
(1952) 07 KL CK 0024
In the High Court Of Kerala

K.N. Pandarathil

APPELLANT

Vs

District Collector and Another

RESPONDENT

Date of Decision : 08-07-1952

Acts Referred:

Constitution of India, 1950 — Article 11, 19, 200, 254, 286
GOVERNMENT OF INDIA ACT, 1935 — Section 299

Citation : AIR 1954 Ker 145 : (1954) CriLJ 274

Hon'ble Judges : V.S. Subramanya Iyer, J

Bench : Single Bench

Judgement

Subramonia Iyer, J.—This is an application presented on 3-3-1952 by K. N. Pandarathil, Manager, Sree Krishna Vilasom English High School, Pirappancode, Nedumangad against the District Collector, Trivandrum as the 1st respondent, and the Chief Secretary to Government of Travancore-Cochin, as the 2nd respondent representing the State, praying for the issue of a writ of "certiorari" to bring up and quash the notice, M-1-120/52/Mag. 1 dated 29-2-1952 issued by the 1st respondent to him, and for appropriate writs and directions to prohibit both the respondents from interfering with the petitioner's right of property : (1) in the premises and building belonging to him in which the said school was being conducted, (2) in the school, (3) in the equipments therein and (4) in the right of management vested in him in conducting the school.

That notice was in these terms:

By virtue of the powers conferred on me by Government in their Notification No : Ed. 11-375/52/EHL dated 29-2-1952 u/s 15 Travancore-Cochin Public Safety Measures Act, 5 of 1950 to requisition the Sree Krishna Vilasom English High School, Pirappancode together with the buildings, premises, all furniture, equipments and library of the said School I, v. Ramanuja Iyengar, District Collector, Trivandrum do hereby requisition under Sub-sections (1) and (2) of Section 4, Travancore-Cochin Public Safety Measures Act, 5 of 1950 read with the above Notification the buildings in which the said school was held with the

premises, furniture, equipments, library and all other necessary items for the running of the said School. You are directed to surrender the same forthwith to the Sub-Inspector of Police, Nedumangad.

The said notice was issued by the 1st respondent pursuant to the authority conferred upon him so to do by the State u/s 15, Travancore-Cochin Public Safety Measures Act, 5 of 1950. It was pointed out in the course of the argument on behalf of the State that in the absence of a prayer for a writ for quashing the said order of the State authorising the 1st respondent, the Court should not interfere with the notice issued by the latter as its validity depends upon the authority conferred upon him which is not sought to be quashed:

The petitioner on 16-4-1952 filed C. M. P. 862/52 praying for a writ of "certiorari" to bring up and quash the said proceedings of the 2nd respondent dated 29-2-1952, No. Ed. 11-375/EHL and the notification issued u/s 15, Travancore-Cochin Public Safety Measures Act (authorising the 1st respondent to take steps for requisitioning the S. K. V. English High School, Pirappancode with the buildings, premises, furniture etc.) and published in the Travancore-Cochin Government Gazette dated 4-3-1952. It was also prayed therein that his original application may be amended by adding the additional prayer and that should the prayer for amendment be not grantable, the C. M. P. may be regarded as a fresh and original application for that relief and may be heard and disposed of along with O. P. 22/1952. The amendment sought was objected to by respondents on 2-6-1952. There is no merit in the objection.

2. The petitioner had approached this Court with a prayer for similar reliefs regarding the same school by O. P. 6/1952. That was disposed of by this Court by the following order:

This is an application presented by the Manager of the S. K. V. H. School, Pirappancode, for a writ of certiorari to bring up and quash the proceedings Issued by the 1st respondent the State of Travancore-Cochin, dated 28-1-1952 and the 2nd respondent, the Director of Public Instruction, dated 25-1-1952. The said proceedings are as follows:

No. Ed-11. 375/52/EHL

Government Secretariat, Education, Health, Etc., Department., Trivandrum, 28-1-1952.

From

The Secretary to Government.

To

The Manager, Sree Krishna Vilasom English High School, Pirappancode.

Sir,

Sub : - S. K. V. High School-Pirappancode-Continuance of.

