
(1957) 09 AP CK 0028

In the Andhra Pradesh High Court

Case No : Writ Appeals No's. 46 to 66 and 73 of 1957

Mohammad Khan and Others

APPELLANT

Vs

Government of Andhra Pradesh

RESPONDENT

Date of Decision : 04-09-1957

Acts Referred:

Christian Marriage Act, 1872 — Section 61
Citizenship Act, 1955 — Section 9
Constitution of India, 1950 — Article 10, 11, 19, 226, 3
Evidence Act, 1872 — Section 113, 43

Citation : (1957) 09 AP CK 0028

Hon'ble Judges : Subba Rao, C.J.;Jaganmohan Reddy, J

Bench : Division Bench

Advocate : G.V.R. Mohana Rao, in Appeal Nos. 46 and 56 to 66 and 73 of 1957 and A.L. Narayana Rao, in Appeal Nos. 47 to 56, for the Appellant; M. Seshachelapathi, Government Pleader in All Appeals, for the Respondent

Judgement

Subba Rao, C.J.—These are appeals against the judgment of our learned brother Bhimasankaram J., in a batch of petitions under Article 226 of the Constitution of India filed by the various Appellants for the issue of Writs of Mandamus or other appropriate writs directing the Respondent to forbear from enforcing the orders directing the Appellants to quit the State within a prescribed date.

2. The material facts, are similar in all the appeals. It would be sufficient, therefore, as the learned Judge did, to state the facts in Writ Appeal No. 53 of 1957. The Appellant was born on 5-10-1912 in the Village of Thukhayi, Tehsil Barshore, Taluk Pishin. Quetta district in Baluchistan, which was formerly a part of British India.

In 1940, he left his native place and settled down at Kovvur, which was then part of Madras State and is now part of Andhra Pradesh. He started business in that place and was eking out his livelihood. He married at Kovvur one Amirunnisa, whose father was a permanent resident of that place and was employed in

Government service, and his two children were born and bred up there.

He purchased a site and constructed a house worth about Rs. 10,000/- and he has also been doing lorry transport business. He alleges that, after the division of India, under pressure from the local Police and without proper guidance and appreciation of his citizenship rights, he applied for a pass-port and received one bearing No. 070,443 under the seal of the High Commissioner for Pakistan in India, New Delhi dated 7-3-1953 valid up to 6-3-1958.

He also states that he was required by the local Police to make an application for visa to regularise his stay in India but the Respondent refused to grant visa. By an order dated 7-4-1955, the Respondent directed him to quit the State by 30-4-1955. The affidavits filed by the other applicants in the connected appeals also contain similar allegations. They were all directed by the Respondent by separate orders to quit the State. On the basis of the above facts, the aforesaid writs were filed and they were disposed of by a common order by Bhimasankaram J.

3. Before Bhimasankaram J., it was contended that the Appellants were citizens of India within the meaning of Articles 5 and 6 of the Constitution of India, that the mere obtaining of a Passport from Pakistan, which was not a foreign State within the meaning of the Constitution, did not have the effect of depriving them of their citizenship and that they applied for the pass-port under the mistaken impression that persons born in the area now forming part of Pakistan were not citizens of India. Bhimasankaram J., found that the Appellants were citizens of India and that they did not voluntarily acquire citizenship of Pakistan by the time of the commencement of the Constitution. [But the learned Judge held that there was an automatic statutory cesser of citizenship by virtue of Section 9 of the Citizenship Act, 1955, which came into force on 30-12-1955. On that basis, he dismissed the petitions but presumably because the said Act came into force only after the petitions were filed, he did not make any order as to the costs of the petitions. The petitions have preferred the above appeals.

4. The arguments of the learned Advocates for the Appellants could be better appreciated if the relevant provisions of the Constitution of [India, the Citizenship Act, 1955 and the rules made there under are read at this stage. The said provisions, omitting the immaterial portions thereof, are as follows:

CONSTITUTION OF INDIA.

Article 5: "At the commencement of this Constitution, every person who has his domicile in the territory of India and (a) who was born in the territory of India or (b) either of whose parents was born in the territory of India or (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement - shall be citizen of India."

Article 6: "Notwithstanding anything in Article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed

to be a citizen of India at the commencement of this Constitution if (a) He or either of his parents or any of his . grand-parents .was born in India as denned in ;the Government of India Act, 1935 (as originally enacted); and (b) (I) In the case where such person has to migrated before the nineteenth day of July, 14948, he has been ordinarily resident in the territory of India since the date of his migration."

