court—When competent to interfere with the findings of an Inquiry Officer—Interpretation of Statutes—Legislative intent and purpose—How to be gathered—Legislative purpose and legislative intent—Distinction between the two pointed out.

Held, that the purpose of sections 119 to 121 of the States Re-organisation Act, 1956, in relation to rule 4(b) of the All-India Services (Discipline and Appeal) Rules, 1955, was to provide remedies in the matter of enquiry against the delinquents. The Andhra Pradesh Government, as the principle successor State to Hyderabad or as one of the successor States is competent after the merger to initiate enquiry against a member of the Indian Administrative Service in respect of the acts of omission and commission committed by him while in the service of that State.

Held, that the High Court will interfere with the findings of an Inquiry Officer only if the conclusions are found to be—

(a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(b) contrary to constitutional right, power, privilege or immunity;

(c) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(d) without observance of procedure required by law;

(e) unsupported by any evidence.

Held, that the Courts are very often driven to ascertain the legislative purpose for ascertaining the meaning and scope of a particular enactment. Such enquiry is in reality directed to discovering the legislative intent. The legislative purpose is the reason why the particular enactment was passed. The reason may be to remedy some existing evil, or to correct some defect in existing law or to create a new right or a new remedy. Consequently in seeking to ascertain the legislative purpose, the Courts do resort, among other things, to the circumstances existing at the time of the law's enactment, to the necessity for the

law and the evil intended to be cured by it, to the intended remedy, to the law prior to the new enactment and to the consequences of the construction urged. These various indications of the legislative purpose do not directly reveal the legislative intent or meaning but only the reason for such enactment. Nevertheless the legislative purpose may be a step in ascertaining the legislative intent or meaning, since the reason for enactment of a law must necessarily shed a considerable light on both, for if the law-makers sought to effect a certain purpose, naturally such purpose should reveal the meaning of the language used. When construing a statute, therefore, the reasons for its enactment are not to be ignored. A statute should be construed with reference to its intended scope and purpose. The Courts should seek to carry out this purpose rather than to defeat it. Of course, when there is no ambiguity in the language, the statute must be accorded the expressed meaning and no deviation is called for. Even when a statute is ambiguous, considerable caution should be exercised by the Courts lest its opinion should be substituted for the intent of the legislature. The distinction between legislative purpose and legislative intent should always be kept in mind. The legislative purpose is instrumental in determining what the statute's construction shall be by indicating the meaning of its language and the meaning thus reached reveals what was intended by the law-makers.

Petition under Article 226 of the Constitution of India praying that this Hon'ble Court may be pleased to issue a Writ in the nature of Certiorari or any other Writ or order calling for the records relating to F. No. 7/14/60-VIG, dated 21st November, 1962 and the order, dated 10th July, 1963 and quash the same and pass such further order or other orders as it may deem fit and proper.

D. NARSA RAJU, K. R. CHAUDHRY AND RAJENDRA CHAUDHARY, ADVOCATES, for the Petitioner.

S. N. SHANKER AND R. K. VERMA, ADVOCATES, for the Respondents.

ORDER

Kapur, J.

KAPUR, J.—The facts of this case admit of a statement in a moderate compass. In 1931, the petitioner joined service as Assistant Accountant-General of Hyderabad and he became Secretary, Finance Department, in 1949. He was appointed to the Indian Administrative Service in 1953, when he was serving as Finance Secretary. In 1954 he was granted an *ad hoc* scale of Rs. 2,050—50—2,250. From 1950 to 31st October, 1956, Hyderabad was a Part B State and Andhra Pradesh came into being from 1st November, 1956. Talangana area was added to Andhra State. One part of Hyderabad was added to Mysore and the other to Maharashtra. States Reorganisation Act, 1956, came into

C. Demodar Reddy
v.
Union of India and another

Kapur, J.

