

(1986) 02 BOM CK 0018

In the Bombay High Court

Case No : Writ Petition No. 1379 of 1985

Orkay Silk Mills Limited and another

APPELLANT

Vs

M.S. Bindra and others

RESPONDENT

Date of Decision : 25-02-1986

Acts Referred:

Central Excises and Salt Act, 1944 — Section 2, 35B, 35C

Citation : (1986) 9 ECC 44 : (1988) 19 ECR 503 : (1988) 33 ELT 48

Hon'ble Judges : M.L. Pendse, J

Bench : Single Bench

Judgement

Pendse, J.—By this petition filed under Article 226 of the Constitution of India, the petitioners are challenging the legality of the order dated June 1, 1985 passed by respondent No. 1. The petitioner No. 1 is a company carrying on business of manufacturing polyester filament yarn of the type known as Partially Oriented Yarn ("POY") as also of draw-texturing such "POY" into textured yarn. The petitioner-company has factories at Saki Naka in Greater Bombay and at Patalganga in Raigad District. The company started manufacturing "POY" from March, 1982 at Patalganga. The petitioner-company itself draw textures some of its POY and there are also five companies and/or partnership firms which were connected with the petitioner-company and which also carry on the business of draw-texturing the POY manufactured by the petitioner-company. These concerns are : (1) Orlando Synthetic Industries Pvt. Ltd., (2) Paramount Synthetics (P) Limited, (3) KDB Crimping Proprietors Kapal Dyeing and Bleaching Works (P) Ltd., (4) Orkay International, and (5) Orkay Textiles Corporation. The petitioner No. 2 is a director and the chairman of the board of directors of petitioner No. 1 company.

2. The respondent No. 1 was the Director in charge of the Directorate of Anti Evasion, Central Excise, and his office was situated at New Delhi. Shri R. Bhattacharji was the Deputy Director at New Delhi, while Shri V.R. Gangurde was working as Deputy Director in Bombay. On Bombay 26, 1984, the respondent No.

1 along with Shri Bhattacharji and other members of the team came down to Bombay and raided the premises of the petitioner No. 1 company and simultaneously its associates, various texturisers, consumers, customers and dealers. The raids were carried out under the overall control and guidance of respondent No. 1 and of the two Deputy Directors : Bhattacharji and Gangurde. The raiding party obtained instructions from respondent No. 1 on telephone from time to time and thereafter reported the result of the raids and letters were also addressed to respondent No. 1 communicating the result. The factory premises of the company at Patalganga were also raided and the raiding party noticed a large quantity of waste which was stored by the company and which was the result of manufacture of POY and texturised yarn. On April 19, 1984, the Officers of the Directorate started weighting the said waste, but subsequently by May 8, 1984, the weighting work was abandoned and the panchnamas were prepared evidencing that fact.

On August 6, 1984, the respondent No. 2 - the Central Board of Excise and Customs - published Notification No. 191/84-C.E. in exercise of powers conferred by Clause (b) of Section 2 of the Central Excises and Salt Act, 1944 (hereinafter referred to as the "Act") investing the Director, Anti Evasion (Customs and Central Excise in the Directorate of Revenue intelligence, New Delhi) with the powers of the Collector of Central Excise to be exercised by him throughout the territory of India. In view of this notification, the respondent No. 1 who was holding the post of Director, Anti Evasion, was invested with the powers of the Collector of Central Excise. On the same date, the Central Board enquired from respondent No. 1 as to which cases he would like to decide and respondent No. 1 selected the cases against the petitioners and its five associates. The cases were accordingly allotted to respondent No. 1 and respondent No. 1 on August 7, 1984 issued show cause notice to petitioner No. 1 and the other five concerns. The show cause notice runs into 39 pages with annexures running into 6 pages. The show cause notice was subsequently amended by corrigendum dated August 31, 1984 which was issued by Shri Bhattacharji who was one of the officers connected with the raid on the factory premises of the company. The allegations of the department broadly were that the company had not accounted for its entire production; the company has clandestinely removed the finished product and the company has made false declaration of deniers of yarn cleared from the factory. The show cause notice alleged that the company is guilty of evading payment of Excise duty on large scale.

