

(1981) 12 AP CK 0015

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 301 and 411 of 1976

P. Srinivasa Murthy and Others

APPELLANT

Vs

State of Andhra Pradesh and Another

RESPONDENT

Date of Decision : 10-12-1981

Acts Referred:

Constitution of India, 1950 — Article 14

Criminal Procedure Code, 1973 (CrPC) — Section 107

Citation : (1982) 2 APLJ 1

Hon'ble Judges : Ramachandra Rao, J;Muktadar, J;Jayachandra Reddy, J

Bench : Full Bench

Advocate : A. Panduranga Rao, for the Appellant; Government Pleader for GAD, for the Respondent

Judgement

Ramachandra Rao, J.—In these two writ petitions filed by 22 residents of Peddapalem village, Tenali Taluk, Guntur District, the orders of the Government in G.O.Ms. No. 1195 General Administration (General-A) Department dated 13-12-1971, and G.O.Ms. No. 407 General Administration (General-A) Department dated 3-4-1972, and the proceedings No. D. Dis. 2491/72 dated 25-3-1974 of the Collector and District Magistrate, Guntur are being challenged

2. The relevant facts are as follows :-

Peddapalem is a hamlet of Chinapalem village in Tenali Taluk. The Superintendent of Police, Guntur sent up a report on 8-7-1971 to the Collector and District Magistrate, Guntur that the Peddapalem village was ridden with factions between Harijan (madiga Christian) Community and the Kamma Community, and that the Kamma group was supported by Sri P. Sriramulu, Ex.-MLA, whereas the Harijan group was supported by Sri V. Satyanarayana, Ex-A.P. Minister and a Member of Parliament, and that political rivalries existed between the two groups. One P. Srinivasa Murthy the first petitioner in W.P. No. 301/76 was the leader of the Kamma group and one Mikkilineni Venkateswara Rao alias Pitchayya was the leader of the Harijan group. After the elections to the Emani

Panchayat Samithi held on 18-7-1970 in which P. Sriramulu was defeated by one Bonthu Gopala Reddy of Munnangi, a staunch supporter of Sri V. Satyanarayana, the feelings between the Kammas and Harijans became strained. There were also ill-feelings between the Kammas and Harijans over allotment of house sites to the Harijans over allotment of house sites to the Harijans. The Kammas were not engaging the Harijans for agricultural operations in their fields and they were engage coolies from other villages. Thus the feelings between the two communities became so bitter, they were afraid of each other. The leaders and their followers were desperate and dangerous characters and they were often indulging in acts of violence, rowdyism, arson and mischief and there was threat to public peace and tranquillity. There were a number of criminal cases registered against both the parties Proceedings under S. 107 Cr.P.C. were of no avail and despite the presence of the A.R. party and the local police, the situation in the village was tense and explosive and both parties were frequently coming to clash whenever an occasion arose. The village was in a disturbed state and feelings between the two groups were getting strained day by day and the sanctioned strength of Duggirala Police Station was quite inadequate to afford protection to the villagers and to maintain law and order. The Superintendent of Police, Guntur, therefore, proposed that additional police consisting of one Sub-Inspector. One Head Constable and 10 Police Constables should be quartered in the village for a period of six months. The Inspector General of Police agreed with these proposals and forwarded the same to the Government by his letter dated 22-10-1971. The Government accepted the proposals and issued an order G.O.Ms. No. 1195 General Administration (General-A) Department dated 13-12-1971 under S. 15(1) of the Police Act, 1861 (hereinafter called "the Act") sanctioning the quartering of additional police force at Peddapalem village for a period of six months from 15-12-1971 and this additional police force was continued up to 14-9-1972. By G.O. Ms. No. 407 dated 3-4-1972, the Government passed an order directing that the cost of the additional police quartered in Peddapalem village should be borne by 60 members of the A-party and 61 members of the B-party mentioned in the Annexure to the said order, who were inhabitants of the said village and exempting all other inhabitants of the area comprised in Peddapalem village and further directing that the cost should be borne by the aforesaid persons in accordance with the apportionment to be made by the Magistrate under sub-section (4) of S. 15 of the Act. The cost of quartering additional police force at Peddapalem village for the period from 15-12-1971 to 14-9-1972 came to Rs. 42,068-53 Ps. Thereafter the Collector and District Magistrate, Guntur issued proceedings in his D. Dis. 2491/72 dated 25-3-1974 apportioning the said cost between the members of the A-party and B-party after obtaining the particulars of land and house properties of each member of A-party and B-party. Aggrieved by the said order, two sets of petitioners belonging to the A-party have filed these two writ petitions challenging the orders of the Government in G.O.Ms. Nos. 1195 and 407 and the proceedings of the Collector and District Magistrate apportioning the cost between the members of the A-party and B-party.