force from 1st November, 1956, and the old Indian Service cadre of Part B States was abolished. Transfer of territory from Hyderabad to Andhra and alteration of the name of the State of Andhra to the State of Andhra Pradesh was effected by section 3 of the States Reorganisation Act. By Sub-section (4) of Section 114 of the Said Act, it was provided that cadres of each of the said services for the existing States of Bombay, Madhya Pradesh, Punjab and Vindhya Pradesh and for the existing Part B States shall, as from the appointed day, cease to exist and the members of each of the said services borne on those cadres shall be allocated to the State cadres of the same service for the new States or for the other existing States in such manner and with effect from such date or dates as the Central Government may by order specify. Notification allocating the petitioner to the cadre of Andhra Pradesh was issued on 1st November, 1956. On 19th January, 1960, the petitioner's services were lent to Singarani Collieries Company Limited as Managing Director. On 20th January, 1961, a memorandum was served by the State of Andhra Pradesh levelling three charges against him relating to acts and omissions during the period from August, 1955 to 1st November, 1956. On 22nd March, 1961, the petitioner filed an explanation and raised a legal objection that the Andhra Pradesh State was not competent under rule 4 of the All-India Services (Discipline and Appeal) Rules, 1955, to initiate, institute or conduct any disciplinary proceedings. On 12th April, 1961, the petitioner filed an additional written statement dealing with the merits of the charges and by G.O. No. 652, dated 9th May, 1961, Mr. Raghavan, a retired Indian Civil Servant, was appointed as Inquiry Officer. The inquiry was commenced on 4th July, 1961, and concluded on 17th September, 1961. The legal objection regarding the competency of Andhra Pradesh to initiate the proceedings was referred to the Central Government by the State and the Central Government expressed the opinion that the State of Andhra Pradesh was competent to frame charges and to institute disciplinary proceedings against the petitioner in respect of the matters covered by the present inquiry. The report was made by the Inquiry Officer on 30th September, 1961, holding the petitioner guilty under charges 1 and 2 and not guilty under charge 3. Broadly, the charges were for violiation of rule 3 of All-India Service Conduct Rules, 1954, which requires every member of the service to maintain absolute integrity and devotion to duty. The Union

of India issued a show-cause notice to the petitioner on 2nd April, 1962, calling upon him to show cause why he should not be dismised. The petitioner furnished an explanation in reply to the show-cause notice. The petitioner was dismissed on 21st November, 1962. Two points have been urged by Mr. Narsa Raju, in support of the petition: (1) The entire proceedings are void inasmuch as the Government of Andhra Pradesh was not competent and had no jurisdiction to initiate and conduct proceedings: and (2) Report of findings of the Inquiry Officer is vitiated because (a) the findings are based on no evidence, and (b) they are perverse inasmuch as no judicial mind could come to the conclusion on the materials on the record at which the Inquiry Officer arrived. Regarding the first point the argument of Mr. Narsa Raju, is based on the construction of rule 4 of All-India Services (Discipline and Appeal) Rules, 1955 and sections 119 to 121 of the States Reorganisation Act, 1956. Caluses (a) and (b) of rule 4 are as under:—

> "(a) If such act or omission was committed before his appointment to the service, the Government under whom he is for the time being serving shall alone be competent to institute disciplinary proceedings against him and, subject to the provisions of sub-rule (2), to impose on him such penalty specified in rule 3 as it thinks fit.
>
> (b) If such act or omission was committed after his appointment to the service, the Government under whom such member was serving at the time of the commission of such act or omission shall alone be competent to institute disciplinary proeedings against him and subject to the provisions of sub-rule (2), to impose on him such penalty specified in rule 3 as it thinks fit and the Government under whom he is serving at the time of the institution of such proceedings shall be bound to render all reasonable facilities to the Government instituting and conducting such proceedings."

