CRIMINAL MISCELLANEOUS

Before Bhandari and Soni, JJ.

1952

Sept. 11th

L. AMIN CHAND AND OTHERS,—*Petitioners*

Versus

THE STATE OF PUNJAB,—*Respondent*

Criminal Miscellaneous No. 590 of 1951

Punjab Pure Food Act (VIII of 1929), Section 22 (5)—Expression "meeting" in section 22 (5), meaning of—Rules made under section 22 (5), requirements as to validity of—Interpretation of Statutes—Language used admitting of more than one meaning—Rule stated.

The draft of rules made under section 22 (5) of the Pure Food Act including the impugned rule was published in the *Government Gazette*, dated the 23rd September 1949. The session of the East Punjab Legislative Assembly commenced on 10th October and ended on 25th October. No motion was introduced in the Assembly for discussion of the draft rules. The Provincial Government promulgated the rules as duly framed in the local official Gazette, dated 18th November 1949. Eighteen persons were prosecuted for the contravention of the impugned rule. The petitioners moved the High Court under section 561-A, Cr. P. Code, on the ground that the rule was not framed according to the procedure prescribed by section 22 (5) inasmuch as it was not published at least thirty days before a meeting of the Assembly.

Held, that the expression "meeting" as it appears in section 22 (5) is wide enough to embrace not only one sitting but all the sittings within a particular session. It has been used in its collective sense as meaning a "session". Any other construction would be contrary to the intention of the Legislature and a reasonable operation of the statute and would be harsh and absurd. The Legislature cannot be presumed to have intended that if the draft rules were published on the 23rd September and the last sitting of the session was on the 25th October, the Provincial Government should be at liberty to confirm the rules even though the members have had no reasonable opportunity of introducing a motion for discussing the same. The Legislature cannot be presumed to do a futile thing. It must be assumed to be a reasonable legislature which is anxious to achieve effective results.

Held further, that in case the language of a statute is not quite clear and a word used in the enactment refers to several objects and the manner of its use does not disclose the particular object to which it refers it becomes

necessary for the Court to intervene and to perform the function of a microscope. A word of common usage should be given its ordinary and natural meaning unless that meaning would defeat the object of the law or be contrary to the reasonable operation of statute or the proposed construction is harsh or absurd.

(This case was referred to a Division Bench by Hon'ble Mr Justice Soni and was heard by Mr Justice Bhandari and Mr Justice Soni).

Petition under section 561-A of the Criminal Procedure Code, praying that the proceedings pending in the court of the Additional District Magistrate, Amritsar, against the petitioners under section 13(1) (d) of the Punjab Pure Food Act, 1929, as amended, may be quashed; praying further that pending the decision of the petition further proceedings in the trial court may be stayed.

A. N. GROVER and D. K. KAPUR, for petitioners.

HARPARSHAD for Advocate-General, for Respondent.

ORDER

BHANDARI, J. Eighteen persons, who are manufacturers of aerated waters, have been prosecuted for having contravened the provisions of a rule made under the Punjab Pure Food Act, 1929, which provides that no person shall use more than 66 grains of saccharine in 10 gallons of aerated waters. They have challenged the validity of the rule on the ground that it was not made in accordance with the procedure prescribed by subsection (5) of section 22 of the Act of 1929. This subsection is in the following terms :— Bhandari, J.

> " (5) Before making any rules under the provisions of this subsection, the Provincial Government shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby at least thirty days before a meeting of the East Punjab Legislative Assembly. The Provincial Government shall defer consideration

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of such rules until after the meeting of the East Punjab Legislative Assembly next following the publication of the draft in order to give any member of the Assembly an opportunity to introduce a motion for discussing the same."

It appears that a draft of certain rules, including the rule for the contravention of which the petitioners have been prosecuted, was published in the local official gazette of the 23rd September 1949. The session of the East Punjab Legislative Assembly commenced on the 10th October 1949 and ended on the 25th October 1949. No motion having been introduced in the Assembly for discussing the draft rules published on the 23rd September, the Provincial Government promulgated the rules as duly framed in the official gazette, dated the 18th November 1949.