Article 7: "Notwithstanding anything of Articles 5 and 6, a person who has after the first [May of March 1947 migrated from the territory of India to the territory now included in Pakistan [shall not be deemed to be a citizen of India."

It Article 8: "Notwithstanding anything in 5, any person who or either of whose parents any of whose grand-parents was born in India denned in the Government of India Act 1935 s originally enacted) and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has en registered as a Citizen of India by the Diplo-aatic or consular representative of India in the country where he is for the time being residing an application made by him there for to such diplomatic or consular representative, whether here or after the commencement of this Constitution, in the form and manner prescribed by the? Government of the Dominion of India or the. Government of India."

Article 9: "No person shall be a citizen of India by virtue of Article 5, or be deemed to be a-citizen of India by virtue, of Article 6 or Article 8 If he has voluntarily acquired the citizenship of any foreign state."

Article 10: "Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall subject to the-provisions of any law that may be made by Parliament continue to be such citizen."

Article 11:--"Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship-and ail other matters relating to citizenship."

CITIZENSHIP ACT 1955, Section 8: "(1) If any citizen of India or full age and capacity who is also a citizen or; national of another country makes in the prescribed manner a declaration renouncing his Indian;; Citizenship the declaration shall be registered by the prescribed authority; and upon such registration that person shall cease to be a citizen1 of India."

Section 9:

(1) Any citizen of India who-by naturalization, registration or otherwise voluntarily acquires, or has at any time between the-26th January 1950 and the commencement of this Act voluntarily acquired the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be-a Citizen of India.

(2) If any question arises as to whether when or how any person has acquired

the citizenship" of another country it shall be determined by such authority, in such manner, and having regard to such rules of evidence as may be prescribed in this behalf.

Section 15: "(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for (h) the authority to determine the question of acquisition of citizenship of another country,, the procedure to be followed by such authority, and rules of evidence relating to such cases." , Rules made under the Citizenship Act 1955.

30. "(1) If any question arises as to whether,, when or how any person has acquired the citizenship of another country, the authority to determine such question shall, for the purposes of Section 9 (2) be the Central Government.

(2) The Central Government shall in determining any such question have due regard to the rules of evidence specified in Schedule III."

SCHEDULE III.

"1. Where it appears to the Central Government that a citizen of India has voluntarily acquired the citizenship" of.....any other country, it may require him to prove within such period as may be fixed by it in this behalf, that he has-not voluntarily acquired the! citizenship of that country; and that burden of proving that he had not so acquired such citizenship shall be on him.

2. For the purpose of determining any question relating to the acquisition by an Indian Citizen of the citizenship of any other country, the Central Government may make such reference as It thinks fit in respect of that question or of any matter relating thereto, to its Embassy in that country, or- to the Government of that country and act on any report or information received in pursuance of such reference".

3. The fact that a citizen of India has obtained on any date a passport from the Government of any other country shall be conclusive proof of his having voluntarily acquired the citizenship of that country before that date.

4. In determining whether a citizen of India has or has not voluntarily acquired the citizenship of any other country, the Central Government may take the following circumstances into, consideration, namely:

(a) Whether the person has migrated to that country with the intention of making it his permanent home;

(b) whether he has in fact taken up permanent residence in that country; and (c) any other circumstances relevant to the purpose.

(5) The right to be a citizen of any country is a basic one, for on that depends his political rights and privileges in his State and that right gives him protection in

foreign state;; Arts. 5 to 11 of the Constitution lay down some temporary criteria for the ascertainment and acquisition of citizenship at the commencement of the Constitution. Article 5 prescribes citizenship by birth, descent and acquisition.

Article 6 regulates the right of citizenship of persons who have migrated from Pakistan to India before and after July 1943. Article 7 deals with the rights of citizenship of certain migrants to Pakistan from India after the 1st day of March 1947. Article 3 enables a person of Indian origin residing outside India to get himself registered as a citizen of India by diplomatic or consular heads of India in that country.

Article 9 postulates that a person, who has voluntarily acquired citizenship of any foreign state, would not be a citizen of India, notwithstanding the provisions of Articles 5 and 6, Article 10 envisages the continuance of the said Citizenship subject to the provisions of any law made by the Parliament. Article 11 preserves the power of the Parliament to regulate the rights of citizenship by law.