Mr. Narsa Raju submits that clause (a) refers to such Government servants as were in the Government service at the time of omission or commission of the alleged act, but had not become members of the Service which according

C. Demodar Reddy
v.
Union of India and another

Kapur, J.

to clause (c) of rule 2 means the Indian Administrative Service or the Indian Police Service, as the case may be. Clause (b), according to him, refers to an omission or commission by a member of the Indian Administrative Service. He says that under clause (b) of rule 4, which is applicable to this case, the Government under whom such member was serving at the time of commission or omission was alone competent to institute disciplinary proceedings against him. Since he was serving under the Government of Part B State of Hyderabad at the relevant time and that State having ceased to exist no other State could initiate proceedings. He emphasises that the words "shall alone be competent—" and "the Government under whom he is serving at the time of the institution of such proceedings shall be bound to render all reasonable facilities to the Government instituting and conducting such proceedings" conclusively show that Hyderabad State, alone could take proceedings for the alleged omissions and commissions. He further points out that section 119 of the States Reorganisation Act, 1956, provides that readjustment in the territories made by part II of the said Act, shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies and territorial references in any such law to an existing State shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day. The only effect of this provision is that the said rule 4(b) continues to apply in the territories which merged in Andhra Pradesh, Mysore and Maharashtra. But since rule 4(b) in terms requires only Hyderabad State to initiate proceedings the reserving provision of section 119 cannot have the effect of conferring jurisdiction on Andhra Pradesh State to initiate proceedings. He further points out that though under section 120 of the States Reorganisation Act, the appropriate Government could within one year from the appointed day make adaptations and modifications of the law, whether by way of repeal or amendment as may be necessary or expedient, no such adaptation or modification was made with respect to rule 4(b) under the said provision. Mr. Narsa Raju then draws my attention to section 121 of the States Reorganisation Act and submits that even though the authority required or empowered to enforce rule 4(b) was for the purpose of facilitating its application in relation to

Andhra Pradesh, competent to construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before it, it could not in exercise of power under section 121 redraft or re-write the said rule. He says that to assume jurisdiction by virtue of section 121 to initiate proceedings the authority concerned will have to recast the whole rule and particularly delete the word "alone" and also a good part of rule 4(b) requiring the other Government to render all facilities to the Government instituting or conducting the proceedings. Such rewriting would not, according to Mr. Narsa Raju, be covered by the expression "construe the law in such manner —— as may be necessary or proper in regard to the matter before the———authority" in section 121. It would be convenient here to set out the provisions of sections 119 to 121 which are as under:—

"119. *Territorial extent of Laws.*—The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to an existing State shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

120. *Power to Adapt Laws.*—For the purpose of facilitating the application of any law in relation to any of the States formed or territorially altered by the provisions of Part II, the appropriate Government may, before the expiration of one year from the appointed day, by order make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression "appropriate Government" means—

(a) as respects any law relating to a matter enumerated in the Union List, the Central Government; and

C. Demodar Reddy
—v.
Union of India and another

Kapur, J.

(b) in its application to Part A State, the State Government, and

(ii) in its application to Part C State, the Central Government.

121. *Power to Construe Laws.*—Notwithstanding that no provision or insufficint provision has been made under section 120 for the adaptation of a law made before the appointed day, any Court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to any State formed or territorially altered by the provisions of Part II, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the Court, tribunal or authority."

Mr. Shankar, on the other hand, refers to rule 22 of the said Rules and says that the Central Government has already decided that the State of Andhra Pradesh was competent to take proceedings and that decision, according to rule 22, is final. In the alternative he submits that the object of the Legislature in enacting sections 119 to 121 *vis-a-vis* disciplinary proceedings was that no guilty person should go unpunished. That, according to him, could be the only object of extending rule 4(b) by section 119. I must confess that the matter is not free from difficulty. So far as rule 22 is concerned, there is no force in Mr. Shankar's argument. There is no controversy between the parties as to the interpretation of rule 4(b). The controversy revolves round the construction to be placed on the provisions of sections 119 to 121 of the States Reorganisation Act. No finality could, in the circumstances, be attached to the decision of the Central Government. Moreover, the powers of this Court under Article 226 of the Constitution to construe the rules and determine the rights of the parties flowing therefrom cannot be affected or cut down by Rule 22.

