the relevant evidence to come to a considered finding that the management had abruptly terminated the services of the workman and in fact he never abandoned his post by wilful absence from duty as alleged by the management. Even otherwise it is patent that this finding in the present case appears to be one of fact arrived at on the basis of evidence adduced. It is not the province of the writ Court to easily disturb the finding of fact arrived at by the Labour Court on the basis of evidence. This writ petition also is, therefore, without merit and is dismissed leaving the parties to bear their own expenses.

Bhopinder Singh Dhillon, J.—I agree.

N.K.S.

FULL BENCH

Before S. S. Sandhawalia, C.J., D. S. Tewatia and G. C. Mital, JJ.

SUKHDARSHAN SINGH,—*Petitioner.*

versus

STATE OF PUNJAB and others,—*Respondents.*

Civil Writ No. 696 of 1978

April 16, 1979.

Pepsu Tenancy and Agricultural Lands Act (XIII of 1955)—Sections 32-D(3), (4), (5) *and* 50—*Order passed by the Commissioner under Section* 32-*D* (3)—*Revision against such order—Whether competent under Section* 32-*D* (4).

Held, that (i) if against the order of the Collector an appeal is decided under sub-section (3) of Section 32-D of the Pepsu Tenancy and Agricultural Lands Act, 1955, no further revision would lie under sub-section (4) and finality would attach to the order under sub-section (3) by virtue of sub-section (5), as the order under sub-section (2) would be deemed to be passed by the State Government even if passed by an officer authorised by the State Government in this behalf.

(ii) If no appeal is filed under sub-section (3) then the revisional power under sub-section (4) can be exercised by the State Government or its delegate and finality will attach under sub-section

(5) to such an order deeming the same to be of the State Government even if passed by its delegate. (Para 22).

Petition under Article 226 of the Constitution of India praying that the petition be accepted ; and

(a) *Respondents be directed to produce the record;*

(b) *A writ of certiorari or any other appropriate writ order or direction be issued and Annexures P. 1 to P. 3 be quashed.*

And till the decision of this petition, the dispossession of the petitioner be stayed.

Sarjit Singh, Advocate with Jagdev Singh, Advocate, *for the Petitioner.*

I. S. Tiwana, Additional A.G., Achhra Singh, Advocate, *for the Respondents.*

JUDGMENT

G. C. Mittal, J.

(1) The sole point which arises for consideration of the Full Bench in this writ petition is as to whether a revision under section 32-D(4) of the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as the Act), is competent against an order passed by the Commissioner under section 32-D(3) of the Act.

2. In this case, the learned Financial Commissioner dismissed the revision filed under section 32-D(4) of the Act against an order of the Commissioner passed under section 32-D(3), as not being legally competent in view of the decisions of this Court in *Kandhara Singh and Maghar Singh* v. *Bhajan Singh and others* (1). *Chhota Singh and others* v. *State of Punjab and others* (2) *and Munshi Singh* v. *The State of Punjab and others* (3). The petitioner filed this writ petition under Article 226 of the Constitution of India and at the preliminary hearing before the motion Bench challenged the correctness of the aforesaid decisions. The motion Bench admitted the writ petition for decision of the aforesaid point by Full Bench and that is how the present writ petition has been placed before us.

(1) 1977 P.L.J. 113.
(2) 1971 P.L.J. 38.
(3) 1971 P.L.J. 715.

3. The petitioner is a landowner of village Bathali, tehsil Sirhind, district Patiala. According to the facts state in the petition, he did not hold land in excess of the permissible limit as most of the land was under tenants since before the commencement of the Act, some land was under mortgage and the mortgagees were in possession of the land, 31 **bighas** of land was in possession of the Canal Department and in this manner, no part of the land held or owned by him was in excess of the permissible limit under the Act.

