

(1957) 10 KAR CK 0003
In the Karnataka High Court
Case No : Writ Petition No. 182 of 1956

Indian Sugars and Refineries Ltd.

APPELLANT

Vs

State of Mysore and Another

RESPONDENT

Date of Decision : 18-10-1957

Acts Referred:

Constitution of India, 1950 — Article 14, 143

Madras Sugar Factories Control (Mysore Amendment) Act — Section 14, 14 (1)

Citation : AIR 1958 Kar 64 : (1957) ILR (Kar) 359 : (1958) 36 MysLJ 34

Hon'ble Judges : S.R. Das Gupta, C.J.; K.S. Hegde, J

Bench : Division Bench

Advocate : D. Venugopalachari, for the Appellant; A.G., for the Respondent

Judgement

S.R. Das Gupta, C.J.—The petitioner before us is the India Sugars and Refineries, Ltd., Hospet. In this petition the petitioner is challenging the validity of Section 14 of the Madras Sugar Factories Control (Mysore Amendment) Act and the rules framed thereunder. The facts leading up to this petition may be shortly stated as follows: The Government of Madras had passed an enactment known as the Madras Sugar Factories Control Act no. XX of 1949 dated 13-7-1949.

The object of the said Act, as it appears from the preamble thereof, was to provide for the licensing of sugar factories and regulating the supply and the prices of sugarcane used in such factories and for other incidental matters. Sub-section (1) of Section 14 of the said Act authorised the Government, after consulting the Advisory Committee to be set up under the said Act, to levy a cess not exceeding four annas per standard maund as defined in the Standards of Weight Act, 1939, on sugarcane brought into any area specified in such notification, for consumption, use or sale therein. Sub-section (4) of Section 14 empowered the Government, after consulting the said Advisory Committee, to make rules specifying the authorities by which, the persons from whom, and the manner in which, the cess levied under the said section shall be collected.

In exercise of the powers conferred by Section 14(1) of the said Act, the

Government of Madras, on 23-11-1950, issued a notification whereby it directed that a cess of annas eight per ton shall be levied on sugarcane brought into any factory within the State of Madras for consumption, use or sale therein. The said rate of cess was subsequently enhanced to rupee one Per ton by a notification dated 13-8-51.

Thereafter, on the larger of the District of Bellary, which was originally a district of the State of Madras, into Mysore, the Government of Mysore passed the Mysore Adaptation of Laws Order, 1953, bringing into force as from 1-10-1953 the Madras Sugar Factories Control Act (XX of 1949) without any modification.

Thereafter, the Rajpramukh promulgated an ordinance, being Ordinance No. III of 1953 amending Section 14 of the Madras Act XX of 1949 by removing the clause enjoining the State Government to consult the Advisory Committee before issuing a notification u/s 14(1) of the Act. This Ordinance was replaced by the Mysore Act VII of 1954.

Thereafter, the Government of Mysore issued from time to time notifications, the first of such notifications being published on 8-1-1954, in exercise of its powers under the said Act. The notification with which we are concerned in this application was published by the Government on 9-4-1956. It reads as follows:

"In exercise of the powers conferred by Section 14 of the Madras Sugar Factories Control Act, 1049 (Madras Act No. XX of 1949), as in force in Bellary District as amended by the Madras Sugar Factories Control (Mysore Amendment) Act, 1954, the Government of Mysore direct that a cess at the rate of three annas and six pies per standard maund (as defined in the Standards of Weight Act, 1939) of sugarcane crushed by the Hospet Sugar Factory (The India Sugars and Refineries Ltd.) be levied for the crushing season 1955-56".

It is the issue of this notification which has led the present petitioner to move this court for a writ or other appropriate order in the nature of a writ declaring the said notification and Section 14 of the Madras Sugar Factories (Mysore Amendment) Act and the rules framed thereunder as bad in law, ultra vires of the powers of the State Legislature and otherwise invalid.

2. The learned Advocate appearing in support of this petition urged several grounds before us. The principal ground urged by him was that in enacting Section 14 of the Act the legislature has delegated essential matters, e.g. the power to determine the persons to be taxed, to an executive body without laying down any discernible policy or principle on which the said body is to act.