Now, I come to the main question as to the interpretation of sections 119 to 121 of the States Reorganisation Act. It is clear from the said provisions that the intention of the Legislature was to keep intact the laws that prevailed in the merged territories. The effect of setion 119

would be that the law that prevailed in that part of Hyderabad which merged with Andhra Pradesh would continue to apply in that part of the merged territory notwithstanding the fact that a different law in that behalf be in force in the rest of Andhra Pradesh. To give one example, if sale of certain commodity was subject to sales-tax in Hyderabad, but exempt in Andhra Pradesh the sales-tax would continue to be leviable on sales effected in the merged territories till, of course, a different provision is made by the Legislature or other competent authority. The meaning to be given to section 119, therefore, is that the Legislature applied its mind to every law which was in force in Hyderabad and said that that law shall continue to apply to that territory notwithstanding the merger. It follows that the Legislature also applied its mind to rule 4(b) and provided by section 119 that rule 4(b) will continue to apply in the territory which merged in Andhra Pradesh. It was suggested by Mr. Narsa Raju that section 119 had no applicability so far as rule 4(b) was concerned because rule 4(b) was already in force in whole of India and was, therefore, not applied to the merged territory by virtue of section 119. I do not find myself in argreement with this submission. Section 119 was applicable to all laws in force in Hyderabad even if they were applicable in the rest of India. Consequently rule 4(b) would apply to the merged territory by virtue of section 119 and not because it was applicable to whole of India. To take the case at hand, if section 119 were not there Mr. Narsa Raju could have legitimately said that rule 4(b) requires a particular State to initiate proceedings and since it has not been extended to the new State no action can be taken by the new State. Section 119, therefore, particularly when read with sections 120 and 121, shows that the intention of the Legislature was to extend all those laws *mutatis mutandis* to the territories which went to a new State as a result of reorganisation. In any case, even if it be held that rule 4(b) continued to apply to the merged territory because it was applicable to whole of India, it cannot be lost sight of that section 119 at least preserved the applicability of those laws and restated that they shall continue to apply in the merged territory. The intention of the Legislature thus clearly appears to be that they after applying their mind to all such laws said "whether they be applicable to whole of India or only the merged territroies, they shall continue

C. Demodar Reddy
v.
Union of India and another

Kapur, J.

to apply." The Courts are very often driven to ascertain the legislative purpose for ascertaining the meaning and scope of a particular enactment. Such enquiry is in reality directed to discovering the legislative intent. The legislative purpose is the reason why the particular enactment was passed. The reason may be to remedy some existing evil, or to correct some defect in existing law or to create a new right or a new remedy. Consequently in seeking to ascertain the legislative purpose, the Courts do resort, among other things, to the circumstances existing at the time of the law's enactment, to the necessity for the law and the evil intended to be cured by it, to the intended remedy, to the law prior to the new enactment and to the consequences of the construction urged. These various indications of the legislative purpose do not directly reveal the legislative intent or meaning, but only the reason for such enactment. Nevertheless the legislative purpose may be a step in ascertaining the legislative intent or meaning, since the reason for enactment of a law must necessarily shed a considerable light on both, for if the law-makers sought to effect a certain purpose, naturally such purpose should reveal the meaning of the language used. When construing a statute, therefore, the reasons for its enactment are not to be ignored. A statute should be construed with reference to its intended scope and purpose. The Courts should seek to carry out this purpose rather than to defeat it. Of course, when there is no ambiguity in the language, the statute must be accorded the expressed meaning and no deviation should be called for. Even when a statute is ambiguous, considerable caution should be exercised by the Courts lest its opinion should be substituted for the intent of the legislature. The distinction between legislative purpose and legislative intent should always be kept in mind. The legislative purpose is instrumental in determining that the statute's construction shall be by indicating the meaning of its language and the meaning thus reached reveals what was intended by the law-makers. In the light of the above what emerges clearly is that the purpose of sections 119 to 121 in relation to rule 4(b) was to provide remedies in the matter of enquires against the delinquents and that acceptance of the petitioner's contention would, without doubt, defeat the purpose of the Legislature. Having ascertained the purpose of the law-makers and deduced their intention threfrom the statue has to be interpreted