Ref : - Your Letter No; 32/M. S., dated 27-7-1951

It has come to the notice of Govt. that the S. K. V. H. School, Pirappancode, is remaining closed from about 5-12-1952. In the circumstances and in the interests of the students who were attending the School, Government consider that the School may be departmentally managed for the present. To render this possible, I am to request you to be so good as to place the School buildings and equipments etc. at the disposal of the Director of Public Instruction immediately. It is understood that you are willing to hand over the School building etc for rent. The amount of rent can be decided in due course in case you insist on having it. But in the meantime, the School has to be reopened at once. You are therefore requested to cooperate with the department by placing at its disposal the building, equipments, etc, and render all other facilities.

Sd/-For Secretary to Government. EMERGENT. Trivandrum, 25-1-1952.

No: C. 23. V. Sundararaj Naidu, M.A., B.L., T.D., Director of Public Instruction.

Dear Sir,

Sub : - S.K.V.H.S., Pirappancode.

Ref : - My proceedings dated 16-1-1952 No. P3-776/52.

It has been represented to me that most of the pupils of the Pirappancode School are unable to join the neighbouring Schools at this part of the year and that the present order would result in the discontinuance of their studies. As this would defeat the purpose of my order I am constrained to take immediate steps to resume work in the School. I request you to let me know whether you are willing to let the School building to the department on rent. If you are agreeable I shall take the necessary steps for a fair rent being fixed by Government. This process is likely to take a little time. The re-opening of the School cannot wait till then. It will therefore be necessary for you to hand over the building to the department pending fixation of a fair rent by Government.

This matter has to be finalised forthwith & I therefore request you to let me have your reply before 12 noon tomorrow (26-1-1952). To

Sri. K. N. Pandarathil, Manager, S. K. V. H. S., Pirappancode.

Camp : Mulapuzhamun Madom, Taikad.

2. Apprehending that these proceedings constitute steps for taking forcible possession of the premises in which the School was conducted as also the equipments therein, the petitioner has come up to this Court claiming the above relief. On a reading of the said communication, it is obvious that the apprehension is altogether unfounded. The learned Government Pleader who appeared for the State assured me that the proceedings are meant only to convey what they purport to convey. The Secretary to Government addressed the petitioner in very simple language and in a very polite manner.

The communication states that the Government is under the impression that the petitioner is agreeable to his building in which the School was conducted being made over to the Government and to the School being run by the State. He is even supposed to be agreeable to give the premises free of rent, if he is particular in having a rent for the premises the Government is prepared to fix a reasonable rent and pay the same to the petitioner. The communication is wound up by a request to the petitioner to co-operate with the state in the matter of the achievement of the object which is the aim of both the parties, namely that the School which was being conducted therefore by the petitioner should be conducted thereafter without a long interruption, in the Interests of the students there and of the public.

In this view of the communications which I consider to be the proper and the only view possible, the apprehension of the petitioner which induced him to resort to this Court for redress is, as already stated, altogether unfounded. The attitude of the State, not merely does not lead to any such apprehension but leads to the impression that the Government is prepared to satisfy all reasonable claims of the petitioner.

3. Mr. Krishnamoorthy Iyer, learned Counsel for the petitioner stated that if this is the real purport of the communications, the petition is unnecessary and no relief may be granted. Under the circumstances and in view of the interpretation of the communications which is agreed to be correct at the end of the discussion by both the parties, the petition is dismissed.

4. Mr. Krishnamoorthy Iyer, represents on behalf of the petitioner that his client is willing to have the School conducted to the advantage of the students there. He says however that he is prepared to conduct the School himself and that the interference of the State is not necessary. If the petitioner does conduct the School properly the State also would not want to interfere. It is thus seen that the parties though arrayed on opposite sides in this case are at one that the interests of the students should not suffer by the interruption in the conduct of the School. It is hoped that in the light of the interpretation of the communications concerned and in the light of the discussion in Court, the parties will find their way to evolving a course agreeable to all parties and to the best advantage of the students and the public whose service is the aim alike of the petitioner as also of the respondents.

As the annual examination is approaching it is hoped further that immediate steps will be taken by both parties to see that work of the School which is not now being conducted is restarted and tuition intensified to make up the interruption thereof occasioned by the closing of the School for some time. With these remarks I dismiss the petition and in the circumstances make no order as to costs. 18-2-1952.