The learned Advocate contended before us that the Government, by the said section, was given unfettered discretion to determine the persons who are to be taxed under the said section. This, he contended, would appear from the provisions of Sub-section (4) of the said section which has empowered the Government to make rules inter alia specifying the persons from whom the cess levied under this section shall be collected.

In all cases of taxation, the determination of a question as to the persons to be taxed is, according to him, an essential function of the legislature and cannot be delegated to an executive body, It is a matter of policy which the legislature alone can determine.

3. The learned Advocate-General appearing for the State of Mysore did not dispute before us the proposition that essential legislative functions must be discharged by the legislature and cannot be delegated to an executive body, although ancillary things may be left to such body or to others. What he, however, contended was that the levy of taxation, i.e. the basis on which tax is to be levied, is a matter for the legislature to determine and forms part of its essential function; but the Person from whom such tax is to be collected, the time, manner and the instrumentality of such collection are ancillary matters which can be left to an executive body.

The learned Advocate-General further contended that if a tax has to be levied upon a person (e.g. under the Income Tax Act), then the legislature must determine the persons to be taxed and cannot delegate this matter to any other body; but if, on the other hand, the tax is to be levied on articles, then the persons from whom such tax is to be realised can be left to a subsidiary body. In support of this last proposition he referred us to the material sections in the Cotton Cess Act, Indian Lac Cess Act, Central Excise and Salt Act and to the rules made thereunder.

The learned Advocate-General's contention was that, in the present case, tax is to be levied on the entry of certain goods to certain specified areas and that being so the question as to the person from whom such tax is to be realised relates to the mode of realization thereof appertaining to administrative convenience and can be left to an executive body. In support of his contention the learned Advocate-General relied on B.L. Chaudhury and Others Vs. The State of Bihar and Others, and Kunwar Murli Manohar Vs. State of Uttar Pradesh and Others, .

4. Thus the broad proposition of law, viz. that the legislature cannot delegate its essential legislative functions, although ancillary matters may be delegated to other bodies is not in dispute before us. What, however, is disputed is whether the determination of the person from whom the tax in question is to be realized is an ancillary matter relating to mode of realization of such tax which can be conveniently left to the executive body.

It was urged on behalf of the Petitioner that the determination of the person from whom a tax is to be realized can in no case be left to an executive body, it being an essential function of the legislature. In my opinion, it is not possible to accept this extreme contention of the petitioner on this point. I am not prepared to hold that the legislature can in no case leave it to the executive body to determine the person from whom the tax in question has to be realized.

I am, however, equally unable to subscribe to the view that in every case the

determination of the person from whom such tax is to be realized is an ancillary matter which can be delegated to another body. In my opinion, the question has to be determined in each case on its own facts. It may be that in a particular case the determination of the person from whom the tax has to be realized becomes an ancillary matter which relates to administrative convenience and to the mode of realization of the tax in question and in another case such determination is an essential matter forming the essential function of the legislature which cannot be delegated to some other body.

In my opinion, the determination of this question depends in each case on its own facts. In other words, the nature of the Act in question, its object, scope and its provisions have to be seen in order to determine whether the legislature could leave it to some other body to-determine the person from whom such tax has to be realized. In this case, the object of the Madras Sugar Factories Control (Mysore Amendment) Act, as stated therein, is to provide for the licensing of sugar factories and regulating the supply of prices of sugarcane used in such factories and for the other incidental matters.

It is for the fulfilment of that object that the different provisions of the Act have come to be enacted. For example, Section 6 inter alia provides that, on or after such date as the Government may by notification specify in this behalf, no sugarcane shall be crushed in any factory, unless a licence for that purpose has been obtained in respect of that factory from the Government. Section 7 sets out the conditions of such licence. Section 8 provides that every occupier of every factory shall submit to the Sugarcane Commissioner on or before the date specified by him in this behalf an estimate in the prescribed form the quantity of sugarcane which would be required by that factory during the crushing Season immediately following.

Section 9 authorises the Sugarcane Commissioner to declare any area to be a reserved area for such factory and during such crushing season. Section 10 is meant to regulate sales by sugarcane grower in a reserved area to the occupier of a factory for which the area has been reserved. Section 11 prohibits certain transactions in a reserved area. Section 12 authorises the Government to fix prices which the occupier of a factory shall be bound to pay for any sugarcane purchased by him during the season or the method of calculating such price.