3. These two writ petitions were heard by Kuppuswami, Acting Chief Justice and Seetharama Reddy, J. before whom, the following contentions were urged :

(1) The order in G.O.Ms. No. 1195 dated 13-12-71 declaring the area comprised within Peddapalem village as being in a disturbed state and sanctioning the quartering of additional police force was in contravention of S. 15 of the Police Act, 1861, and that no reasons were given for quartering additional police and it was not a speaking order and, therefore, it was liable to be set aside.

(2) G.O.Ms. No. 407 directing that the cost of the additional police force stationed at Peddapalem should be borne by the members of the A-party and B-party mentioned in the Annexure therein was arbitrary and capricious and made without notice to the affected parties and was violative of the principles of natural justice and infringed the rights of the petitioners under Art. 14 of the Constitution.

(3) The proceedings of the Magistrate apportioning the compensation between the persons mentioned in the Annexure were ultra vires the provisions of S. 15 and violative of the principles of natural justice, as the affected parties were not given any notice or opportunity to disprove the statements regarding the particulars of properties, alleged to be owned or possessed by each of the said persons.

4. The learned Judges held that the quartering of the additional police in Peddapalem village was properly and validly made in exercise of the powers under S. 15(1) of the Police Act, and that the order also contained reasons for stationing the additional police and that it was a speaking order, and that the notification in G.O.Ms. No. 1195 contained the requisite material for the Government to exercise power under S. 15(1) of the Act and accordingly rejected the first contention of the petitioners.

5. The second contention was also negated on the ground that the order of the Government in G.O.Ms. No. 407 directing that the cost of the additional police force should be borne by the members of the A and B parties mentioned in the Annexure therein and exempting all other inhabitants of the said village from liability to bear any portion of the said cost, was based on relevant material and was in conformity with the provisions of S. 15 of the Act, and that it was not violative of the principles of natural justice.

6. On the third point, it was contended for the petitioners that the order of the Collector and District Magistrate apportioning the cost between the members of the A-party and B-party was violative of principles of natural justice, as the apportionment was made without notice to the affected parties and without giving an opportunity to them, and that the Magistrate relied upon particulars of the landed and house properties and the values thereof furnished by the Revenue Officials without disclosing such material to the affected parties and giving them an opportunity to make their representations in that behalf. It was also contended for the petitioners that under S. 15(4), the Magistrate has to

apportion the cost according to his judgment of the respective means of the inhabitants, and that the expression "means" has to be understood as the pecuniary resources of the individuals concerned and not merely the landed and house properties, and that the Magistrate erred in apportioning solely on the basis of the landed and house properties. It was contended by the learned Government Pleader, relying upon the decision in *Syda Reddy v. Govt. of A.P.* ILR (1967) AP 37 and an unreported decision of this Court in *S. Venkataswami Reddy v. Govt. of A.P.* Judgment in W.A. No. 207 of 1973, D/- 20-3-1974 that the power conferred by S. 15(4) of the Act on the District Magistrate with regard to apportionment of the cost was not a judicial or quasi-judicial power and, therefore, the principles of natural justice were not applicable to the said enquiry and, hence, no notice or opportunity need be given to the affected parties. The learned counsel for the petitioners contended, relying upon the rulings of the Supreme Court in *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, and other cases that the principles of natural justice are also applicable to administrative enquiries. The learned Judges found that there was considerable force in the contention raised on behalf of the petitioners that even if the proceedings of the Magistrate are not judicial or quasijudicial in character, the principles of natural justice have to be complied with, and that the decisions in *Syda Reddy v. Govt. of A.P.* and *S. Venkataswami Reddy v. Govt. of A.P.* (supra) require reconsideration in the light of the law laid down in the decisions of Supreme Court regarding applicability of principles of natural justice to administrative orders. Accordingly, the learned Judges directed the writ petition to be posted before a Full Bench of three Judges. The learned Judges further observed that though they expressed their view on the first two contentions relating to the validity of G.O.Ms. No. 1195 and G.O.Ms. No. 407, it would be open to both parties to raise all the contentions before the Full Bench. That is how the matter has come before this Full Bench.