Sd/- P. K. Subramonia Iyer, Judge.

3. On 24-2-1952 the petitioner issued a notification : in a local daily called

"Malayalam Rajyam" to the effect that normal work in the school would be resumed from the next day and requesting the students to attend. Even prior to this, that is on 21-2-1952, the petitioner sent a letter to the Director of Public Instruction intimating him that the school will be reopened on 25-2-1953 and that the examination which had been fixed for 10-12-1951 would be conducted that day.

The attendance on that day having been poor, the examination was not in fact conducted. That matter was reported to the Director who sent a reply the next day. Meanwhile the state sent a letter to the petitioner on 25-2-1952 to which he sent a prompt reply. On 29-2-1952 the State passed the aforesaid order which was in the following terms:

No : ED. 11-375/52/EHL.

29th February 1952.

In exercise of the powers conferred by Section 15, Travancore-Cochin Public Safety Measures Act, 1950 (Act 5 of 1950), the Government are pleased to direct that the powers conferred on them by Sub-sections (1) and (2) of Section 4 of the said Act shall be exercisable also by the District Collector, Trivandrum, in respect of the requisitioning of the Sree Krishna Vilasom English High School, Pirappancode, together with the buildings, premises, all furniture, equipments and library of the said School.

This was published in the Gazette only on 4-3-1952 that is, the day next after O. P. 22/1952 was presented before, and notice therein, was ordered by, this Court. Along with O. P. 22/52 the petitioner filed C. M. P. 547/52 for an interim injunction restraining the 1st respondent from taking further steps pursuant to the notice issued by him to the petitioner. On that application, this Court on 3-3-1952 issued an ad interim injunction for a period of two weeks and ordered notice returnable in ten days.

4. On 14-3-1952 the respondents appeared and agreed to the period of interim injunction being extended till and inclusive of 22-3-1952. The matter was posted to 18-3-1952.

5. In the affidavit sworn to by the petitioner and filed along with O. P. 22/52 it is stated that the notice issued by the 1st respondent was served upon him only at 11 P.M. on 29-2-1952. On 17-3-1952 a counter-affidavit was filed on behalf of the respondents by K. S. Sivarama Krishna, a Superintendent of the Office of the Director of Public Instruction, para 15 of which reads thus:

On 29-2-1952 the District Collector, Trivandrum issued the requisitioning order which was duly served on the petitioner the very same day. Pursuant to the above order of the District Collector, Trivandrum, the School buildings and such of its equipments as were available were taken possession of by the Inspector of Police, Nedummgad after preparing a detailed mahazar. "They together with the keys of the buildings were entrusted by the Inspector of Police on the evening of

2-3-1952 to the Tahsildar, Nedumangad, who in turn handed them over to the Division Inspector of School, Trivandrum, at 9-30 A.M. on 3-3-1952, Regular classes were held on that day from 10 A. M. with the aid of teachers employed by the Department, From 3-3-1952 regular studies are going on in the School peacefully.

The averment in the affidavit of the petitioner that the notice was served on him only at 11 P.M. is not seen denied, the answer to which being merely that the requisitioning order was duly served on the petitioner the very same day. This is correct if the "day" be taken as a period of 24 hours that is including the night. What necessity there was to resort to the aid of the Police to secure possession of the premises and the building of the school as also the equipments therein, is not made clear. Why possession was taken before serving the notice upon the petitioner (which directed him to surrender the school with its appurtenances, equipments etc. to the Inspector of Police, Nedumangad) and giving him an opportunity to comply with it has also not been made clear.

The tenor of the allegations contained in the affidavit filed in support of O. P. 22/52 and of the prayers contained therein as also of the application for injunction filed therewith would show that the petitioner was not then aware of possession having been taken by the Police behind his back. Why this information (of possession having been taken) was not given to the Court on 14-3-1952 when the Government Pleader appeared on behalf of the respondents and agreed to the continuance of the order of interim injunction issued by this Court on 3-3-1952 (which Information if given the order extending the period of interim injunction on 14-3-1952 would not have been passed) is also not made clear.

If the respondents had taken possession of the properties and assumed the management of the school on 29-2-1952, that is more than two clear days before the presentation of the petition before this Court, there was no scope for, or meaning in, or any purpose to be served by, a prohibitory order against them not to enter on to the property which was already in their possession, and not to interfere with the management of the petitioner which he then had not.