4. Against the draft statement issued by the Collector, Agrarian Reforms, under section 32-D(2) of the Act, the petitioner filed objections saying that there was no surplus area with him after excluding the abovementioned land with the tenants, mortgagees in possession and the Canal Department. Besides the above, he raised some other objections which need not be referred here because before Full Bench the only point argued is as to whether a revision before the Financial Commissioner under section 32-D(4) of the Act was competent or not against an order passed by the Commissioner under section 32-D(3). The Collector Agrarian,—**vide** order dated July 4, 1973, annexure P-1, held that the total area which is to be declared surplus comes to 16.12 standard acres as against 18.91 standard acres stated in the draft statement. The suprlus area was reduced by the aforesaid order to the extent of 2.79 standard acres by giving the benefit of that area which was mortgaged and redeemed after the commencement of the Act. Against the aforesaid order, the petitioner took an appeal to the Commissioner, Patiala, under section 32-D(3) of the Act. The Commissioner, by order dated January 21, 1974, annexure P-2, rejected the appeal finding no merit therein. Against that order of the Commissioner, the petitioner filed a revision before the Financial Commissioner, Punjab, under section 32-D(4) of the Act. The Financial Commissioner,—**vide** order dated January 5, 1978, annexure P-3, dismissed the revision holding that no revision was competent under section 32-D(4) of the Act, following the decisions referred to above.

5. As already stated, the only point raised before us is about the correctness of the aforesaid three decisions and on the point whether a revision under section 32-D(4) of the Act is competent before the Financial Commissioner against an order of the Commissioner passed an appeal under section 32-D(3) of the Act. If we

hold that a revision is competent, then the case will have to be sent back to the Financial Commissioner for decision on merits and in case we hold that no revision is competent before the Financial Commissioner, then the other points raised in the writ petition will have to be determined by a learned Single Judge of this Court. Therefore, we proceed to decide the only point raised before us.

6. Shri Sarjit Singh, the learned counsel for the petitioner, has argued that if the provisions of various sub-sections of section 32-D of the Act are correctly interpreted in the light of the notifications under section 32-D(3) and section 50 of the Act, the only irresistible conclusion would be that a revision is competent before the Financial Commissioner and he was in error in holding to the contrary and similarly, the aforesaid three decisions do not lay down correct law. For facility of reference, the relevant sub-sections of section 32-D of the Act are reproduced below:—

> "32-D. (3). Any person aggrieved by an order of the Collector under sub-section (2) may, within thirty days of the order, prefer an appeal to the State Government or an officer authorised by the State Government in this behalf,
>
> (4) Without prejudice to any action under sub-section (3), the State Government may of its own motion call for any record relating to the draft statement at any time and, after affording the person concerned an opportunity of being heard, pass such order as it may deem fit.
>
> (5) Any order of the State Government under sub-section (3) or sub-section (4) or of the Collector subject to the decision of the State Government under those sub-sections shall be final."

Section 50 of the Act is also reproduced hereunder:—

> "50. The State Government may, by notification in the Official Gazette, direct that the powers exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to the State Government."

The learned counsel for the petitioner contends that under section 32-D(3) of the Act, the State Government has the power to authorise an officer to hear an appeal and if the State Government issues a notification authorising an officer to hear the appeal under section 32-D(3), then the hearing of such appeal by the authorised officer is in the capacity of that officer as such and not as State Government. He goes on to argue that the Legislature has purposely made differentiation in the wordings contained in section 32-D(3) 'an officer authorised by the State Government' and the wordings of section 50, under which the State Government has the power to delegate, that is, 'the power exercisable by the State Government may be exercisable also by the Officer subordinate to State Government'. According to him, under section 50, the power of the State Government can be delegated to an officer who would be deemed to be acting as State Government or on behalf of the State Government whereas the person authorised under section 32-D(3) of the Act would be acting as an officer and not as State Government or on behalf of the State Government and that is why the State Government has issued notifications under section 32-D(3) and section 50 separately, the wordings of which are materially different. These notifications are reproduced below for facility of reference:—

"REVENUE DEPARTMENT

The 18th September, 1958.