Section 13 mentions the penalty to be imposed for contravention of the provisions of Section 6 and of Section 11 of the Act. Section 14, which is the material section for the present purpose, authorizes the Government by notification to levy a cess on sugarcane brought into any area specified in such notification for consumption, use or sale therein. Sub-section (4) of Section 14, as I have already mentioned, gives power to the Government to specify the authorities by which the persons from whom and the manner in which the cess levied under this section shall be collected.

Section 15 provides that when a person committing any offence punishable

under this Act is a company or an association or a body of persons, the manager, secretary, agent or other principal officer managing the affairs of such company shall be deemed to be guilty of such offence. Section 16 protects the Government, any officer or person from the liability of being sued, prosecuted or being subjected to other legal proceedings in respect of an act done in good faith and intended to be done under the Act or rules made thereunder. Section 17 gives the power to make rules.

5. These being the object, scope and provisions of the Act in question, what has to be determined is whether the determination of the persons from whom the cess in question shall be collected is an ancillary matter not relating to essential functions of the legislature. In my opinion, the selection of persons, from whom such tax is to be collected under the Madras Sugar Factories Control (Mysore Amendment) Act having regard to the scope, object and provisions thereof, is an ancillary matter which can be delegated by legislature to the Government.

I have already mentioned that the object of the said Act, as stated in its preamble, is to provide for the licensing of sugar factories and regulating the supply of the prices of sugar-cane used in such factories and for other incidental matters. From the said preamble and from the provisions of the Act, to which I have referred, it appears that imposition of tax mentioned in Section 14 thereof has to be on sugarcane brought into such factory.

That being so, determination of the persons from whom and the manner in which the cess, levied under the section, shall be collected becomes an ancillary matter relating to administrative convenience and not appertaining to the essential functions of the legislature. Such a matter can be left to the Government for determination. I am unable to accept the view urged before us by the learned Advocate for the petitioner, viz. that the determination of the question as to the persons from whom such cess shall be collected relates to the essential functions of the legislature and cannot be delegated.

The view, which I am taking on this point, was also the view which was taken by their Lordships of the Patna High Court in the case of B.L. Chaudhury and Others Vs. The State of Bihar and Others, . The Act, which their Lordships had to consider in that case, contained provisions exactly similar to those of Section 14 of the present Act. Sub-sections (2) and (3) of Section 29 of the Bihar Sugar Factories Control Act, 1937 (Bihar Act VII of 1937), as amended by the Bihar Sugar Factories Control (Amendment) Act, 1950, the effect of which their Lordships had to consider, provided as follows:

"29(2) The Governor may, by notification impose a cess not exceeding thirtysix pies a maund on the entry of sugarcane into a local area, specified in such notification for consumption, use or sale therein.

Provided that such cess shall not be imposed on the entry into any such area of any sugar-cane in respect of the sale of which a tax imposed under Sub-section (1) is payable;

Provided further that the State Government may, by notification reduce or remit in whole or in part such cess in respect of sugar- cane, intended to be used in a factory for any purpose specified in such notification.

(3) The State Government shall make rules specifying the authority empowered to collect the tax or cess and the person from whom, and the manner in which, the tax or cess shall be collected¹".

It was argued before their Lordships, as it is argued before us now that Section 29(3) was invalid because there was an excessive delegation of legislative power to executive authority by the said section. That contention was not accepted. Chief Justice Ramaswami held that Section 29(3) only delegated the rule-making power to the State Government with regard to collection of sugarcane and not with regard to the assessment of cess. His Lordship observed as follows:

"The authority granted u/s 29(3) is only of the machinery type. The authority conferred upon the State Government is to supplement the Legislative enactment and to provide the administrative mechanism necessary for the execution of the law.

In my opinion, the power of legislating on policy or principle has not been delegated to the State Government. What is delegated by Section 29(3) is only the power to set up administrative machinery for the execution of the law. I think such a delegation is constitutionally permissible".

His Lordship referred to two decisions of the Supreme Court, i.e. In re. Article 143, Constitution of India and Delhi Laws Act (1912) AIR 1951 SC 332 (C) and Rajnarain Singh Vs. The Chairman, Patna Administration Committee, Patna and Another, in support of his said view. The observations of his Lordship made in the said case can, in my opinion, be applied with equal force to the case which we are now considering. In my opinion, the policy and object of the legislature in this Act have been sufficiently laid down and what the Government has been called upon to do is to provide administrative machinery for the execution thereof.