6. It is much to be regretted that the aforesaid material piece of information was not given to the Court by the Government Pleader representing the respondents on 14-3-1952. Apparently the petitioner had even then not known that possession had been taken by the respondents. The counter-affidavit on behalf of the respondents was filed on 17-3-1952 which, as already stated, gave the information of assumption of possession on 29-2-1952. Thereafter the matter of interim injunction, which stood posted to 18-3-1952, was not pursued by the petitioner.

If the fact of assumption of possession on 29-2-1952 had been questioned by the petitioner, the veracity of the statement contained in the affidavit filed on behalf of the respondents would have come up for consideration. The petitioner admits

that possession was really assumed by the respondents on 29-2-1952 as stated in the affidavit filed on their behalf. There being thus no controversy on this point of fact, its relevancy for the case is as regards the legality and validity of such assumption of possession and the direction that may have to be given in respect of possession in the future.

7. The affidavit filed by the petitioner in support of the application and the counter-affidavit filed on behalf of the respondents in opposition to it, contain many matters appertaining to the details of management of the school (sic) does not appear to have been a success. The respondents would attribute the failure to the default and misconduct of the petitioner and those connected with him whereas the petitioner would attribute it to want of co-operation by the teachers and the taught. These matters however do not come up for consideration or decision in this case.

8. The main ground on which reliance is placed by the petitioner is that Sections 4, 5, 6, 14 (part relating to Section 4) and 15, Travancore-Cochin Public Safety Measures Act, 5 of 1950 under which the proceedings, started by the 2nd respondent and continued by the 1st respondent, were taken, are void under Article 31 of the Constitution of India. The point urged is that the said Act 5 of 1950 which was passed by the State Legislative Assembly and assented to by His Highness the Raj Pramukh on 30-3-1950 has not been reserved for the consideration of the President and has not received his assent as required by Clause 3 of Article 31.

It is admitted on behalf of the respondents that the said Act was not reserved for the consideration of the President and that the President's assent to it has not been received. The contention urged on behalf of the respondents is that it is not obligatory upon but is optional with the Raj Pramukh to reserve any Bill passed by the Legislative Assembly for the consideration of the President for obtaining his assent. The argument is that it is not only in cases where the Raj Pramukh exercises his option in favour : of reservation for the consideration of the President that consideration by the President and his assent would be necessary to validate a legislation. It is contended that the expression "having been reserved for the consideration of the President, has received his assent" in Clause (3) of Article 31 means only that the assent of the President should be received if the law had been reserved for his consideration.

Reliance is placed on Article 200 wherein the courses open to the Governor when a Bill is presented to him after its passage by the Legislative Assembly or by both Houses of the Legislature as the case may be are stated. One of the courses is to reserve the Bill for the consideration of the President, The question therefore is what is the true construction of Clause 3 of Article 31, If the impugned part of the Act (5 of 1950) is one that should have been reserved for the consideration of the President and would have effect only on his assent being received, then there not having been that reservation and that assent, Sections 4, 5 and 15 under which the orders of the respondents complained of in this case have been

passed, would be void and the orders themselves "ultra vires".

9. Act 5 of 1950 was assented to by His Highness the Raj Pramukh and became law on 30-3-1950. Sections 4, 5, 6, 14 (part relating to Section 4) and 15 relate to requisitioning of property, movable or immovable. This Act was preceded by the Public Safety Measures Ordinance 5 of 1125, promulgated by His Highness the Raj Pramukh in exercise of the powers conferred upon him by Article 11 of "The Covenant entered into by the Rulers of Travancore and Cochin" which provided that:

Until a Constitution framed or adopted by the Legislature comes into operation, the Raj Pramukh shall have power to make and promulgate Ordinances for the peace and good Government of the United State or any part thereof, and any Ordinance so made shall for the space of not more than six months from its promulgation, have the like force of law as an Act of the Legislature; but any such Ordinance may be controlled or superseded by any such Act.

10. "Right to property" is one of the fundamental rights guaranteed by Part III of the Constitution of India. Article 31 containing the said guarantee is as follows:

31 (1) No person shall be deprived of his property save by authority of law.