No. 7353-AR. I(II)-58/6417.—In exercise of the powers conferred by sub-section (3) of section 32-D of the Pepsu Tenancy and Agricultural Lands Act, 1955 (Act No. 13 of 1955), the Governor of Punjab is pleased to authorise the Commissioner, Patiala Division, for the purposes of that sub-section."

"REVENUE DEPARTMENT

The 23rd December, 1963.

No. S.O. 22-/Pep. A. 13/35/S-50/64.—In superession of Revenue Department Notification No. S.O. 283-P.A. 13/55/S-50/62, dated the 11th October, 1962, and in exercise of the powers conferred by section 50 of the Pepsu Tenancy and Agricultural Lands Act, 1955 (Act No. 13 of

1955), the Governor of Punjab is pleased to direct that the powers of the State Government exercisable under sub-section (4) of section 32-D of the said Act shall also be exercisable by:—

(1) The Financial Commissioner, in cases where an order has been passed by the Commissioner, under sub-section (3) of section 32-D, and

(2) the Commissioner, in cases where no appeal has been preferred under sub-section (3) of section 32-D."

REVENUE DEPARTMENT

The 1st October, 1964.

No. S.O. 347/P.A. 3/55/S. 50/64.—In supersession of Punjab Government Revenue Department Notification No. 31-ARI(II)-62/169, dated the 10th January, 1962, and in exercise of the powers conferred by sub-section (3) of section 32-D of the Pepsu Tenancy and Agricultural Lands Act, 1955 (Act No. 13 of 1955), the Governor of Punjab is pleased to authorise:—

(1) The Commisioners of Patiala, Ambala and Jullundur Divisions, and

(2) the Additional Commissioner, Ambala Division,

for the purposes of that sub-section, with respect to the areas of the erstwhile States of Pepsu falling within their respective jurisdiction."

7. The learned counsel for the petitioner has contended that we have to place construction on the provisions of sub-section (3), (4) and (5) of section 32-D and section 50 of the Act in such a reasonable manner, according to the well-established canons, that all the relevant sub-sections of section 32-D remain operative and enforceable and not in such a manner that any one of the provisions of these sub-sections becomes redundant or inoperative in a given circumstance. He has further submitted that the various sub-sections of section 32-D would be better understood if they are read

in harmony with the aforesaid three notifications thereby giving full effect to the aforesaid three notifications and the only way to do is to read in section 32-D(3) that the officer authorised by the State Government exercises his powers of appeal as an officer in his individual capacity as such and not as delegate or representative of the State Government. According to him, in this manner, full effect would be given to the provisions of sub-section (3), sub-section (4) and the aforesaid three notifications. If they are not read in this harmonious way, then if an appeal is taken under section 32-D(3), the provisions of section 32-D(4) would become redundant. Moreover, he says that clause (i) of the notification dated December 23, 1963, would also become redundant inasmuch as the Financial Commissioner will not be able to exercise his power under section 32-D(4) of the Act where an order has been passed by the Commissioner under sub-section (3) of section 32-D. Therefore, the learned counsel submits that according to the well-established canons of interpretation of statutes, we should read the provisions of the Act and the notifications in such a reasonable way that sub-sections (3) and (4) of section 32-D and the aforesaid notifications should remain operative and workable and no part of the same is left unworkable or redundant. Therefore, according to him, the only reasonable way to do so is to hold that when the Commissioner exercises the power of appeal under section 32-D(3), he does so as an officer having the power to hear the appeal and not as a delegate of the State Government so that further remedy of revision is left open to the aggrieved party and the power of the State Government or its delegate to hear the same under section 32-D(4) remains intact.