3. After service of notice on petitioner No. 1 company on September 10, 1984, a request was made to respondent No. 1 to supply a copy of panchnama in respect of raid on the premises of Ramgopal Industries. On April 8, 1985, respondent No. 1 was requested to supply production report prepared by the company. On April 18, 1985, the request was reiterated and the company also claimed that one Shri Gokeni should be submitted for cross-examination. On April 19, 1985, the company informed respondent No. 1 offering demonstration of drawing 160 denier textured yarn made from POY of 755 denier. The offer was reiterated on

May 15, 1985. On May 17, 1985, the respondent No. 1 was requested to permit cross-examination of Majumdar of Himsons and to supply copies of proceedings and depositions recorded. These applications made by the company were never answered. The respondent No. 1 gave hearing to the company on April 20, May 2, May 14, May 15, May 25, May 30, and May 31, 1985. The hearing concluded on May 31, 1985 at about 1.30 in the afternoon.

The respondent No. 1 flew back to Delhi the same evening and declared the impugned order at New Delhi on June 1, 1985 which was a Saturday. The impugned order was given wide publicity in newspapers and corrigendum was issued on June 6, 1985. The petitioner No. 1 company received a cyclostyled copy of the order on June 12, 1985 and the order runs into 130 pages. By the impugned order, the respondent No. 1 directed the company to make payment of Rs. 4,48,48,562.67 P. towards the duty unpaid in respect of POY/PFY. The company was also directed to pay duty of Rs. 1,62,919.06 P. in respect of certain quantity of POY which could not be accounted during stock taking. A further duty of Rs. 2,06,78,648.80 P., Rs. 20,67,864.88 P. and Rs. 31,01,778.32 P., the total being Rs. 2,58,48,292.00 P. was imposed in respect of denier which was found to be mis-declared. The respondent No. 1 also ordered confiscation of a total quantity of 4,374.73 Kgs. of different deniers, and as the yarn was already removed provisionally, the security amount given by the company was ordered to be confiscated. The respondent No. 1 further imposed a penalty of Rs. 2,00,00,000 on the company. The respondent No. 1 further directed that the land, buildings, plant, machinery, materials, conveyance, etc., used by the company in connection with the manufacture, production, storage, removal, etc., of the goods should be confiscated, but the same can be redeemed on payment of fine of Rs. 1,00,00,000. The department was directed to take constructive possession of the building, plant, etc., pending redemption.

The respondent No. 1 curiously imposed a personal penalty of Rs. 50,00,000 on petitioner No. 2 without even service of the show cause notice. The respondent No. 1 directed that orders pertaining to the remaining five concerns would be passed separately.

4. On July 16, 1985, the present petition was filed under Article 226 of the Constitution of India challenging the legality of the order. The petitioners claimed that the notification investing respondent No. 1 to act as Collector of Central Excise was ultra vires of the powers conferred on respondent No. 2. The petitioners also claimed that the impugned order suffers from total non-application of mind and was passed by respondent No. 1 by violating each and every known principle of natural justice. The notice of petition was served on the respondent on July 16, 1985 itself and the petition came up for admission before me on July 23, 1985. I admitted the petition and granted ad interim relief restraining the respondents from giving effect to the impugned order. The reliefs sought by the petitioners are :

(1) Writ of mandamus to quash and set aside the impugned notification investing

Director of Anti Evasion with the powers to deal with excise cases, and

(2) Writ of mandamus for quashing and setting aside the show cause notice and the impugned order dated June 1, 1985 along with the corrigendum dated June 6, 1985.

I granted ad interim relief as I was informed on behalf of the respondents that respondent No. 1 had left the country and was not likely to return back for about four weeks. The petition came up before Mrs. Justice Sujata Manohar for confirmation of interim relief after period of 8 weeks as requested by the respondents and the interim relief was confirmed and the hearing was expedited. Against the admission of the petition, as well as the grant of ad interim relief and confirmation of reliefs, appeals were preferred by the respondents before the Division Bench of this Court and the interim relief was modified by imposing certain conditions. The appeal court passed the order on November 20, 1985 and directed that the petitioner should be heard peremptorily on December 16, 1985.

Before admission of the petition, on behalf of respondents, affidavits were filed by Shri V.R. Gangurde sworn on September 13, 1985 and by Shri K.L. Desai on September 19, 1985. After the admission of the petition, on December 11, 1985, Shri Gangurde has filed another affidavit opposing the reliefs sought by the petitioners.