(2) No property, movable or immovable, Including any interest in or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given.

(3) No such law as referred to in Clause (2) made by the Legislature of a State shall have effect unless such law, having been reserved for the consideration of the President has received his assent.

(4) If any Bill pending at the commencement of this Constitution in the Legislature of a State has after it has been passed by such Legislature, been reserved for the consideration of the President and has received his assent, then, notwithstanding anything in this Constitution, the law so assented to shall not be called in question in any Court on the ground that it contravenes the provisions of Clause (2):

(5) Nothing in Clause (2) shall affect:

(a) the provisions of any existing law other than a law to which the provisions of Clause (6) apply, or

(b) the provisions of any Law which the State may hereafter make -

(i) for the purpose of imposing or levying any tax or penalty, or

(ii) for the promotion of public health or the prevention of danger to life or

property, or

(iii) in pursuance of any agreement entered into between the Government of the Dominion of India or the Government of India and the Government of any other country, or otherwise, with respect to property declared by law to be evacuee property.

(6) Any law of the State enacted not more than eighteen months before the commencement of this Constitution may within three months from such commencement be submitted to the President for his certification; and thereupon, if the President by public notification so certifies, it shall not be called in question in any Court on the ground that it contravenes the provisions of Clause (2) of this Article or has contravened the provisions of Sub-section (2) of Section 299, Government of India Act, 1935.

The second clause of Article 31 prohibits the requisitioning or acquisition of property except under a law which either fixes the amount of compensation or specifies the principles on which and the manner in which compensation is to be determined and given. The succeeding four clauses of Article 31 have reference to the law of a State in this regard with reference to the date of the Constitution, i.e. 26-1-1950. As regards laws existing on that date, Clause 6 provides that a law enacted more than 18 months next before that date would be unaffected and would have full force. An existing law not more than 18 months old on that date has to be submitted to the President for his certification and if the President so certifies it shall become law within the meaning of Clause 2. The word "law" in Clauses 2 to 6 evidently means statute Law:

Article 368, Clause 10 says:

"existing law" means any law, ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, ordinance, order, bye-law, rule or regulation.

Regarding any bill pending in the Legislature Of a State at the commencement of the Constitution the 4th clause provides that after its passage by the House or Houses, it has to be reserved for the consideration of the President and has to receive his assent in order that it might become law within the meaning of Clause 2. Regarding future legislation liberty is reserved to the State to make laws in respect of three specific matters shown as 1, 2 and 3 under Sub-clause (b) of Clause 5. In other matters of future legislation, Clause 3 provides that "no such law made by the Legislature of a State shall have effect unless such law, having been reserved for the consideration of the President, has received his assent."

Act 5 of 1950 became law on 30-3-1950 and its validity has to be tested by applying Clause 3. The contention urged on behalf of the respondents that the expression "having been reserved for the consideration of the President, has

received his assent" should be construed as meaning "If it has been reserved for the consideration of the President, has received his assent" based on Article 200 is clearly and obviously untenable. The reservation that has to be made under Clause 3 for the consideration of the President is of a "law". A bill passed by the Legislative Assembly or in a case where there is a Legislative Council also, by both the Houses, would continue to be a Bill even after its passage by the House or Houses, It becomes law on assent being accorded to it by the Governor.

Article 200 on which reliance is placed by the learned Government Pleader on behalf of the respondent as giving an option to the Governor to reserve or not to reserve for the consideration of the President relates to a "bill" which has been passed by either the one or both the Houses of the Legislature. He may declare his assent to the Bill in which case it would become law at once. He may declare that he withholds his assent to the Bill in which case the Bill fails to become law. He may in the case of certain Bills, return them for reconsideration of the House with a message in which case, should the Bill be again passed by the House it is obligatory upon him to give assent which will thereupon become law.

Except in the case of a Bill mentioned in the second proviso to Article 200 where it is obligatory upon the Governor to reserve it for the consideration of the President, he has an option to reserve the bill for the consideration of the President. Article 200 refers only to Bills which have not become law by assent thereto declared by the Governor. That Article cannot, therefore, be relied upon as giving any guidance to the construction of Clause 3 of Article 31 which relates to the reservation of a "law" for the consideration of the President. The language of Clause 3 is clear and does not lend itself to the construction contended for by the learned Government Pleader on behalf of the respondents.