8. According to the learned counsel for the petitioner, the three decisions relied on by the Financial Commissioner do not lay down correct law according to the interpretation which he has put on the various sub-sections of section 32-D of the Act. As regards *Kandhara Singh and another* v. *Bhajan Singh and others* (supra), he says that not only is the interpretation placed by the Bench wrong, according to the above interpretation of his, the premises on which the Bench proceeded to decide the case was also erroneous. A reading of the last five lines of para 3 of that judgment would show that the Bench proceeded on the assumption that while hearing an appeal under section 32-D(3), the Commissioner exercises its power in the capacity of delegate of the Government. There is no notification under section 50 delegating the power of the State Government under section

32-D(3) of the Act to the Commissioner. According to the learned counsel, this is the only reasoning on which the judgment has proceeded and in the absence of the notification under section 50, delegating power under section 32-D(3) to the Commissioner, the aforesaid decision cannot be held to lay down the correct law. It is true that the aforesaid decision proceeded on the basis as criticised by the learned counsel for the petitioner, but the point that still remains for consideration before us is that where the appeal is heard by the Commissioner under section 32-D(3), whether he decides it as State Government or with powers of the State Government or not in the absence of a notification under section 50 delegating the power of the State Government to the Commissioner under section 32-D(3) of the Act. This we would answer after hearing the learned counsel for both sides.

9. The decision in *Kandhara Singh's case* (supra), has referred to another decision in *Chhota Singh and others* v. *State of Punjab and others* (supra). The learned counsel for the petitioner has challenged the correctness of the decision in *Chhota Singh's case* (supra) on the ground that it proceeded on the basis that the provisions of sub-sections (3) and (4) of section 32-D are analogous to the provisions of sections 21(4) and 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the Consolidation Act), and, therefore, the judgment of the Supreme Court in *Harbhajan Singh* v. *Karam Singh*, (4), was brought in aid that there is no power of review. According to the learned counsel, there is material difference between the two provisions and, therefore, that parity of reasoning is not correct and, in any case, the point which he has urged before us was not pressed before the learned Judge deciding that case and was not considered therein. Therefore, that case has no bearing and in any case does not lay down correct law, according to the interpretation which he has sought to place on the relevant provisions of the Act and the notifications.

10. As regards *Munshi Singh* v. *The State of Punjab and others* (*supra*), it is submitted that it is not applicable as the point raised here was not considered in that case and the main point decided there was about the meaning to be given to the words 'at any time' occurring in sub-section (4) of section 32-D of the Act. In this case, reliance was placed on *Chhota Singh and others* v. *State of Punjab*

(4) A.I.R. 1966 S.C. 641.

and others (supra). It is true that the point for consideration in that case was different from the one which we have to decide and that is why, even the counsel for the State did not rely on this judgment in reply to the argument of this learned counsel for the petitioner.

(11) Mr. I. S. Tiwana, the learned Additional Advocate General Punjab, in reply to the arguments of the learned counsel for the petitioner, has stated that the interpretation placed on the relevant provisions of the Act and the notifications by the opposite side on the face of it appears to be attractive, but, if a detailed probe is made, then the fallacy in the interpretation of the provision becomes apparent. He argued that section 32-D was brought in by the insertion of Chapter IV-A by the Pepsu Act No. 15 of 1956 and while inserting Chapter IV-A in the parent Act, although section 50 was already there authorising delegation of power by the State Government to any officer, yet by way of abundant caution and specially for purposes of Chapter IV-A, a provision was made in sub-section (3) of section 32-D giving authority to the State Government to authorise an officer to hear an appeal in case the State Government was not willing to hear the appeal itself for one or more reasons. Therefore, the provision in sub-section (3) of section 32-D of the Act giving authority to the State Government to authorise an officer to hear an appeal was merely repetitive of the power already granted under section 50 and did not in any way affect the true and correct interpretation of the provisions of sub-section (3) of section 32-D. According to him, if sub-section (3) is read more closely, it would be found that an appeal would lie to the State Government or to an officer authorised by the State Government in this behalf. He has emphasised that appeal lies to the State Government whether it is heard by the State Government or it is authorised to he heard by an officer of the State Government. If the Legislature wanted that the appeal should be heard by an officer alone then the Legislature could indicate the officer in the statute or could give the authority to the State Government to name the officer. This is not what the Legislature has done. The Legislature has specifically enacted that the appeal shall lie to the State Government or the officer authorised by the State Government in this behalf and, therefore, whether the appeal is heard by the State Government itself or by its nominee, it would still be a decision by the State Government. Otherwise, there was no use of giving the right of appeal to the State Government in sub-section (3) and the only wording in sub-section (3) would have