having regard to the same. If Mr. Narsa Raju's arguments were accepted, it would mean that although the Legislature applied rule 4(b) to the merged territories, they did so knowing full well that it is not going to have any effect. That intention can never be attributed to the Legislature. That then takes me to section 121 of the said Act. The authority concerned with the enforcement of said rule 4(b) must, therefore, construe it having regard to the aforementioned intention of the Legislature. A difficulty did present itself to my mind that if the State of Andhra Pradesh could initiate proceedings under rule 4(b) it may be possible to say that other newly formed States, with which parts of Hyderabad were merged, could also initiate similar proceedings. That would be so because if the authorities in Andhra Pradesh could say that they will construe rule 4(b) in such manner as may be necessary to facilitate its application in relation to the State of Andhra Pradesh the authorities in Mysore and Maharashtra could also say that the acts alleged were committed by the petitioner when he was serving under the Government of Hyderabad and since part of Hyderabad had merged with Mysore or Maharashtra and rule 4(b) made applicable thereto, they would so construe rule 4(b) and hold that they were competent to initiate proceedings. It may be said that under rule 4(b) the place where the act was committed does not have any bearing because under rule 4(b) it is the Government of the State under whom he was serving at the relevant time and not of the place where irregularity or illegality was committed that is competent to take action and the offence having been committed when the petitioner was serving Hyderabad, any of the three new States, that is, Mysore, Andhra Pradesh and Maharashtra, could initiate proceedings. If rule 4(b) fixed the authority to take action with reference to the territory where the offence was committed, the matter would have been simple. Then wherever such territory went, that State would have been competent to take action. As the rule 4(b) stands, it may be difficult to say which of the three States could initiate proceedings. Mr. Shankar tried to rely on the definition of "principal successor State" as contained in section 2(m) of the States Reorganisation Act, and submitted that Andhra Pradesh being the principal successor State in relation to the existing State of Hyderabad, it alone was competent to take action. The validity of this contention

C. Demodar Reddy
v.
Union of India and another

Kapur, J.

is also not free from doubt because the expression "principal successor State" does not occur in sections 119 to 121 at all. Reference to section 2 would show that the term defined in the Act may have to be given that meaning wherever it occurs in the Act. For instance the term "principal successor State" is used in section 87.

I have given my most careful consideration to the rival contentions and have come to the conclusion that on any of the possible interpretations of the aforesaid provisions the contentions of Mr. Narsa Raju must fail. One way of looking at the aforesaid provisions would be to hold that since the Government of Hyderabad was succeeded by three Governments and rule 4(b) extended or applied to the territories that merged in the three states, any one of three could initiate proceedings and, therefore, the State of Andhra Pradesh was in any case competent to take action. It is said that if that be the true construction, then the other two States might as well take action. Even if that be so, that will not exclude the jurisdiction or authority of the State of Andhra Pradesh to take proceedings and in case the other States threaten any action it may become necessary for the President to act under section 128 and pass an order for removal of the difficulty. In this view the action of the State of Andhra Pradesh would be legal and valid. The other possible interpretation may be to hold that the Government of the principal successor State would be competent to take action. I am not unconscious of the difficulties in so interpreting rule 4(b) which I have already indicated above. Having regard, however, to the provisions of section 121, rule 4(b) has to be construed for the purpose of facilitating its application in relation to any newly formed State, in such manner as may be necessary or proper. Consequently, even if the expression "principal successor State" does not occur in any of the sections 119 to 121 that would be the appropriate construction having regard to the provisions of section 121 and intention of the Legislature as explained above. If this be the correct construction of rule 4(b) then in that case even the possibility of a conflict between the three States would be avoided. I may also point out that Mr. Narsa Raju is not quite right when he says that the last part of rule 4(b) providing for assistance by other Government will also have to be deleted. Under section 114, the petitioner could have been on reformation of the States allocated to the