In 1955, in the exercise of the power preserved to the Parliament under Art, 11, the Citizenship Act, 1955, was passed by Parliament and it received the assent of the President on 30-12-1955. This Act places on a firm ground the acquisition and termination of rights of citizenship in India. It provides five modes of acquiring citizenship:

- (1) Citizenship by Birth (Section 3);
- (2) Citizenship by descent (Section 4);
- (3) Citizenship by registration (Section 5);
- (4) Citizenship by naturalisation (Section 6);
- and (5) Citizenship by incorporation of territory (Section 7);

Sections 8, 9 and 10 provide for renunciation of citizenship, termination of citizenship and deprivation of citizenship. A citizen may renounce his Indian citizenship by making a declaration in the prescribed manner. H(c) can be deprived of citizenship acquired by him under Clause (c) of Art, 8M of the Constitution or Clause (b) of Article 6 or Clause (a) of Section 5 (1) of the Act by an order of the Central Government for any one of the reasons mentioned in Sub-Section 2 in the manner prescribed by Sub-section of 4 and 5 and Section 10.

Section 9, with which we are now concerned, says that any citizen of India who by naturalization, registration or otherwise voluntarily acquires or has at any time between the 26th January 1950 and the commencement of this Act voluntarily acquired the citizenship of another country shall, upon such acquisition -or, as the case may be, such commencement, cease to be a citizen of India and under Sub-Section 2 if any question arises as to whether, when or how any person has acquired the citizenship of another country, it shall be

determined by such authority in such manner, and having regard to such rules of evidence as may be prescribed in this behalf.

Under Section 18 of the Act, the Central Government has power to make rules providing for the authority to determine the question of acquisition of citizenship of another country, the procedure to be followed and the rules of evidence relating to such cases.

8. It is, therefore, clear from the scheme of the aforesaid provisions that S. 9 provides for the termination of citizenship if a citizen of India voluntarily acquires the citizenship of any other country and when the question arises whether he has so voluntarily acquired it, it can be determined by such authority that may be prescribed by the Central Government in accordance with the procedure and the rules of evidence prescribed for such determination.

7. The first argument of the learned Advocates for the Appellants is that this provision puts an arbitrary and unregulated power in the hands of the Central Government and, therefore, is violative of the equality clause enshrined in Article 14 of the Constitution of India which reads:

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

It is said that the Central Government may frame a rule to enable it or the authority appointed by it to arbitrarily deprive the citizenship! rights of a person or class of persons. Such a power to provide a machinery for depriving a person of his cherished right of citizenship, the argument proceeds, has all the potentialities of arbitrariness and, therefore, must be struck down. We cannot accept this argument.

The Parliament has not entrusted any such unregulated and naked power to the Central Government. The Act itself postulates the circumstances under which a person loses his citizenship, namely, when he voluntarily acquires the citizenship of another country. The modes of voluntary acquisition have been narrated in Section 9. The question to be decided by the authority to be prescribed by the Central Government is formulated in clear and precise terms, namely, whether a citizen of India voluntarily acquired the citizenship of any other country.

The determination ." of such a question is entrusted to an authority prescribed and the said authority is directed to decide the question judicially in the manner prescribed. The power to prescribe such an authority and the manner of such determination is put in the hands of the highest executive authority in the country, name, the Central Government. It may be presumed that the Central Government would prescribe the machinery objectively to carry out the intention of the Legislature.

To state it differently, the Act itself enunciates its policy and the object and the manner of achieving it, and what is entrusted to the Central Government is only to bring into existence machinery pursuant to the directions given by the statute

to implement its object. In the words of, Chandrasekhara Aiyar J., delivering the judgment of the Supreme Court in *Matajog Dobey Vs. H.C. Bhari*, , . "the discretionary power is not necessarily a discriminatory power and that abuse of power is not to be easily assumed where the discretion is vested in the Government and not in a minor official.

Here, the regulatory power is vested in the Central Government and it cannot, therefore, be assumed that the Central Government would make a rule in derogation of the power conferred on it or in excess of it. We cannot, therefore, hold that an unregulated and naked arbitrary power was conferred by Section 9 constituting a denial of the equal protection of laws.

8. It is then contended that Section 9 constitutes an unreasonable restriction on the fundamental rights of the Appellants under Article 19 of the Constitution of India. Under that Article, all citizens shall have the right to move freely throughout the territory of India, to reside and settle in any part of the territory of India, to acquire, hold and dispose of property and to practise any profession or to carry on any occupation, trade or business.