been prefer an appeal to an officer authorised by the State Government in this behalf' instead of 'prefer an appeal to the State Government or an officer authorised by the State Government in this behalf'. So keeping the differentiation betwten these two wordings, it is argued by the counsel for the State that full meaning has to be given to sub-section (3) and the only way to read it would be that an appeal lies to the State Government or to its nominee duly authorised in this behalf and there is no difference between a nominee and a delegate and, therefore, he has relied on *Roop Chand* v. *State of Punjab and another*, (5).

12. After placing the aforesaid interpretation on sub-section (3), he had to fairly concede on the basis of the decision of the Supreme Court in *Roop Chand's case* (supra), that once an appeal is heard by the Commissioner as an officer authorised as a nominee of the State Government, then there can be no further revision under sub-section (4) of section 32-D either to the State Government or its delegate, the Financial Commissioner, and to that extent, sub-section (4) would be redundant as section 42 of the Consolidation Act was held to be redundant in a similar situation by the Supreme Court in the above noted case. However, he says that sub-section (4) would not become void for all purposes inasmuch as if no appeal is filed by an aggrieved person under sub-section (3), but directly a revision is taken under sub-section (4). then the State Government or its delegate, the Financial Commissioner or the Commissioner, as the case may be, would be entitled to hear the revision and such a revision would not be incompetent.

13. In support of his argument, the learned counsel for the State has relied on sub-section (5) of section 32-D and has argued that even this sub-section is referring to an order of the State Government which is to be passed under sub-section (3) of sub-section (4). He says, even the Legislature was conscious of the fact that the orders under sub-section (3) or sub-section (4) would be the orders of the State Government and, therefore. those orders of the State Government were held to be final by this sub-section. He further submits that section 32-D was inserted in the year 1956 when similar provisions were contained in the Consolidation Act under section 21(4) and section 42, where an appeal was to be heard under section 21(4)

(5) A.I.R. 1963 S.C. 1503.

by the State Government or its nominee and the revision under section 42 was also to be heard by the State Government or its delegates. Those provisions came up for interpretation before the *Supreme Court in Roop Chand* v. *State of Punjab and another* (supra), in 1963, and, by virtue of that decision, sub-sections (3) and (4) of section 32-D have to be interpreted in the same manner and, in doing so, the only irresistible conclusion is that the orders passed, whether under the sub-section (3) or sub-section (4) by one officer or the other, would be the orders of the State Government and to harmoniously reconcile the two provisions the only correct way to interpret or read them would be that if an appeal is decided under sub-section (3), whether by the State Government or an officer duly authorised, the same would be treated as decision of the State Government and would be final under sub-section (5) and no revision would lie under sub-section (4) and in cases where no appeal is taken under sub-section (3) and instead a revision is filed under sub-section (4), then the decision under sub-section (4), whether by the State Government or by an officer to whom the powers are delegated, would be final under sub-section (5) treating it to be that of the State Government. So far as the notifications referred to by the learned counsel for the petitioner and reproduced above are concerned, the learned Additional Advocate General argues that the same cannot over-ride the provisions of the Act and have to be read subject to the provisions of sub-sections (3), (4) and (5) and in doing so if some part of the notification becomes unworkable, then to that extent the notification has to be held to be inoperative and ineffective. This is particularly with reference to the notification dated December 23, 1963. According to the learned counsel, keeping in view the Supreme Court decision in *Roop Chand's case* (supra), para 1 of the notification would be ineffective because the Financial Commissioner under sub-section (4) would not be able to revise the order of the Commisioner passed under sub-section (3), as an order under sub-section (3) would be of the State Government and the Financial Commissioner would also be acting as the State Government. However, para 2 would remain operative when the Commissioner would be able to hear a revision under sub-section (4), where no appeal has been preferred under sub-section (3). He has also relied, in support of his argument, on the decisions of this Court in *Kandhara Singh and another* v. *Bhajan Singh and others* (supra), *Chhota Singh and others* v. *State of Punjab and others* (supra) *and Kishan Singh* v. *The State of Punjab and others* (6).