cadre of the existing States such as Bengal or Madras. In that case the Government of that State would have been required to render all facilities to the Government conducting proceedings. In this view the first point must be decided against the petitioner.

Now, I come to the second contention of Mr. Narsa Raju. He has referred to various passages from the Inquiry Report and the deposition of Shri Vinayakrao Koratkar (P.W. 6) who was Minister for Finance and Industries of the Hyderabad Government from 1954 to 1st November, 1956. From these Mr. Narsa Raju attempted to show that Shri Koratkar was the most depraved person and no judicial mind could have accepted his evidence and that the report of the Inquiry Officer was perverse inasmuch as it was based on his evidence. He has further submitted that the report of the Inquiry Officer is also vitiated because the story put forth by the prosecution was most improbable and could not have been accepted by any judicial mind. Mr. Narsa Raju also points out that on his own showing Mr. Koratkar was a co-conspirator and his evidence could

I have gone through the report of the Inquiry Officer as well as the evidence of Mr. Koratkar. The question whether his evidence should be accepted or not was a matter entirely within the judisdiction of the Inquiry Officer. It is not unknown that a trier of facts may accept evidence of a most depraved witness. Once his evidence is accepted, that puts an end to the petitioner's case for his evidence clearly brings the charge home to the petitioner. The report of the Inquiry Officer, based as it is mainly on that evidence, cannot be said to be vitiated for the reasons given by Mr. Narsa Raju. Whether or not the prosecution story is probable also falls to be determined by the Inquiry Officer and is not a matter with which this Court will interfere. It is well established that this Court will interfere with the findings of an Inquiry Officer only if the conclusions are found to be—

(a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(b) contrary to constitutional right, power, privilege or immunity;

C. Demodar Reddy
v.
Union of India and another

Kapur, J.

(c) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(d) without observance of procedure required by law;

(e) unsupported by any evidence.

I have gone through the report and the evidence mentioned above and am satisfied that the report is not open to exception on any of the grounds mentioned above.

Mr. Narsa Raju then draws my attention to charge 2 and says that there is no allegation of any corrupt motive and in finding the petitioner guilty the Inquiry Officer has indulged in speculation and drawn an inference against the petitioner merely because the transaction was concluded in one day. He further says that besides the fact that he has drawn an adverse inference from an undue haste there is no evidence in support of the charge. He has taken me through the report of the Inquiry Officer regarding charge No. 2 as well. I am satisfied that the said finding is based on inference of facts drawn from certain facts and is not open to review by this Court.

In the result, this petition must fail and is dismissed but there will be no order as to costs.

B.R.T.

APPELLATE CIVIL.

Before I. D. Dua, J.

INDER SINGH AND ANOTHER,—*Appellants*

versus

KARTAR SINGH AND OTHERS,—*Respondents*

Regular Second Appeal No. 1120 of 1964

1965

September, 10th

Punjab Pre-emption Act (1 *of* 1913)—*S.*15(1)(*a*) *Thirdly*—*Right of pre-emption—Whether available if relationship is created by adoption or appointment of an heir—Adoption under Hindu Law and Punjab Customary Law—Object, purpose and effect of—Adoptee—Rights of.*

Held, that the right of pre-emption conferred by section 15(1)(a) Thirdly of the Punjab Pre-emption Act, 1913, on the father's brother or father's brother's son of the vendor is available even if the relationship is created by adoption or appointment of an heir as the terms "father" and "son" include "adoptive father" and "adopted son" in the case of those whose personal law permits adoption.