7. On the said reference, the following question arise for consideration by the Full Bench :

(1) Whether the impugned order in G.O.Ms. No. 1195 dated 13-12-1971 is not valid on the ground that it contravenes the provisions of Section 15 of the Police Act or on the ground that it is not a speaking order ?

(2) Whether the impugned order in G.O.Ms. No. 407 dated 3-4-1972 is arbitrary and capricious or infringes the rights of the petitioners under Article 14 of the Constitution or violates the principles of natural justice ?

(3) Whether the order of the Collector and District Magistrate dated 25-3-1974 apportioning the cost of the Additional police between the persons mentioned in the G.O.Ms. No. 407 is violative of the provisions of Section 15(4) of the Act or the principles of natural justice, and whether the decisions in *Syda Reddy v. Govt. of A.P.* and *Venkataswami Reddy v. Govt. of A.P.* are no longer good law ?

8. In order to determine the said questions, it is necessary to read the provisions

of Section 15 of the Act, which are as follows :

"Section 15. - Quartering of additional police in disturbed or dangerous district -

(1) It shall be lawful for the State Government, by proclamation to be notified in the Official Gazette, and in such other manner as the State Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state or that from the conduct of the inhabitants of such area or of any class or section of them it is expedient to increase the number of police.

(2) It shall thereupon be lawful for the Inspector General of Police, or other officer authorised by the State Government in this behalf, with the sanction of the State Government to employ any police force in addition to the ordinary fixed complement to be quartered in the areas specified in such proclamation as aforesaid.

(3) Subject to the provisions of sub-section (5) of this Section, the cost of such additional police force shall be borne by the inhabitants of such area described in the proclamation.

(4) The Magistrate of the District, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(5) It shall be lawful for the State Government or by order to exempt any person or class or section of such inhabitants from liability to bear any portion of such costs.

(6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the State Government may in each case think fit to direct.

Explanation :-

For the purpose of this section, "in-habitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such-area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area notwithstanding that they do not actually reside therein."

9. The section contemplates quartering of additional police force in three situations, firstly where the area is in a disturbed state, secondly, where it is in a dangerous state, and, thirdly, where the conduct of the inhabitants or a class or section of them is such that it necessitates the quartering of additional police force. The first two situations may be brought about by outsiders or agencies other than the inhabitants of the area, in which case additional police force can

be quartered in the area which is in a disturbed or dangerous state and the question of making the inhabitants of the area bearing the cost of additional police does not arise.

10. It is only in a case where the disturbed or dangerous state is brought about by the conduct of the inhabitants or any section or class of them or even in a case where the conduct of the inhabitants is such that the quartering of additional police force is required to maintain peace and law and order, the Government may think fit to make the inhabitants or any class or section of them bear the cost of additional police force.

11. The first contention urged is, that the order in G.O.Ms. No. 1195 dated 13-12-1971 contravenes the provisions of Section 15 (1) and (2) of the Act. u/s 15(1), where the State Government finds that any area subject to its authority has been found to be in a disturbed or dangerous state or that from the conduct of the inhabitants of such area or of any class or section of them, it shall be lawful for the State Government to issue a proclamation to be notified in the official Gazette and in such other manner as the State Government shall direct, to declare that it is expedient to increase the number of police. Under Sub-section (2) of Section 15, on such proclamation, it shall be lawful for the Inspector General of Police or other officer authorised by the State Government in this behalf with the sanction of the State Government to employ any police force in addition to the ordinary fixed complement to be quartered in the areas specified in the said proclamation. In exercise of the said power conferred by Section 15 (1) and (2), the State Government issued the order in G.O.Ms. No. 1195 dated 13-12-71, which read as follows :-

"The following proclamation shall be notified in English in an extraordinary issue of the Andhra Pradesh Gazette, dated 15-12-1971.

Proclamation :

1. (i) In exercise of the powers conferred by sub-section (1) of Section 15 the Police Act, 1861 (Central Act 5 of 1861) the Government of Andhra Pradesh hereby declares that -

(a) the area comprised within Pedapalem village, Tenali Taluk, Guntur District has been found to be in a disturbed state; and

(b) from the conduct of the inhabitants of the said area it is expedient to increase the number of police in that area.

(ii) This proclamation shall remain in force for a period of 6 months from the date on which it is notified in the A.P. Gazette.

