

Inder Singh v. Inspector General of Prisons and others
(Punchhi, J.

under section 13(2) of the Act. The Administrator had no power to issue the impugned notice under section 13(3) of the Act without first taking action in terms of sub-sections (1) and (2) of the amended section 13. That means that the action of the Administrator, in the present case, was void *ab initio* and the proceedings taken on the said notice also suffered from the same vice.

(9) Resultantly, the judgment of the learned Single Judge to the extent it quashes the show-cause notice is sustained since the impugned action of the Administrator is *ultra vires* the provisions of the amended section 13 of the Act. In our view, the preliminary objections to the competency of the petitions on the ground of latches and non-joinder of second transferee, raised before the learned Single Judge and reiterated before us, are untenable for the very reasons given by the learned Single Judge, in his judgment. The letters patent appeals stand disposed of accordingly. No order as to costs.

(10) It may, however, be made clear that it would be open to the competent authority to take proceedings afresh in accordance with law.

H.S.B.

Before: M. M. Punchhi, J.

INDER SINGH,—Petitioner.

versus

INSPECTOR GENERAL OF PRISONS AND OTHERS,—

Respondents.

Amended Criminal Writ Petition No. 116 of 1986.

May 7, 1986.

Punjab Good Conduct Prisoners (Temporary Release) Act (XI of 1962)—Sections 3(1)(c), (e) and 4—Application for release on parole under Section 3(1) (c) made by convict—Said application declined by Inspector General of Prisons purporting to exercise the powers of State Government—No provision of law indicated

whereby powers of State Government under Section 3(1)(c) stood delegated to Inspector General of Prisons—Order of Inspector General of Prisons declining parole—Whether without jurisdiction.

Held, that powers under Section 3(1)(d) and 4 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 have been delegated to the Inspector General of Prisons. There is, however, no delegation of power under Section 3(1)(c) of the Act and as such the order of Inspector General of Prisons declining parole is without jurisdiction.

(Para 2)

Amended petition under article 226 of the Constitution of India praying that the following reliefs be granted—

- (i) *a Writ in the nature of a writ of certiorari be issued calling for the records of the respondents relating to the order dated the 3rd of February, 1986, Annexure 'P-4', and after a perusal of the same, the order Annexure 'P-4' be quashed;*
- (ii) *a writ in the nature of Habeas Corpus be issued directing the respondents to release the petitioner on parole for a period of six weeks;*
- (iii) *any other appropriate order or direction be issued which this Hon'ble Court may deem fit in the circumstances of this case; and*
- (iv) *the petitioner be exempted from filing an affidavit in support of this petition, as he is confined in Central Jail, Ambala.*

Mr. Manoj Swroop, Advocate, for the Petitioner.

R. K. Handa, Advocate, for A. G., Haryana, for the Respondents.

JUDGMENT

M. M. Punchhi, J. (oral)—

(1) This is a petition by a convict who sought release on parole under section 3(1)(c) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, and the rules of 1963 framed thereunder. His request was declined by the Inspector-General of Prisons, Haryana, on 3rd February, 1986 which has given rise to this petition.

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(2) It has been contended by Mr. Manoj Swaroop, learned counsel for the petitioner, that the releasing authority under section 3(1)(c) of the aforesaid Act was the State Government alone and the case of the convict could not have been disposed of unfavourably by the Inspector-General of Prisons, Haryana (respondent No. 1). Though in the return, the stance taken is that he is the releasing authority for the purposes of the said section, yet the learned counsel for the State has not been able to point out any provision of law whereunder the power of the State Government could be seen having been delegated to the Inspector-General of Prisons. On the contrary, a delegation has been shown to that effect, but with regard to the powers under section 3(1)(a) and section 4 of the said Act. There is no delegation of power under section 3(1)(c) of the Act. In this view of the matter, learned counsel for the State concedes that the impugned order of the Inspector-General of Prisons, Haryana shall be taken to have been withdrawn and an undertaking has been given that the State Government shall consider the case of the petitioner for parole by itself.

(3) For what has been said above, this petition would merit acceptance. While allowing it, it is ordered that the case of the petitioner for release on parole be considered and decided within a period of two weeks from today. Ordered accordingly. No costs.

H.S.B.

Before: M. M. PUNCHHI, J.

RAJINDERJIT AND OTHERS,—*Petitioners.*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ Petition No. 5922 of 1985.

May 8, 1986.

Land Acquisition Act (I of 1894)—Section 9(3)—Award made by the Land Acquisition Collector—No notice served on the occupier as envisaged by Section 9(3) before making the award—Service of such notice—Whether mandatory—Award rendered without notice—Whether liable to be quashed.