The argument is that, by reason of the provisions of the Constitution, the Appellants are citizens of India and Section 9, by authorising the Central Government to constitute an authority to decide the question formulated therein in the prescribed manner and to deprive them of their right, constitutes an infringement of that right. There are two answers to this argument. One is that the fundamental rights under Article 19 are given only to a citizen of India and, if he ceases to be a citizen he loses those rights.

If, as we have held, the section prescribing the machinery to deprive him of his citizenship is not violative of the equality clause the person deprived of his citizenship in the manner provided by that section is not a citizen of India, and, therefore, he cannot complain of any infringement of his fundamental rights. Even if Article 19 applies, the Section operates as a reasonable restriction on the exercise of the Appellants' fundamental rights, being conceived in the interests of the general public within the meaning of the several clauses of Article 19.

That no one can be a citizen of two independent States is a rule of International Law and IV Section 9, recognises that prohibition, and provides for A. the censor of citizenship of India on a citizen's voluntarily acquiring the citizenship of another country. This prohibition, which is also laid down in Article 9 of the Constitution of India, and an established principle governing citizenship of other foreign countries, cannot be stated to be an unreasonable restriction on the fundamental right of a citizen of this country.

But what is contended is that the manner of deciding the factum Of cessor of Indian Citizen provided by the sanction is so arbitrary as Rule 3: The fact that a citizen of India has obtained on any date a passport from the Government of any country shall be conclusive proof of his having voluntarily-acquired the citizenship of that country before that date.

to exceed the permissible limits of reasonableness. The naked power entrusted to the authority prescribed by the Central government, the argument proceeds, may exhaust the content of the right itself.

This is the same argument in a different garb advanced by the learned Counsel to bring the case within the mischief of the equality clause. For the same reasons, we hold that the section is not vitiated by the conferment of any arbitrary or naked power on the Central Government. We also hold that the provisions of Section 9 of the Act constitute a reasonable restriction on the fundamental rights of the Appellants within the meaning of Article 19 of the Constitution.

9. It is then contended that the rule framed by the Central Government is in excess of the power conferred by Section 9 of the Central Government. To appreciate this contention, the material portion of Section 9 and the impugned rule may be put in juxtaposition.

Section 9. Any citizen of India who by naturalization, registration or otherwise voluntarily acquires or has at any time between the 26th January 1950 and the commencement of this Act voluntarily acquired the citizenship of another country shall upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India.

10. Under the Section, the voluntary acquisition of the Citizenship of a foreign country operates as a cesser of the citizenship of this country, while under the rule the obtaining of a passport from the Government of any other country is conclusive proof of the voluntary acquisition of the citizenship of that country, i. e., if he obtained a passport from a foreign country, he is precluded from proving that he has not voluntarily acquired the citizenship of that country.

11. What is the object of the section and what is the effect of the Rule? Does it implement the section or does it go beyond its scope? Citizenship may be acquired by birth, by descent or by voluntary acquisition. The Section deprives a citizen of this country of his citizenship if he voluntarily acquires the citizenship of another country.

Does the rule, by stating that the issue of a passport is conclusive proof of such voluntary acquisition, carry into effect the object of the section or does it directly or indirectly enlarge its scope? It makes the holding of a passport conclusive proof of the voluntary acquisition of citizenship of a foreign country. The legal incidents of the passport are well understood in international law.

In *Urteriojui v. D Arcy*, (1864) 9 LAW 278 the Supreme Court of America decided that a passport was not legal evidence to establish the fact of Citizenship. Thompson 3" says that it "is to be considered rather in the character of a political document by which the bearer is recognised in foreign countries as an American Citizen.

12. A Division Bench of the Madras High. Court consisting of Rajamannar O. J.

and Ven-katarama Ayyar J., in- V.G. Row Vs. The State of Madras, , considered the legal effect of a passport having regard to American and English Law on the B subject. Rajamannar C. J. who delivered the judgment on behalf of the Bench summarized the Jaw at page 419 (of Mad LJ): (at o. 244 of AIR) thus:

All that may be said is that a passport gives a person certain facilities to travel in foreign countries: The Government issuing the passport "requests" the foreign Government to allow the bearer free passage and also to afford every assistance and protection necessary. No Citizen can compel the State to make such a request on his or her behalf.

In the absence of legislation, it would be open to the Government to decide on each application whether or not to make such a request In respect of the concerned individual. If the Government think that it would not be in the best interests of the country that such n request should be made on behalf of any particular individual, it would be open to them to ream?s to issue a passport.