5. Shri Desai, learned counsel appearing on behalf of the petitioners, contended that the impugned order suffers from serious infirmity as respondent No. 1 has flouted every principle of natural justice and shown utter disregard to the basic requirement of judicial discretion while passing the impugned order. Shri Desai submitted that the notification investing Director of Anti Evasion to exercise powers of a Collector of Central Excise was illegal and the exercise of powers by respondent No. 2 was wholly improper in the circumstances of case. The learned counsel further urged that it is impossible to imagine how respondent No. 1 who flew back to New Delhi late in the evening on May 31, 1985 could have dictated and signed the final order running into 130 pages on next day. It was submitted that the manner in which the order was passed clearly indicates that everything was not above board. Shri Desai also urged that it is difficult to believe how respondent No. 1 who was exercising quasi-judicial powers could have imposed a fine of Rs. 50,00,000 on petitioner No. 2 without carrying even to issue a show cause notice and without giving any hearing whatsoever to petitioner No. 2. Shri Desai, therefore, urges that the impugned order suffers from total non-application of mind and deserves to be quashed on that count. Shri Dalal, learned counsel appearing on behalf of the respondents, on the other hand, urged that though petitioner No. 2 was not served with any show cause notice by respondent No. 1 and, therefore, that part of the order is bad, the rest of order should not be disturbed. Shri Dalal submitted that respondent No. 1 had not disposed of the show cause notice issued to five concerns, who were served with notice along with petitioner No. 1 and, therefore, it would be open for respondent No. 1 to deal with the case of petitioner No. 2 along with those concerns. Shri

Dalal very strenuously urged that the relief sought by the petitioner should be refused as subsequent to the filing of the petition, the petitioners have filed appeal on September 11, 1985 before the Appellate Tribunal as prescribed by Section 35B of the Act.

6. The submission urged on behalf of the petitioners that respondent has violated every known principle of natural justice deserves acceptance. To start with, it is not in dispute that respondent No. 1 was the Director, Anti Evasion and was posted at New Delhi and came down along with his team to Bombay for carrying out raids on the properties and factory premises of the company. The raids were carried out under the direct control and supervision of respondent No. 1 and the averment made in the petition that the raiding party was taking instructions on telephone from respondent No. 1 and was also informing the result of the raid was not even controverted. The raiding party also addressed letters to respondent No. 1 and subsequently took instructions. Moreover, the respondent No. 1 before adjudication and even before the hearing, declared rewards to the investigating officers of the raiding party. These facts unmistakably establish that the respondent No. 1 was closely connected with the raids and with the investigation carried out to ascertain whether there was any tax evasion on the part of the company. After the raids were over, respondent No. 2 in exercise of the powers conferred by Clause (b) of Section 2 of the Act invested the Director, Anti Evasion with the powers of Collector of Central Excise and respondent No. 1 was holding that post at the relevant time. During the hearing, I enquired from Shri Dalal as to what correspondence transpired between respondent No. 2 and respondent No. 1 in pursuance of the notification, and the learned counsel produced before me two letters which are taken on record and marked as Ex. B collectively. Shri Desai submitted that the petitioners had requested the respondents to give inspection of this correspondence but the respondents have declined to do so. These two letters make interesting reading. The first letter is written on August 6, 1984, the date on which the notification was issued by respondent No. 2 and is addressed by respondent No. 2 to respondent No. 1. The letter recites :

"This notification has been issued with the intention so as to enable you to adjudicate the Central Excise cases which have inter-collect orate ramifications or where the estimated evasion of duty is very huge. However, before undertaking the adjudication of any case, you should obtain the prior approval of the Board.

You are requested to submit a list of all cases which need to be adjudicated by you, for Board's approval."

The respondent No. 1 replied on August 8, 1984 stating that before the issue of notification, the need for delegation of power to him was discussed in depth and it was felt that the cases detected by Directorate and having either substantial stakes in terms of revenue or having inter-collect orate ramifications should be adjudicated by the Director. The respondent No. 1 then referred to three cases which he would like to adjudicate :-

1. Case against M/s. Orkay Group of Industries,
2. Case against M/s. Electro Photomax, and
3. Case against M/s. Escorts Group of Industries.