(6) 1969 P.L.J. 57.

14. After hearing the learned counsel for the parties, we are of the view that the only way to interpret and read the provisions of sub-sections (3), (4) and (5) of section 32-D, keeping in view the decision of the Supreme Court in *Roop Chand's case* (supra), is that under sub-section (3), the power of hearing appeal is given to the State Government or to an officer authorised by the State Government and even if an appeal is decided by an officer authorised by the State Government in this behalf, he would be acting for and on behalf of the State Government and, therefore, his decision would also be the decision of the State Government in the eyes of law. If the Legislature wanted that an appeal would lie to a named officer or an officer authorised by the State Government in that behalf alone, then the provisions of sub-section (3) would have been entirely different and it would have read either 'prefer an appeal to .....officer' or 'prefer an appeal to an officer authorised by the State Government in this behalf, whereas the present sub-section is 'prefer an appeal to the State Government or an officer authorised by the State Government in this behalf'. In this manner, the State Government may hear the appeal itself or may authorise an officer to hear the same. In both the situations, the appeal would be to the State Government and when it would be heard by an officer, it would be a decision of the State Government. Otherwise, it will be the choice of an appellant either to file the appeal before the State Government which would mean the Secretary or the Minister of the concerned Department or may file the appeal to the officer authorised by the State Government in this behalf, that is, the Commissioner, as has been notified in the present case. In one event, when the appeal was taken to the State Government, it would be a decision of the State Government and if the appeal is taken to the Commissioner, then it would not be a decision of the State Government. This would create anamoly besides being against the true interpretation of sub-section (3). This interpretation is further supported by a reading of sub-section (5) and what has been held to be final is the order of the State Government, whether passed under sub-section (3) or sub-section (4). So, the Legislature is only envisaging the finality of the order passed under sub-section (3) and it cannot be argued that if an order is passed under sub-section (3) by the State Government then it is final and if it is passed by the Commissioner then it is not final. In either of the situations, the order would be deemed to be of the State Government

and would be final and holding to the contrary would again create an anamoly which would be against the true interpretation of sub-section (5). From the interpretation which we have placed above, it is true, as also conceded by the learned counsel for the State, that sub-section (4) would become redundant in a case where appeal was taken under sub-section (3) and was decided either by the State Government or its authorised officer but it would be effective in those cases where no appeal is filed under sub-section (3) and instead a direct revision is filed under sub-section (4). Similar would be the position with regard to the notification dated December 23, 1963. The Financial Commissioner will not be able to exercise his power under sub-section (4) in cases where an order has been passed by the Commissioner under sub-section (3) and to that extent clause (1) of the notification will be totally redundant but clause (2) of the notification would be effective where a Commissioner would be able to entertain a revision under sub-section (4) in cases where no appeal is preferred under sub-section (3).