2. Under sub-section (1) of Section 15 of the said Act, the Governor of Andhra Pradesh hereby directs that the said proclamation shall be published in English and Telugu in the Guntur District Gazette dated 15-12-1971 and that the said proclamation shall be given publicity by beat of tom-tom in Pedapalem village

immediately before the 15th December 1971.

3. Under sub-section (2) of Section 15 of the said Act, the Governor of Andhra Pradesh hereby sanctioned the quartering of additional police force with a strength of the Sub-Inspector, one Head Constable, and ten Police Constables for a period of 6 months from the date of quartering of the additional police force in the area comprised within Pedapalem village, Tenali Taluk, Guntur District. The additional Head Constable and 10 Police Constables so quartered will be entitled to a uniform allowances of Rupees 5/- (Rupees five only) each per month, in addition to the usual allowances admissible to them under the rules in force."

12. A perusal of the order shows that the State Government found that the area comprised within Pedapadu village was found to be in a disturbed state, and that from the conduct of the inhabitants of the said area, it was found expedient to increase the number of police in that area. From the records produced before us, it is found that the village was ridden with factions between two groups of villagers in the village resulting in number of clashes and involving the offences of rioting, arson, theft, etc., and that several criminal proceedings including proceedings u/s 107 Cr.P.C. were taken, and that there was no police force stationed in Pedapadu, and that the police force of Duggirala Police Station, to which Pedapadu was attached, was not sufficient to deal with the situation, and in those circumstances the Superintendent of Police sent a report to the Government requesting the invoking of the provisions of Section 15 (1) and (2) and declaring Peddapalem to be in a disturbed state and to sanction the quartering of additional police force in that village. In those circumstances, as a preventive measure and in order to maintain peace and law and order and for effective control over the factious groups, the State Government had to issue the order in G.O.Ms. No. 1195 in exercise of the powers u/s 15 (1) and (2) sanctioning the quartering of additional Police force in Peddapadu village. Thus, all the statutory conditions were satisfied for invoking the aid of Section 15 (1) and (2) before issuing the order in G.O.Ms. No. 1195. The contention that there being no police force stationed in Peddapalem village the provisions of S. 15(2) could not be invoked, is devoid of any substance. Admittedly, Peddapalem is attached to Duggirala Police Station and the police force at that station was not sufficient to control the situation and the State Government could properly and validly sanction the stationing of additional police force at Peddapalem village in exercise of the power under Sections 15 (1) and (2).

13. The further contention of the petitioners that the impugned order in G.O.Ms. No. 1195 should be struck down on the ground that it is not a speaking order is also devoid of any force. The said order expressly sets out the reasons for issuing the proclamation, viz., that the area comprised within Peddapalem village was found to be in a disturbed state, and that from the conduct of the inhabitants of the said area, it was expedient to increase the number of police in that area. These are statutory factors which empower the State Government to invoke the aid of Section 15(1) and, hence, the impugned order in G.O.Ms. No. 1195 is a

speaking or a reasoned order, the reasons being based on relevant material before the Government.

14. The provisions of Section 15 (1) and (2) have to be invoked where there is imminent danger or threat to peace or law and order in any area which has been found to be in a disturbed or dangerous state and, therefore, Section 15(1) confers not only a right but also a duty on the State Government to take action immediately or urgently by sanctioning the quartering of additional police force in addition to the ordinary fixed complement in order to maintain peace and law and order. This action taken by the Government in lawful exercise of the powers conferred by S. 15 (1) and (2) does not envisages the giving of any notice or opportunity to the inhabitants of the area in which the additional police force is to be stationed.

15. The action u/s 15 (1) and (2) is taken in the interests of the public and to afford protection to the inhabitants of the area found to be in a disturbed or dangerous state and also to control the conduct of the inhabitants of such area or of any class or section of them with a view to maintain public peace, and law and order in the said area. Therefore, the question of giving any notice or opportunity to the inhabitants of the said area before the Government issues a proclamation u/s 15 (1) and (2) does not arise. Sri Panduranga Rao, the learned counsel for the petitioners did not also rightly pursue the contention that the order in G.O.Ms. No. 1195 dated 13-12-1971 is invalid on the ground of contravention of the provisions of S. 15 (1) and (2) or on the ground that it is not a speaking order or on the ground that it is violative of the principles of natural justice. Therefore, the first contention of the petitions challenging the order in G.O.Ms. No. 1195 is rejected.