13. The aforesaid summary is a correct statement of the incidents of a passport. It is, .therefore, clear that a passport is not the. basis of legal evidence to establish the fact of citizenship but it only embodies a request to a foreign Government to allow the bearer free passage and to afford him every assistance and protection. That a passport is issued only by a Government to a Citizen does not make it a document of title or a pileup of evidence in a Court of law to establish that fact.

It is only a convenient link in the, chain of International intercourse. Rule 3 makes the passport not only legal evidence but conclusive proof of acquisition of citizenship of a foreign country. Section 4 of the Indian Evidence Act defines conclusive proof thus:

Where one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved and shall not allow evidence to be given for the purpose of disproving it.

Under this section, "an artificial probative effect is given by law to certain facts". Sarkar ;,in, his "Law of Evidence" says that this device is, ordinarily adopted when it is against the B PilPy of the Government or the interests of society that a matter should be further open to t dispute. Illustrations of such irrefutable presumptions are found in Section 114 of the Indian Com-lyanles Act, 1913, Section 132 of the Indian Comrtenies Act, 1956, Section1371 of the Indian Succession Act, Section 61 of the Christian Marriage Act, Section 38 of the Revenue Recovery Act, Section 11 of the Indian Oaths Act and Sections 43 and 113 of the Evidence Act.

But a scrutiny of those provisions shows that a document which is made conclusive proof is Jegal evidence of the fact recorded therein on base of the investigation of that fact. But case has been brought to our notice wherein OSJ any statute made a document, which is not legal evidence of a fact, conclusive

proof of that fact. I Citizenship, as we have already pointed out, may obtained by birth, descent, naturalization, (registration etc.

The acquiring of citizenship by birth or by cannot be voluntary acquisition of and therefore, that fact will not deprive in an Indian Citizen of his citizenship. The new fact that a passport is given to such person, whether the passport is legal evidence or not, cannot lead to any irresistible inference that the said person how voluntarily acquired the citizenship of a foreign state, for it may well have been issued to a citizen by birth or descent.

There may also be cases where a passport is obtained by fraud or mistake or as the Appellants allege We should not be understood to express any opinion on the validity of such an allegation - that a passport is taken by a citizen by fraud practised on him by a third party. In all such cases, though there was "o voluntary acquisition of citizenship of a foreign country, the rule deprives a citizen of his citizenship.

Therefore, by framing this rule, a passport, "which is not legal evidence of citizenship, is made the basis of irrebuttable presumption of the voluntary acquisition of citizenship of a foreign country. Under the Section, a Citizen of India ceases to be a citizen of India by voluntary acquisition of citizenship of another country, while under the rule he is deemed to have voluntarily acquired foreign citizenship, even though he acquired the foreign citizenship otherwise than by voluntary acquisition.

The same legal consequences will follow, even if he did not acquire the citizenship of a foreign country, for there may be cases where a citizen of India acquires the passport of another country by mistake or by fraud. The rule, therefore, enlarges the scope of S. 9 and is, therefore, void.

14. The same result would flow even if the question is approached from the stand point of the infringement of the Appellants' fundamental right under Article 19 .of the Constitution. . Admit-. tedly, all the Appellants were citizens of India on the date when the Constitution came into force and they continued to be so by reason of Article 10 of the Constitution of India.

The Act deprived them of such right, if they voluntarily acquired the citizenship of a foreign country. The rule, by the device adopted, completely bars the Appellants from establishing that . they have not acquired the citizenship of Pakistan. The irrefutable presumption from the fact, which is not legal evidence of the fact of citizenship, much less of the fact of citizenship obtained otherwise than by voluntary .acquisition, has certainly the effect"- of depriving the Appellants" , right without the enquiry guaranteed by the section and, therefore, amounts to an unreasonable, restriction on the fundamental rights of the Appellants under Article 19 of the Constitution India.

15. A few other contentions advanced by the learned Advocates for the Appellants remain to be considered. It is argued that the rule appointing the

Central Government as an authority to decide the question of voluntary acquisition of citizenship of a foreign country in effect constitutes the Government as a Judge its cause and, therefore offends the principles of natural justice. Reliance is placed upon a passage in Broom's Legal Maxims (8th Edition) found at page 98. It reads:....."