15. We are not impressed by the argument of the learned counsel for the petitioner that in section 50 of the Act, for purposes of delegation different words have been used as compared to the latter part of sub-section (3) of section 32-D and, therefore, we should interpret the two provisions differently. Section 32-D was inserted by the Amendment Act No. 15 of 1956 and, therefore, it appears that by way of abundant caution or by way of repetition, authority was given in sub-section (3) to the State Government to authorise an officer to hear an appeal under sub-section (3) which will lie to the State Government. So, even if the words 'or an officer authorised by the State Government in this behalf' were to be omitted, still by virtue of section 50, the State Government could delegate its power of appeal to a Commissioner or any other officer and if the Legislature somehow had added the aforesaid words in sub-section (3), it makes no material difference and the position still remains same that the State Government can authorise an officer to hear an appeal which lies to the State Government. Therefore, the aforesaid words in sub-section (3) do not convey a different meaning and whether the words are to be read or not, the same result flows, that is, under sub-section (3) appeal lies to the State Government which may be disposed of by it or by its nominee.

16. Now let us compare the provisions of sub-section (3) and sub-section (4) of section 32-D of the Act with the provisions of

section 21(4) of the Consolidation Act as it stood before its amendment in view of the decision of the Supreme Court in **Roop Chand's** case (supra) and section 42 of the Consolidation Act. The relevant provisions of section 21(4) of the Consolidation Act were as under:—

> "21(4) Any person aggrieved by the order of the Settlement Officer (Consolidation) under sub-section (3) may within sixty days of that order appeal to the State Government."

Section 42 of that Act was as under:—

> "42. The State Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed scheme prepared or confirmed or repartition made by any officer under this Act call for and examine the records of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit."

Section 41 of the Consolidation Act empowered the State Government to delegate any of its powers or functions under that Act to any of its officers either by name or designation.

17. A comparison of the aforesaid provisions of the Consolidation Act with section 32-D(3) and (4) and section 50 of the Act clearly shows that section 32-D(3) is analogous to section 21(4) of the Consolidation Act except for the difference that in section 32-D(3), apart from the words 'prefer an appeal to the State Government', the sentence further continues 'or an officer authorised by the State Government in this behalf'. If these further words had not been added, even then by virtue of section 50 of the Act, the State Government could delegate its power to any officer including the Commissioner. The addition of further words has made duplicacy with regard to the power to delegate or to authorise an officer to act on behalf of the State Government and this may be called duplicacy or repetition, but the net result is that the appeal lies to the State Government and, therefore, this provision is almost similar to the provision of section 21(4) of the Consolidation Act. Equally, the provision of section 32-D(4) is similar to section 42 of the Consolidation Act where the right of revision is given to the State Government to examine any record for itself. Further, the provision of section 50 of the Act is similar to section 41 of the Consolidation Act

which empowers the State Government to delegate its powers or functions to any officer. Therefore, we find that the corresponding provisions of the two Acts are similar and have to be interpreted in the same manner.

18. For purposes of interpretation of the relevant provisions of the Act, we place reliance on the decision in *Roop Chand's case* (supra), where the Supreme Court held as follows:—

> "Where the State Government has, under section 41(1) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, delegated its power given under section 21(4) to hear appeals to an officer, an order passed by such officer is an order passed by the State Government itself, and not an 'order passed by any officer under this Act' within the meaning of section 42. The order contemplated by section 42 is an order passed by an officer in his own right and not as a delegate. The State Government, therefore, is not entitled under section 42 to call for and examine the record of the case disposed of by the officer acting as delegate. An order passed by the State Government under section 42 in such a case is a nullity and deserves to be set aside under Article 32 of the Constitution of India".

It was further held:

> "The word delegate means little more than agent. An agent exercises no powers of his but only the powers of his principal. Therefore, an order passed by an officer on delegation to him under section 41(1) of the power of the Government under section 21(4), is for the purposes of the Act, an order of the Government."