The respondent No. 1 further stated that even before the receipt of letter dated August 6, 1984, the show cause notice against Orkay group of Industries had already been issued and oral approval of the Board was taken subsequently.

Shri Desai is right in his submission that respondent No. 1 should not have undertaken adjudication as he was closely connected with the raiding party and the investigation of the alleged evasion of duty. It hardly requires to be stated that a person closely connected with the investigation and who is interested in obtaining a particular result should not undertake quasi judicial duties of adjudication between the department and tax-payer. It would be trite to observe that a prosecutor or a complainant can never be a judge of his own cause. The respondent No. 1 undertaking the adjudication of the alleged evasion of duty, in these circumstances, was entirely a mis fit and the impugned order passed by the respondent No. 1 cannot be sustained.

7. But, apart from this, there is more serious objection to the manner in which respondent No. 1 has passed the impugned order. I am not examining the claim of Shri Desai that respondent No. 1 did not pass orders on several applications made by the company because, in my judgment, the method of passing the order creates serious suspicion in my mind about the bona fide exercise of the powers. The respondent No. 1 concluded the hearing on May 31, 1985 at about 1.30 p.m. in the evening and it is claimed on behalf of the respondents that respondent No. 1 proceeded to Delhi by aircraft and reached there by about 8.00 p.m. The respondent No. 1 claimed that he had telephonically informed his stenographer to remain ready to take dictation and dictated the order till 11.30 p.m. and continued the same on the next day from 7.00 a.m. till 11.45 p.m. The respondents claim that the order was signed by respondent No. 1 at 11.45 p.m. on June 1, 1985. It is impossible to accept the claim made on behalf of respondent No. 1 in this behalf. In the first instance, it is physically impossible for any human being to dictate an order running into 130 pages within such a short time. Secondly, it is difficult to believe that respondent No. 1 would fly back to Delhi and straightway proceed to dictate the order for about 3 1/2 hours at night and for the whole day on June 1, 1985 and would complete dictation and signing of the order late at night at 11.45 p.m. June 1, 1985 was a Saturday and it is difficult to believe that any Government Officer would work for such long hours on that day, without any reason. I enquired from Shri Dalal as to what was the urgency or the reason for respondent No. 1 to dictate such a long order for the whole day and night and Shri Dalal has no answer to give. Shri Dalal referred to the affidavit of Shri K.L. Desai and especially to paragraph 4 where it is claimed :

"I further say, as is the normal practice, a number of pages which are presently a

part of the impugned order were always kept ready inasmuch as the contents of these pages are reproduction of the show cause notice and reply thereto given by the party just prior to the date of the commencement of the hearing. The entire preamble of the order is kept ready. Therefore, it is not as if impossible as purportedly suggested by the petitioners and/or it is not that such an order could be passed on the next day only if the impugned order was pre-determined as alleged by the petitioners."

Shri Dalal submitted that respondent No. 1 must have kept the earlier part of the order ready and dictated only the operative order giving his findings after returning to Delhi. It is impossible to accept the suggestion of the learned counsel because respondent No. 1 has not filed any affidavit to that effect. In fact, I enquired from Shri Dalal as to why respondent No. 1 did not file any affidavit and after taking instructions, the learned counsel replied that respondent No. 1 was made to compulsorily retire from service in October or November, 1985 and, therefore, he is not available to file the affidavit. The explanation offered cannot be accepted for more than one reason. In the first instance, there is no reason why respondent No. 1 did not file affidavit till he was made to retire from service. The petition was filed on July 16, 1985 and at the stage of admission, Shri Dalal sought 8 weeks' time on the ground that respondent No. 1 has gone out of the country. Even after his return and at the time of confirmation of the interim order or at the time of filing the appeal, the respondent No. 1 did not file any affidavit. The respondent No. 1 was in the know of the things and it is obvious that he deliberately avoided to file affidavit. Secondly, even assuming that respondent No. 1 had retired from service, still it does not prevent him from filing affidavit. It is futile, in these circumstances, for Shri Dalal to suggest that reliance should be placed on the affidavit of Shri K.L. Desai that the order was dictated for day and night by respondent No. 1. It surpasses my imagination as to how respondent No. 1 could have dictated the order for such long hours and how his stenographer could have transcribed and made it ready for signing of respondent No. 1 at midnight.