In the circumstances of the present case, it cannot be said that the selection of persons from whom the tax which is to be imposed on the entry of sugarcane within a particular area is an essential legislative function which cannot be delegated to an administrative body. I therefore hold that this contention of the learned Advocate for the petitioner must fail.

6. The next contention urged by the learned Advocate for the petitioner was that the Government was required under Sub-section (4) of Section 14 to make rules specifying amongst others the persons from whom the cess levied under this section shall be collected, but there is no rule framed by the Government which mentions the persons from whom such cess shall be collected. He urged that taxing statutes have to be strictly construed and in the absence of any such specific rule the cess in question cannot be levied.

The learned Advocate referred to Commissioner of Agricultural Income Tax West

Bengal v. Tarak Nath 53 Cal WN 725 (E), Whiteley v. Burns 1908 1 KB 705 (F) and Maxwell on Interpretation of Statutes (1953) page 288 in support of his aforesaid contention. The only rule which, according to him, can be thought of as having given some indication on this matter is Rule 11 of the rules framed by the Government.

But all that the said rule says is that the occupier of every factory shall maintain accounts in the manner indicated therein of the sugarcane entering the factory for consumption or use by the factory and within a fortnight of the close of each month the occupier shall submit to the Sugarcane Commissioner a return in the form mentioned therein showing the quantity of sugarcane that has entered the factory during the month and the amount of cess paid by him into the treasury on account of sugarcane together with treasury receipt in support thereof and any failure to comply with these provisions of the said rule will make the occupier of a factory punishable with a fine which may extend to Rs. 2000/-.

The said rule, according to the learned Advocate, does not specifically say that the cess shall be collected from the occupier of the factory. In any event, he urged, the rule is not free from doubt and in case of doubt a taxing statute should be construed in favour of the subjects. In my opinion, Rule 11 makes it clear as to the person from whom the cess in question is to be collected.

As already mentioned, it provides, in the first place, that the occupier of every factory shall maintain a correct daily account in the form prescribed of the sugarcane entering a factory for consumption or use by the factory and that within a fortnight of the close of each month the occupier shall submit to the Sugar-cane Commissioner a return in the form mentioned in the said rule showing the quantity of sugarcane that has entered the factory during the month and the amount of cess paid by him into the treasury on account of that quantity of sugarcane together with the treasury receipt in support thereof.

Sub-rule (3) of Rule 11 provides that, if the occupier of a factory fails to keep correct daily accounts in the prescribed form or to submit on or before the due date the monthly return in the prescribed form he shall be punishable with fine which may extend to Rs. 2000/-. The provisions of Rule 11, to my mind, make it clear that the person from whom the cess in question shall be collected is the occupier of the factory.

In this connection, reference may be made to Clause (8) of Sub-section (2) of Section 17 of the Act itself which provides that the rules to be framed by the Government to carry out the purposes of this Act may provide for giving the form of the records to be kept and of the returns to be made and the information to be furnished by the persons liable to pay cess u/s 14. Rule 11 read with this clause makes it clear as to the persons from whom the cess is to be collected u/s 14.

In answer to the contention of the learned Advocate for the petitioner, viz. that a charging statute should be strictly construed, the learned Advocate-General

appearing on behalf of the State urged before us that Sub-section (4) of Section 14 was not a charging provision but deals with the mode of realization of the cess and in interpreting provisions of this kind a construction should be preferred which makes the machinery workable and in support of that proposition he relied on a decision of the Privy Council in (1940) 8 ITR 442 (Privy Council) . I have already expressed my views on the question as to whether or not Sub-section (4) of Section 14 is a charging provision. In my opinion, the said Sub-section relates to the manner of realization of cess to be levied under Sub-section 1.

That being so such strict construction of the rules as was insisted upon by the learned Advocate for the petitioner is not necessary. In any event, as I have already held, Rule 11 sufficiently makes it clear as to the person from whom tax shall be collected. This contention of the learned Advocate for the petitioner therefore fails.