The words used are "having been reserved for the consideration of the President has received his assent" clearly indicating that there should have been a reservation for the consideration of the President and there must have been his assent.

A comparison of the language of Clause 3 of Article 31 with that of Clause 2 of Article 254 which provides that:

254. (2) Where a law made by the Legislature of a State specified in Part A or B of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent prevail in that State.

...makes the matter further clear. This is another instance of a provision for the reservation of a law made by the Legislature of a State for the consideration of the President.

Reference may also be made to Clause 3 of Article 286 to the effect that:

(3) No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

and also to Clause 2 of Article 288 which reads as follows:

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in Clause (1) but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

These two are other instances where the reservation of a law of a State for the consideration of the President and his assent thereto is compulsory. In my view, there is really no scope for any question of construction in this case because the language of Clause 3 of Article 31 is clear.

Act 5 of 1950 not having been reserved for the consideration of the President and not having received his assent, has no effect and would not constitute "law" within the meaning of Clause 2 of Article 31. Act 5 of 1950 is an Act providing for requisitioning of property and several other matters unconnected with and separable from requisitioning. Article 31 prescribes the necessity for reservation of a law regarding requisitioning or acquisition of property for the consideration of the President and that part of Act 5 of 1950 pertaining to the requisitioning of property cannot have effect as the requirements of Clause 3 of Article 31 have not been complied with. That part is severable from other parts of that Act and the defect attaching to the part relating to the requisitioning of property will not affect the other parts of that Act.

The validity of those other parts has not arisen for consideration in this case. Reference had, however, to be made to those other parts in this judgment to make it clear that what is decided herein has relation only to that part of the Act having reference to the subject of requisitioning of property and a declaration of the ineffectiveness of that part will not affect the remaining parts of the Act if they are otherwise good as the parts are severable. Sections 4, 5, 6, 14 (part relating to Section 4) and 15 are the parts of Act 5 of 1950 having reference to the subject of requisitioning of property and they would have no effect as a law for purposes of Clause 2 of Article 31.

11. Act 5 of 1950 was, as already stated, preceded by an Ordinance passed by His High-mess the Raj Pramukh. The date of the Ordinance was 20-9-1949 and its life is limited to a maximum period of six months under Article 11 of the Covenant which has been read. That is to say, it became inoperative by 20-3-1950 and would not avail the respondents whose acts complained of are of

the year 1952.

The Ordinance may be regarded as an existing law within the meaning of Article 31 because it was in force on the date of the commencement of the Constitution though on that day it was less than eighteen months old. If the Ordinance had been submitted to the President within three months from the commencement of the Constitution under Clause 6 of Article 31 and the President had certified, then it might perhaps have been a law which could not have been called in question as offending the provisions of Clause 2. Ordinance, however, was not submitted to the President nor has the President certified it to render it of any effect as a law for purposes of Clause 2 of Article 31.

12. I therefore hold that Sections 4, 5, 6, 14 (part relating to Section 4) and 15 of the Act 5 of 1950 have no effect as a law under Clause 2 of Article 31 and that the orders and notifications passed and issued by the respondents under the aforesaid provisions of the said Act are "ultra vires" their powers. The said orders, No. K D. 11-375/52/EHL as also the notice issued by the first respondent No. M. 1 120/52/MagI, are hereby quashed. The action of the respondents in taking possession of the school buildings, equipments and accessories from the petitioner is unauthorised and they are directed to restore them to the petitioner forthwith.

In the view that I take, it is unnecessary to consider and decide the various other points urged by learned Counsel for the petitioner in support of this application, the more important of which had relation to the question as to whether a school, apart from the buildings, equipments and accessories, would be property within the meaning of Act 5 of 1950 which could be requisitioned, whether the provision contained in Section 5 authorising the executive to frame rules for fixing the compensation would amount to unauthorised delegation of legislative power and whether the running of a school would be the practice of a profession or the carrying on of an occupation within Sub-clause (g) of Clause (1) of Article 19 of the Constitution.

13. O. P. No. 22 Of 1952 and C. M. P, No 862 of 1952 are both allowed. The respondents will pay the costs of the petitioner with advocate's fee Rs. 250/-.