As Shri Dalal persisted in his submission that respondent No. 1 could have dictated the order and could have signed the transcribed order before midnight, I enquired from the learned counsel as to whether the respondents would show me the original order signed by respondent No. 1. Shri Dalal took instructions from the officers who were present in Court and produced for my perusal a part of the order which is signed by respondent No. 1. This part of the order is from the stage where the findings are recorded. I enquired from Shri Dalal as to where is the remaining portion and Shri Dalal says that it is not available on the file. In this state of affairs, I took the entire file including the part of the order on record and marked it as Ex. A collectively. On perusal of the part of the order signed by respondent No. 1, I noticed that there were several corrections and interpolations in the order and I enquired from Shri Dalal as to whether these corrections and interpolations are made by and in the hand of respondent No. 1. Shri Dalal, after taking instructions, stated that some of the interpolations and

corrections are not in the hand of respondent No. 1. In my judgment, this makes mockery of the quasi-judicial proceedings adjudicated by respondent No. 1. The fact that the entire order signed by respondent No. 1 is not on record indicates two possibilities : (1) that the order was kept ready by the respondent No. 1 even before the conclusion of hearing, and (2) that the order was dictated by someone other than respondent No. 1 and respondent No. 1 merely put his signature to it. It is difficult to conceive how the part of the original order could be corrected by someone other than respondent No. 1. This state of affairs indicates that there is something wrong in the working of respondent No. 1 and it is not difficult to imagine why respondent No. 1 was made to compulsorily retire. It is unfortunate that inspite of this state of affairs, the respondents should think it wise to sustain the order passed by respondent No. 1. In my judgment, the action of a quasi-judicial authority like respondent No. 1 would shake the confidence of the public and the tax-payer in the administration of justice. On this Court alone, the order is required to be struck down as it is prepared not by respondent No. 1 alone but by someone else, who had no authority to do so. It is time that the Government of India investigate into the matter in greater depth and ascertain who is responsible for this mess.

8. The submission of Shri Desai that the order suffers from non-application of mind is also fortified by the fact that respondent No. 1 has imposed the penalty of Rs. 50,00,000 on petitioner No. 2 even though he was not served with any show cause notice or was not given any hearing. It is impossible to imagine how any quasi-judicial authority would go to such an extent and pass such atrocious order. Shri Dalal could not support the order but submitted that the respondents would give fresh hearing to petitioner No. 2. The question is not whether the respondents would give hearing to petitioner No. 2, but whether respondent No. 1 had applied his mind before passing such order or the penalty was imposed at the dictates of somebody else. The entire order deserves to be quashed on the ground of total non-application of mind, on the ground of violation of every known principle of natural justice and also on the ground that it is not clear whether the order was passed by respondent No. 1 or by some one else in the name of respondent No. 1. In these circumstances, it is not necessary to examine various other contentions urged by Shri Desai to challenge the legality of the order.

9. Shri Dalal then submitted that even assuming that the order is violative of principles of natural justice and suffers from serious infirmity, still this Court should not entertain the petition and strike down the order as the petitioners have preferred statutory appeal before the tribunal after filing of the petition. It is not in dispute that the petitioners filed appeal on September 11, 1985 as contemplated by Section 35B of the Act. The powers of the appellate tribunal are set out in Section 35C of the Act and the powers are almost identical as those conferred on the appellate Court under the Code of Civil Procedure. Shri Dalal submitted that as the petitioners have adopted the remedy of approaching the tribunal, this Court should not entertain the petition and grant relief in writ