The learned counsel for the petitioners contends that the expression "meeting" appearing in subsection (5) means a "session" of the Assembly, and it is accordingly argued that as the draft rules were published on the 23rd September 1949 and as the session of the Legislative Assembly commenced on the 10th October 1949, the thirty days' notice required by section 22 was not given, and consequently that the rules which were promulgated cannot be deemed to have been validly made. The learned counsel for the State, on the other hand, submits that the expression "meeting" means a "sitting" of the Assembly during the course of a session and that as the last sitting of this Assembly was held on the 25th October and as thirty days had expired by this date the provisions of law were complied with in the letter and the spirit. The question which arises and which is by no means free from difficulty is whether the expression "meeting" means a "session" of the Punjab Legislative Assembly or a "sitting" of the said Assembly during the course of a session.

The elaborate rules which have been formulated by the Judges for the interpretation of

statutes have been framed with one and one object only, namely to ascertain the intention of the Legislature as embodied in the statute and to give effect to that intention. The intention must primarily be ascertained from the language used in the statute. If the language is clear and unambiguous and admits of not more than one meaning no question of interpretation arises. If, however, the language is not quite clear and a word used in the enactment refers to several objects and the manner of its use does not disclose the particular object to which it refers, it becomes necessary for the Court to intervene and to perform the function of a microscope. A word of common usage should be given its ordinary and natural meaning unless that meaning would defeat the object of the law or be contrary to a reasonable operation of the statute or the proposed construction is harsh or absurd.

Now, what is the ordinary meaning of the expression "meeting" which appears twice in subsection (5) of section 22? According to the Shorter Oxford Dictionary the expression "meeting" means an assembly of a number of people for entertainment, discussion or the like. According to the same dictionary the expression "session" means the sitting together of a number of persons (especially of a Court, a legislative, administrative, or deliberative body) for conference or the transaction of business; a continuous series of sittings or meetings of a Court, a legislative, administrative, or deliberative body, held daily or at short intervals; the period or term during which the sittings continue to be held as opposed to recess or vacation; the period between the opening of Parliament and its prorogation The expression "sitting" means the fact of being engaged in the exercise of judicial, legislative, or deliberative functions; an instance or occasion of this; a meeting of a legislative or other body; the period of time occupied by it: It will be seen from the above that the expression "meeting" in its individual sense means a "sitting on a particular day," and in its cumulative or collective sense means a conglomeration of meetings held in

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a particular session and therefore a session. The question is whether this expression has been used in subsection (5) in a restricted sense as meaning a meeting on a particular day or in its broader sense as meaning a session.

In legal parlance the expression "meeting" in its application to the sittings of a House of a Legislature has come to mean 'a session' of the House. Article 174 of the Constitution of India which relates to a session of the State Legislature empowers the Governor to summon each House to "meet" at such time and place as he thinks fit. Again, section 15 (2) of the Ceylon (Constitution) Order in Council, 1946, provides that Parliament shall be summoned to "meet" once at least in every year. Rule 2 of the West Bengal Legislative Assembly Procedure Rules, 1950, says "whenever it appears to the Governor that the Assembly should be summoned—

(a) he shall cause a notification to be published in the *Calcutta Gazette* appointing the day, hour and place for a meeting of the Assembly; and

(b) the Secretary shall send to each member a summons to attend the meeting."

Within a session there are a number of daily "sittings" separated by adjournments. A "meeting" is not equivalent to a "sitting" but to all the sittings in a session. In *Subramania Aiyar* v. *The United India Life Insurance Company Ltd.* (1). it was held that it is a common law right in every meeting to adjourn itself and that an adjourned meeting is the same meeting but a continuation of it. I would accordingly hold that the expression "meeting" as it appears in subsection (5) is wide enough to embrace not only one sitting but all the sittings within a particular session. In other words, the expression is synonymous with the expression "session".

(1) 55 M.L.J. 385.