"Hobart C. J. is reported to have said?1 even an Act of Parliament made against antiquity as to make a man a Judge in his own case is void in itself, for *jura naturae sunt immutabilia* and they are *leges legum*,"

But the learned author proceeds to observe But although it is contrary to the natural law to make a person by himself in his own case, Legislation can, and doubt in a proper case would, depart from (at least) an intention to do so exposed, the "Courts give effect to their enactments. And if a particular relation be created by statute between A and B and a duty be imposed upon A, to investigate and decide upon charges preferred against B, the maxim *ne irro sibi esse judo*; *vol sui jus dicere debet* would not apply.

16. In this case, the statute regulated the rights of Citizenship, their acquisition and their termination. Section 9 reads with Section 18 of the Act expressly empowered the Central Government to prescribe the authority to determine the question of the acquisition of the citizenship of another country. Though the Central Government could have appointed an independent tribunal to investigate the said question, the power conferred on it is wide and comprehensive enough to enable it to appoint itself as the authority to determine the question. We cannot, " therefore, say that the Central Government exceeded its powers in constituting itself the authority to determine the question.

17. The learned Counsel then contends that the Legislature abdicated its function in conferring on the Government the power of prescribing the authority to determine the question and also the mode of evidence and the manner of its disposal.

18. A Bench of this Court of which one of us was a member in *Krishnan v. Secretary, R.T.A., Chittoor*, 1956 AP WR 142: AIR 1956 AP 129 considered the scope of the power of delegation by the Legislature having regard to decided cases. The conclusion was expressed thus at page 155 of AIR: (at p. 138 of AIR):

"The Legislature cannot abdicate its functions and delegate them to others. But it can always delegate its power to determine some fact or state of things upon which the operation of the law made would depend..... The Act clearly and definitely prescribed the powers to be exercised by the Regional Transport Authority. To authorise them to delegate such powers to such authority as prescribed by the rules.

The Government under the rule-making power only nominates the authority to whom the reserved power can be delegated. Therefore, there is no abdication on

the part of the Legislature of its legislative functions." "The following passage from the judgment of Justice J. of the Supreme Court of Ohio in *Cincinnati W. and Z. R. Co. v. Clinton County Commissioners*, 1 Ohio St, 88 (E), brings out the limits of the power of delegation:

ration of power to make the law, which necessarily involves a discretion as to what it shall be and on authority or discretion as to its execution to be exercised under and in pursuance of law. The first cannot be done; to the latter no valid objection can be made."

19. The following passage from *Locke's Appeal*, 72 Pa. St. 491 (O'F), also defines the limits of delegated legislation:

The legislature cannot delegate its power to make a law but it can make a law to delegate a power to determine some fact or state of things upon which the law makes or intends to depend. To deny this would be to stop the Government."

20. In the *Lucent* case, the Legislature does not delegate its power to make a law but, on the other hand, conferred power on the central Government to implement the law in the manner prescribed. As stated in a different context, the Legislature laid down its policy and object, propounded the Question to be decided and only entrusted to the Central Government the power to nominate the authority for deciding the question and for laying down the manner of its disposal.

It cannot be said that the Legislature in the circumstances has abdicated its function. The delegation therefore, is within the limits permissible by law.

21. Finally, learned Counsel for the Appellants contend that the order of the Respondent directing the Appellants to leave the State is bad inasmuch as the question raised was not decided by the Central Government under S. 9 of the Act read with the rules made there under. Under S. 9, if any question arises as to whether, when or how any person had acquired the citizenship of another country, it shall be determined by such authority in such manner and having regard to such rules of evidence as may be prescribed in that behalf.

Under Rule 30 (2), the Central Government is the authority to determine such a question in accordance with the rules specified in Sch. III. The Act and the Rules framed there under created a special tribunal, namely, the Central Government for deciding the said question and a duty is cast on it to do so whenever the question is raised. The Respondent, therefore, before making the orders expelling the Appellants, should have raised the question before the Central Government and obtained its decision.

The orders, therefore, made ignoring the said provisions are not valid. The view expressed by us in these appeals will not preclude the Central Government from determining the Question whether the Appellants have voluntarily acquired citizenship of another country within the meaning of Section 9 (1) of the Act in

the manner prescribed under the rules ignoring Rule 3 of Sch. III, which we have already held, is beyond the rulemaking power.

22. In the result, We allow the appeals with costs and issue writs of mandamus directing the Respondent to forbear from enforcing the orders directing the Appellants to leave the country. Advocate's fee only two sets in all "the appeals which we fix at Rs. 100.