jurisdiction. The learned counsel, in support of the submission, relied upon the decision of the Supreme Court in the case of Titaghur Paper Mills Co. Ltd. and Another Vs. State of Orissa and Others, . The submission of the learned counsel cannot be accepted for more than one reason. In the first instance, it must be noticed that appeal was preferred by the petitioners on September 11, 1985 and it is specifically stated in the appeal memo that the appeal is lodged without prejudice to the present writ petition filed in the High Court and pending hearing. Secondly, in this petition, the petitioners have challenged the appointment of respondent No. 1 and the notification dated August 6, 1984 appointing him as a Collector of Central Excise. It is not open for the appellate tribunal to enquire about the legality of the notification or the appointment order of respondent No. 1 and that aspect has to be investigated in the present case. The appeal has been preferred by the petitioners out of abundant caution and the mere fact that there is statutory right to file the appeal and in fact the appeal has been filed would not oust the jurisdiction of this Court. It is undoubtedly true that this Court would not entertain the petition when there is right of statutory appeal but at the same time, this Court would not shut its eyes and close the doors when it is established that there is gross miscarriage of justice. The facts set out hereinabove clearly demonstrate that respondent No. 1 has flouted all norms of decency and has imposed abnormal penalties on the petitioners without applying any principle of natural justice. It is not possible to accept the submission of Shri Dalal that inspite of this high-handed action on the part of respondent No. 1 and on the part of respondent No. 2 in appointing respondent No. 1 as an adjudicating officer, the relief should be refused. This Court would certainly not have entertained the petition and entered into the merits of the matter if it was found that the action of respondent No. 1 did not suffer from any serious infirmity. The reliance upon the decision of the Supreme Court is also not correct because the Supreme Court while observing that the High Court should not exercise jurisdiction under Article 226 of the Constitution of India when there is a statutory remedy of appeal made it clear that in a case of inherent lack of jurisdiction and violation of principles of natural justice, the High Court can and should exercise jurisdiction. In my judgment, this is a fit case where the High Court should exercise jurisdiction and grant relief to the petitioners. Accordingly, the objection raised by Shri Dalal to the entertainment of the petition is repelled.

10. It is necessary to reiterate that the quasi-judicial authorities exercising powers under the Act should remember that not only justice should be done but the parties who are affected by the adverse order should have a feeling that justice has been done to them. It is not enough for any authority to assert that justice is done without there being a show of justice. The rules of natural justice are not empty formalities but must be observed to remove any feeling in the mind of the party adversely affected that his cause was not considered. The manner in which the respondent No. 1 has proceeded to pass the impugned order leaves an apprehension in the mind that the whole process was per-determind. Such a feeling would destroy the confidence not only of the citizens

but also of the Courts in quasi-judicial authorities. It would be appropriate in this connection to refer to the decision of the Supreme Court in the case of Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, where Mr. Justice Subba Rao, as he then was, referred with approval to the observation of Lord Cranworth in 10 ER 824 :

"A judge ought to be, and is supposed to be, indifferent between the parties. He has, or is supposed to have, no bias inducing him to lean to the one side rather than to the other. In ordinary cases it is just ground to exception to a judge that he is not indifferent, and the fact that he is himself a party, or interested as a party, affords the strongest proof that he cannot be indifferent."

The learned Judge also referred to the observations of Lord Hewart Chief Justice in 1924 1 KB 256 :

"It is said, and, no doubt, truly, that when that gentleman retired in the usual way with the justices, taking with him the notes of the evidence in case the justices might : desire to consult him, the justices came to a conclusion without consulting him, and that he scrupulously abstained from referring to the case in any way. But while that is so, a long line of cases shows that it is not merely of some importance, but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. The question, therefore, is not whether in this case the deputy clerk made any observation or offered any criticism which he might not properly have made or offered; the question is whether he was so related to the case in its civil aspects as to be unfit to act as clerk to the justices in the criminal matter. The answer to that question depends not upon what actually was done, but upon what might appear to be done."

11. Though the impugned order passed by respondent No. 1 is required to be struck down, it is not necessary to strike down the notification investing powers of the Collector of Central Excise in favour of Director of Anti Evasion. The powers have been conferred on the person holding that office and respondent No. 1 is no longer holding that office. The notification, though appears to have been issued for conferring power on respondent No. 1, would no longer enable respondent No. 1 to exercise the power and there is no reason why the notification should be struck down and deprive the next office bearer from enjoying the powers. It is also not necessary to strike down the show cause notice because it is always open for respondents to appoint a fresh adjudication officer and to proceed to re-hear the whole matter in pursuance of the show cause notice earlier issued and adjudicate afresh. In my judgment, the only relief which the petitioners are entitled to is of quashing of the impugned order.

12. Accordingly, petition partly succeeds and the impugned order dated June 1, 1985, copy of which is annexed as Ex. B-1 to the petition and the corrigendum thereto dated June 6, 1985, copy of which is annexed as Ex. B-2 to the petition are struck down. It hardly requires to be stated that any action taken by

respondents in pursuance of the impugned orders must fall to the ground. The respondents shall pay the costs of the petitioners.