7. The next ground urged before us by the learned Advocate for the petitioner was that, in view of the various Central Acts which have since been enacted, this Act has been made nugatory. The Central Acts on which he relied for the aforesaid purpose are the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act (LII of 1952) which came into operation on 9-8-52, Essential Commodities Act, X of 1955, Order dated 27-8-55 passed pursuant to the Essential Commodities Act whereby sugarcane became a controlled commodity and Industries Development and Regulation Act, LXV of 1951 (By this Act sugar became a controlled commodity).

The learned Advocate contended that these Acts have made the Madras Sugar Factories Control Act, XX of 1949 nugatory. In order to determine this question, it would be necessary to see whether or not the provisions of the Act now in question are in any way repugnant to the provisions of any of the said Central Acts. I have carefully gone through the provisions of the Central Acts on which the learned Advocate for the petitioner relied and I am unable to see any such repugnancy.

The Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act (LII of 1952) merely provides that no law made after the commencement of the said Act by the legislature of a State imposing or authorising imposition of a tax on the sale or purchase of any goods declared by the said Act to be essential for the life of the community (which are specified in the Schedule to that Act), shall have any effect, unless it has been reserved for the consideration of the President and it has received his assent.

In the first place, the goods enumerated in the said schedule do not include sugarcane and therefore sugarcane does not come within the purview of the said Act. What is mentioned in Item 6 of the schedule is Gur. Gur is not the same thing as sugarcane. In the second place, no law has been made after the commencement of the said Act by the Legislature of the Mysore State imposing the cess in question but the Government of Mysore has passed an order, being

the Mysore Adaptation of Laws Order, 1953, bringing into force as from 1-10-53 the Madras Sugar Factories Control Act (XX of 1949) without any modification.

The subsequent legislation which was passed by the Mysore Legislature, being Act, VII of 1954, only removed the clause which enjoined the State Government to consult the Advisory Committee before issuing a notification u/s 14(1) of the Act. The Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act (LII of 1952) therefore does not hit, nor is it repugnant to the provisions of the Act which is in question in this petition.

By the Essential Commodities Act X of 1955 and by the Order dated 27-8-55 made pursuant thereto, the Central Government was empowered to fix in respect of any area a price or minimum price to be paid by the producer of sugar or his agent for sugarcane purchased by him and direct the manner in which the said price is to be paid.

That Act also empowers the Central Government to prohibit or restrict or otherwise regulate the export of sugarcane from any area for supply to different factories and to direct that no gur or sugar should be manufactured from sugarcane except under, and according to, the conditions specified in a license issued in that behalf. I do not see how the provisions of that Act conflict with the provisions of the present Act. That Act in no way restricts the power given to the Government by the present Act to impose cess on sugarcane entering into a factory.

The remaining Act on which the learned Advocate relied, viz. the Industries Development and Regulation Act LXV of 1951 is not also, in my opinion, in any way repugnant to the provisions of the present Act. It only empowers the Government to exercise its control in respect of the industries specified in the schedule to the said Act. The power to impose cess given by the Act in question is not in any way hit by, or is repugnant to, the provisions of the Industries Development and Regulation Act, 1951. In my opinion, therefore, in none of the Acts to which the learned Advocate referred in his argument there is any such repugnancy as is contended by him.

8. The next ground urged by the learned Advocate for the petitioner was that the Mysore legislature had no legislative competency to pass the present Act. His contention was that the subject-matter of the present Act does not come either within the State laws or in the concurrent list. It should be remembered that, in order to determine the competency of the legislature to levy tax under this Act we have to examine the provisions of the Government of India Act, 1935.

One of the items mentioned in the provincial Legislative List in Schedule VII of the Government of India Act and on which the provincial legislature can legislate is "cess on the entry of goods into a local area for consumption, use or sale therein" (Item 49 of the said list). It is therefore clear that the Mysore Legislature had the power to impose by legislation cess on the entry of goods into a local area for consumption, use or sale therein.

What the learned Advocate for the petitioner contended before us was that the cess imposed by Section 14 of the present Act is not a cess imposed "on the entry of goods into any local area" but is a cess "on goods brought into an area specified in a notification". The argument of the learned Advocate for the petitioner is that the provincial legislature could only impose a cess "on the entry of goods imported into a local area", that is to say, cess on goods "as and when they enter a local area" but cannot impose a cess on goods already brought into an area. I am unable to accept this contention of the learned Advocate for the petitioner.