In the aforesaid Supreme Court case, against the order under section 21(4), a revision was filed under section 42 and that revision was allowed and the order under section 21(4) was set aside. The Supreme Court held that since the order under section 21(4) was of the State Government no order under section 42 could be passed and as such the order under section 42 being illegal was quashed. The Supreme Court, in *Harbhajan Singh* v. *Karam Singh*

and others (supra), held that there is no provision in the Consolidation Act granting express power of review to the State Government in regard to an order made under section 42 of the Act and, therefore, the previous order passed on an application under section 42 could not be reviewed and the subsequent order of review would be *ultra vires* and without jurisdiction. On a parity of reasoning, the aforesaid decision would also be applicable to the facts of the present case inasmuch as the order under section 32-D(3) of the Act would be of the State Government and an order under section 32-D(4) would also be of the State Government. That would mean that the State Government is exercising the power twice over without there being any express power for review. On this ground also, if the Financial Commissioner had interferred under section 32-D(4) and had reversed the order passed under section 32-D(3), it would have been liable to be set aside on this ground. In the present case, in our view, the Financial Commissioner was justified in holding that no revision is competent.

19. Referring to *Kandhara Singh and another* v. *Bhajan Singh and others* (supra) it is true that the point which has been precisely raised before us was not raised there and, therefore, there is no specific decision about the interpretation of sub-sections (3) and (4) of section 32-D of the Act in that case. Moreover, that decision proceeded on the assumption that the Commissioner decided the appeal under section 32-D(3) as a delegate of the State Government and then the learned counsel for the petitioner has not disputed that if the appeal is decided by the Commissioner as a delegate of the State Government, then the power of revision under section 32-D(4) cannot be exercised. As already pointed out, we are not impressed by the distinction which the learned counsel for the petitioner wanted to raise on the peculiar wording of sub-section (3) with regard to the authorisation by the State Government as distinguished from delegation under section 50 of the Act. Therefore, the aforesaid decision is correct where the quashing of the order of the Financial Commissioner by a learned Single Judge in the writ petition was upheld by the Letters Patent Bench.

20. With regard to *Chhota Singh and others* v. *State of Punjab and others* (supra), the decision is correct that after an order is passed under sub-section (3), the same cannot be upset in revision under sub-section (4) of section 32-D of the Act.

21. So far as *Kishan Singh* v. *The State of Punjab and others* (supra), is concerned, that decision is also correct as it was held therein that an order under sub-section (3) cannot be reversed in exercise of power under sub-section (4) of section 32-D of the Act. We approve of this decision also.

22. After analysing the whole situation, we come to the following conclusions:—

(i) That if against the order of the Collector an appeal is decided under sub-section (3) of section 32-D of the Act, no further revision would lie under sub-section (4) and finality would attach to the order under sub-section (3) by virtue of sub-section (5), as the order under sub-section (3) would be deemed to be passed by the State Government even if passed by an officer authorised by the State Government in this behalf.

(ii) That if no appeal is filed under sub-section (3) then the revisional power under sub-section (4) can be exercised by the State Government or its delegate and finality will attach under sub-section (5) to such an order deeming the same to be of the State Government even if passed by its delegate.

(iii) Clause (1) of the notification dated December 23, 1963, would be redundant as the Financial Commissioner will not be able to hear a revision under sub-section (4) against an order passed by the Commissioner under sub-section (3) of section 32-D of the Act and clause (2) of the notification will stand intact inasmuch as the power of revision under sub-section (4) would be exercised by the Commissioner in cases where no appeal has been preferred under sub-section (3) of section 32-D of the Act.

(iv) The notification dated September 18, 1958, would stand superseded by notification dated October 1, 1964, which would be valid and operative.

23. On the view we have taken, it must be held in this case that the Financial Commissioner was right in holding that no revision was

competent before him under section 32-D(4) of the Act against the order of the Commissioner passed under section 32-D(3) and, therefore, we uphold his order which has been impugned in this writ petition on the point of jurisdiction. The writ petition may now be placed before a learned Single Judge of this Court for decision of the same on merits.

S. S. Sandhawalia, C.J.—I agree.

D. S. Tewatia, J.—I agree.

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