

consequences. Variation of 1 per cent can entail serious punishment. It is only fair that those who administer this law are also required to comply with it in its letter and spirit. Taking the totality of circumstances into consideration, I am of the view that Clause 30 (2) embodies a mandatory provision. Admittedly, the sample was not analysed within the specified limit. The provision of clause 30 (2) was thus violated.

(12) It is no doubt correct that the shelf life of the fertilizer can be more than one year. This, however, is of no consequence in the context of the question that arises in the present case. A sample can be taken even two months prior to the expiry of the shelf life of the fertilizer. There is no provision in the Control Order which makes it mandatory for the dealer to dispose it of within one year. In such a case, even if the sample has been taken within a period of less than one year from the date of manufacture of the fertilizer, the delay in analysis can cause prejudice to the dealer or the manufacturer.

(13) In view of the above, I am clearly of the opinion that the report at Annexure P. 1 does not meet the mandatory requirement of Clause 30 of the Control Order. Consequently, the prosecution of the petitioners in pursuance to the F.I.R. at Annexure P. 2 and the challan at Annexure P. 3 cannot be sustained. These are quashed. The writ petition is allowed. However, the parties are left to bear their own costs.

J.S.T.

Before Hon'ble G. S. Chahal, J.

THE STATE OF PUNJAB,—*Petitioner.*

versus

VINOD KUMAR,—*Respondent*

Crl. R. No. 385 of 1991

27th March, 1992

*Narcotic Drugs & Psychotropic Substances Act, 1985—Section 21—
Recovery of intoxicant tablets—Tablets contained Barbiturate—
Psychotropic substance—Meaning of.*

Held, that the Schedule item takes note of seven barbiturates and these drugs though having different compositions and international names will fall in the larger term of 'barbiturates'. The learned Sessions Judge was not justified in recording a finding that the tablets which contained barbiturates could not fall within the list of psychotropic substances included in the Schedule. The prosecution should be given an opportunity to show that barbiturates found in the recovered tablets form part of one of the items specified in the Schedule.

(Para 6)

Parminder Singh, AAG (Punjab), for the Petitioner.

D. K. Sharma, Advocate, for the Respondent.

JUDGMENT

G. S. Chahal, J.

(1) The State of Punjab has preferred this revision against the order dated 21st July, 1990, passed by Shri Gurjit Singh Sandhu, Sessions Judge, Sangrur,—*vide* which the respondent was ordered to be discharged in respect of case, FIR No. 44 dated 12th April, 1989, registered for offence under section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (the Act in brief), at Police Station Maierkotla.

(2) The case against the respondent was registered on the allegations that he was found in possession of 6 kilo 50 grams of intoxicant tablets on 12th April, 1989, without any permit or licence. The sample was sent to Forensic Science Laboratory, Chandigarh which gave the opinion that the tablets contained Barbiturate. The learned Sessions Judge, after hearing the parties, recorded a finding that the Barbiturate was not a salt, as described in the Schedule of the Act and as such, no offence was made out.

(3) Section 2(xxiii) of the Act, defines "psychotropic substance" as follows :

"psychotropic substance" means any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule."

The Random house Dictionary of the English Language defines 'barbiturate' as follows :

"Chem, any of a group of barbituric acid derivatives used in medicine as sedatives and hypnotics".

(4) In "A Dictionary of Drugs by Richard B. Fisher and George A. Christie 1971," it has been stated that Barbiturates are a class of synthetic drugs and derivatives of urea, one of the most common body wastes, plus another organic compound, melonic acid. It further records :

"All barbiturates can be addictive; they tend to create both a physiological and a psychic dependence. The danger of poisoning is greatly increased if any of these agents is injected, the method of self-administration recently favoured by addicts. Withdrawal may produce typical symptoms, and can be fatal if it is too sudden."

At page 197 of the Dictionary, Phenobarbitone. U.S.: Phenobarbital has been described. It is stated that Phenobarbitone is the second oldest in a widely used class of synthetic drugs called barbiturates. The first was barbitone (U.S.: barbital : 1902). The term 'barbiturates' is, thus, a wider term to include all drugs which are derivatives of barbituric acid.

(5) In the Schedule, the list of "psychotropic substances" includes names of Barbiturates in 7 items namely :—

THE SCHEDULE

(See Clause (xxiii) of section 2)

LIST OF PSYCHOTROPIC SUBSTANCES

Sl. No.	International non-proprietary names	Other non-proprietary names	Chemical name
24	AMOBARBITAL	5-Ethyl-5-(3methylbutyl)	barbituric acid
25	CYCLOBARBITAL	5-(1-Cyclohexen-1-yl)-5-ethyl-	barbituric acid
28	PENTOBARBITAL	5-Ethyl-5-(1-methylbutyl)	barbituric acid
29	SECOBARBITAL	5-Allyl-5-(1-methylbutyl)	barbituric acid
32	BARBITAL	5. 5-Diethylbarbituric acid	
61	METHYLPHENOBARBIAL	5-Ethyl-1-methyl-5-phenylbarbituric acid	
69	PHENOBARBITAL	5-Ethyl-5-phenylbarbituric acid	

(6) The Schedule item takes note of seven barbiturates and these drugs, though having different compositions and international names will fall in the larger term of 'barbiturates'. The learned Sessions Judge was not justified in recording a finding that the tablets which contained barbiturates could not fall within the list of psychotropic substances, included in the Schedule. The prosecution should be given an opportunity to show that barbiturates found in the recovered tablets form part of one of the items specified in the Schedule. The order of discharge is, thus, not justified.

(7) I hereby accept the revision and after setting aside the impugned order of discharge direct the trial Court to proceed with the trial in light of the directions.

S.C.K.

Before Hon'ble A. L. Bahri & N. K. Kapoor, JJ.

INDERJIT SINGH & OTHERS,—Petitioners

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents

Civil Writ Petition No. 8676 of 1994

19th July, 1994

Constitution of India, 1950—Arts. 226/227—Punjab Co-operative Societies Act (25 of 1961)—S. 26 (1-B)—Term of office—Petitioners elected on July 14, 1991—However Board of Directors constituted only on August 25, 1991—Term of Directors only for 3 years—Whether petitioners would retire three years after the date of election or after completion of Board of Directors—Held that no directions had been issued by Registrar of Co-operative Societies not to assume office or hold meetings—Tenure of office to commence from date of election and term to end three years thereafter.

Held, that the ratio of the decisions earlier referred to clearly indicates that normally the term of Board of Directors is to commence from the date of election, it is only when the election of the members of the Committee/Board of Directors is challenged and either the Registrar, Co-operative Societies or the High Court issue directions not to hold the meeting of the Board of Directors that their term would commence when such directions are vacated. In the present case since there were no such directions given to members of the Board of Directors not to assume office, it is held