The tax is to be levied on the entry of the goods. That, to my mind, implies that the goods which have entered are to be taxed. It does not mean, as the learned Advocate contended, that the goods in question are to be taxed only as and when they enter and after the goods have entered the same cannot be taxed. This, in my opinion, is not a possible view to take. Tax! is to be levied "on the entry of the goods", not "as and when they enter" into a local area.

In my opinion, the Provincial Legislature has power to impose cess on goods which have entered into a local area under Item 49 of the Provincial Legislative List in Schedule VII of the Government of India Act, 1935. That being my view, this contention of the learned Advocate for the petitioner fails.

9. The next ground urged by the learned Advocate for the petitioner was that by the notification in question cess had to be levied on sugarcane crushed by the Hospet Sugar Factory for the season 1955-56 and not on sugarcane as such entering into the said factory. It was argued that Section 14 authorizes a cess to be levied on sugarcane as such and not on sugarcane crushed.

The short answer to this contention seems to me to be that when it is said "sugarcane crushed" it means "sugarcane brought and crushed". The notification, if read along with Section 14 of the Act, makes the position clear. In other words, cess is levied on all sugarcane which had been brought into the factory and which had been crushed during the said crushing season.

10. The last contention of the learned Advocate for the petitioner was that the Act is discriminatory and offends the provisions of Article 14 of the Constitution. He contended that the Act leaves it open to the Government to decide which area should be taxed and from which person or persons the tax should be collected.

Besides, the Government was entitled, by virtue of Sub-section 3 of the said section, to remit in whole or in part any cess paid or payable under the said section, in respect of any sugarcane specified in such order. The learned Advocate urged that the section leaves a wide discretion to the Government without laying down any principle on which the said discretion could be exercised.

In other words, there is no objective test which would guide the Government in coming to a decision on any of the matters mentioned in the said section. The learned Advocate mainly relied on the decision of the Supreme Court in The

State of West Bengal Vs. Anwar Ali Sarkar, and contended that unless the Act lays down a principle on which the Government could exercise its discretion, the Act becomes discriminatory and offends the provisions of Article 14 of the Constitution.

It appears that subsequent to the said decision of the Supreme Court in Anwar Ali's case (H), there have been two more decisions by the said Court viz. cases reported in Kathi Raning Rawat Vs. The State of Saurashtra, and Kedar Nath Bajoria Vs. The State of West Bengal, and the result of these three decisions, as pointed out by Chief Justice Rajamannar in a case decided by the Madras High Court in Globe Theatres Ltd. and Others Vs. State of Madras and Others, is that, if the policy and object of the Act can be discovered within the four corners of that Act including the preamble and discretion is vested in the Government to make a selection in furtherance of that policy and object for the application of the Act, then the provision conferring such a power is not void as offending against Article 14 of the Constitution.

It has therefore to be seen whether or not in this Act the policy and object of the enactment have been sufficiently indicated so as to enable the Government to exercise the power conferred by Section 14 of the Act consistently with, and in furtherance of, such policy. I have already referred to the preamble of the Act and other material provisions thereof. The object and policy of the Act, in my opinion, have been sufficiently indicated by the preamble and by the provisions thereof.

It is an Act to provide for licensing of sugar factories and regulating the supply and prices of sugarcane used in such factories and other incidental matters. That being the object and policy of the Act in question, any action which the Government would take u/s 14 of the said Act must be in consonance with, and in furtherance of, the said object. It is not, as mentioned in the said Madras case, an unguided and arbitrary discretion given to Government.

If the discretion is abused in any particular case, that is to say, if the action of the Government does not happen to be consistent with the policy and object laid down in the Act, such an action would undoubtedly be a discriminatory one and can be challenged and declared void under Article 14. That is the safeguard against any arbitrary and unreasonable conduct of the Government in exercising its powers under the said section.

Shortly put, the Government must act in accordance with the object and the Policy laid down in the said Act and any action contrary thereto would be void under Article 14 of the Constitution. It has not been argued before us that the present notification of the Government is not in consonance with, or in furtherance of, such policy and object laid down by the Act. That being so, this contention of the learned Advocate for the petitioner must also fail.

11. In the result, therefore, all the grounds urged in support of this petition fail and the petition is dismissed with costs.

12. K. S. HEGDE J.: I agree.

13. Petition dismissed.