There is another aspect of the matter which needs to be considered. The British Parliament often wishes to exercise control over delegated legislation with the object of securing that the interests of the public should not be jeopardized by the making of rules which are harsh or oppressive or otherwise unjust or unreasonable. This control may be exercised in different ways. A statute may, for example, provide that the rules made under it shall be laid before the House or laid "as soon as may be". Another statute may declare that the rules shall be laid before the House but shall not come into force until the expiration of a certain period during which they may be annulled if the House records its disapproval thereof. A third statute may require that the rules shall come into force at once but that they shall lie before Parliament for a specified period during which they are subject to a resolution that they be annulled. A fourth statute may enact that the rules shall have no effect, or no continuing effect, unless the Parliament expressly approves of them within a specified period. The method by which the prescribed period, which is usually forty days, is to be calculated must obviously vary with the varying terms of the statute. In May's Parliamentary Practice (page 807) the learned author observes as follows :—

> " * * * *
>
> the usual modern formula stipulates that no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. If the period be interrupted by a prorogation the document must be laid afresh for the full period in the new Parliament. It has been ordered in the Lords that documents required to be laid for a prescribed number of days must be laid in full. It has been ruled in the Commons that until the full text of the document is laid the days do not begin to run."

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The practice followed by the British Parliament makes it quite clear that the provisions concerning the period for which the rules should be laid on the table of the House are rigidly enforced, and it is the constant endeavour of both the Houses of Parliament to secure that the rules should be scrutinized with care and that they should not be passed as a mere formality.

I have no doubt in my mind that the framers of the Act of 1929 were as anxious to exercise supervision over delegated legislation as members of the British Parliament are. They appear to have contemplated that the draft of the proposed rules should be published at least 30 days before the commencement of the session, so that persons likely to be affected by the proposed rules should have ample time at their diposal for studying the draft and for approaching a member of the legislative Assembly and that the members of the Legislative Assembly should have sufficient time for studying the draft and for introducing a motion for discussing the same. A motion cannot be brought before the Assembly for discussion unless seven days' notice is given, and if a motion of the nature contemplated by subsection (5) of section 22 is not introduced in the course of the session, it is open to the Provincial Government to promulgate the rules as having been duly framed. I am accordingly of the opinion that the expression "meeting" appearing in subsection (5) has been used in its collective sense as meaning a "session". Any other construction would be contrary to the intention of the Legislature and a reasonable operation of the statute and would be harsh and absurd. The Legislature cannot be presumed to have intended that if the draft rules were published on the 23rd September and the last sitting of the session was on the 25th October, the Provincial Government should be at liberty to confirm the rules even though the members have had no reasonable opportunity of introducing a motion for discussing the same. The Legislature cannot be presumed to do a futile thing. It must be assumed to be a reasonable legislature which is anxious to achieve effective results.

For these reasons, I would accept the petitions, set aside the order of the trial Court overruling the objection raised by the petitioners and direct that, as the rule which is sought to have been contravened was not made in accordance with the provisions of law, the proceedings must be quashed. I would order accordingly.

Bhandari, J.

SONI, J.—I agree.

Soni, J.

CIVIL WRIT

Before Kapur and Soni, JJ.

IN THE MATTER OF LALA LACHHMAN DASS NAYAR AND OTHERS CARRYING ON BUSINESS IN CO-PARTNERSHIP UNDER THE NAME AND STYLE OF THE INDIAN WOOLLEN TEXTILE MILLS, CHHEHARTA.

1952

Sept. 15th

Versus

UNION OF INDIA

Civil Writ No. 147 of 1952

Indian Income-tax Act (XI of 1922) as amended by Act XLVIII of 1948—Section 34—Jurisdiction and powers of the Income-tax Officer—Extent of—Amendment made by Act XLVIII of 1948—Whether retrospective—Section 3—Operation of the Act as amended from time to time—Section 31—Appeal pending—Whether bars a writ under Article 226 of the Constitution—Remedy of an aggrieved assessee—Whether under the provisions of the Act only—Constitution of India—Article 226—Extraordinary jurisdiction of the High Court—Whether can be invoked without exhausting remedies under the Income-tax Act—Protection under the law—Whether can be refused by Court to a dishonest citizen—Mandamus—Writ of—When to issue—High Court,—Power of—to direct exercise of discretion by Income-tax Officer—Extent of.

L.D. and his seven sons formed a Hindu undivided family and were being assessed as such up till 1937-38. For 1938-39 returns were made on the basis of contractual partnership consisting of joint Hindu family of L. D. and his seven sons as one partner having 14 annas share and D. R., a son of L. D., as the other partner having 2 annas share. The Income-tax Officer refused to register it as a firm for the purposes of the Income-tax Act but ultimately the Privy Council held it registrable as a valid partnership in July 1947. In the meanwhile the firm