16. The next question for consideration is, whether the impugned order in G.O. Ms. No. 407 dated 3-4-1972 is arbitrary and capricious or infringes the rights of the petitioners under Art. 14 of the Constitution or violates the principles of natural justice. It is necessary to set out the said G.O.Ms. No. 407, which reads as follows :-

"The following notification shall be published in the Andhra Pradesh Gazette dated 13-4-1972.

Notification

The cost of the additional police force quartered in Peddapalem village of Tenali Taluk, Guntur district with reference to the proclamation issued in G.O. Ms. No. 1195 G.A. (General-A) Department, dated 13th December, 1971 and published in Andhra Pradesh Gazette dated 15th December, 1971 shall be borne by the inhabitants of the area - 60 of A-party and 61 of B-party whose names are given in the Annexure to this order and/or by their families in accordance with the apportionment made by the Magistrate under sub-section (4) of S. 15 of the Police Act, 1861.

In exercise of the powers conferred by sub-section (5) of S. 15 of the said Act, the Governor of Andhra Pradesh hereby exempts all the inhabitants of the area comprised within Peddapalem village other than those mentioned in the Annexure to this order from liability to bear any portion of the cost of additional police force employed in the said area."

17. This notification was directed to be published in the Andhra Pradesh Gazette dated 13-4-1972 and it is common ground that it was so published in the Andhra Pradesh Gazette. Under this notification, the Government directed that the cost of the additional police force quartered in Peddapalem village shall be borne by 60 members of the A-party and 61 members of the B-party whose names were given in the Annexure to the said order, or by their families in accordance with the apportionment to be made by the Magistrate under sub-section (4) of S. 15 of the Act. Further, in exercise of the powers under S. 15(5) of the Act, all the inhabitants of the said area except those mentioned in the Annexure to the order were exempted from liability to bear any portion of the cost of the additional police force employed in the said area.

18. Sri Panduranga Rao, the learned counsel for the petitioners contends that the said order in G.O.Ms. No. 407 affects the rights of the inhabitants in as much as it casts a liability on the persons mentioned in the said notification to pay the cost of the additional police force, and that it also attaches a stigma and affects the reputation of the persons mentioned in the said notification and, hence, the said order results in civil consequences to the persons mentioned in the said notification and, therefore, the said notification and, therefore, the said notification issued by the Government without issuing a notice and giving an opportunity to the petitioners to make their representations is violative of the principles of natural justice.

19. But, it will be seen that sub-section (3) of S. 15 provides that subject to the provisions of sub-section (5), the cost of the additional police force shall be borne by the inhabitants of the area described in the proclamation and sub-section (5) enables the State Government to exempt any person or class or section of such inhabitants from liability to bear any portion of such costs. Once the Government is satisfied on the basis of relevant material, that any area subject to its authority has been found to be in a disturbed or dangerous state, or that from the conduct of the inhabitants of such area or any class or section of them, it is expedient to increase the number of such force, it shall be lawful for the Government to issue a proclamation to be notified in the Official Gazette and in such other manner as the State Government shall direct to sanction the quartering of additional police force in the area specified in the proclamation. And once such a proclamation is notified, sub-section (3) of S. 15 directs that the cost of additional police force shall be borne by the inhabitants of such area described in the proclamation. Therefore, sub-section (3) of S. 15 statutorily provides that the cost of the additional police force shall be borne by the inhabitants of the area described in the proclamation subject to any order that

may be made by the Government under sub-section (5) exempting any person or class or section of the inhabitants of the said area from liability to bear any portion of such costs. Thus, so far as the obligation to bear the cost of the additional police force is concerned, it is statutorily imposed by the provisions of S. 15(3) on all the inhabitants of the area described in the proclamation issued under sub-secs. (1) and (2) of S. 15. Therefore, as sub-section (3) itself imposes the statutory obligation on all the inhabitants of the area described in the proclamation to bear the cost of the additional police force, the question of issuing any notice or giving an opportunity to the inhabitants of that area does not arise.

20. But, under sub-section (5) of S. 15, it shall be lawful for the State Government by order to exempt any person or class or section of such inhabitants from liability to bear any portion of such costs. It is only when the Government seeks to exempt any person or class or section of such inhabitants from liability to bear the additional cost, the Government has to issue an order granting such exemption.

21. In the instant case, the Government found on the material placed before it, that 60 members of the A-party and 61 members of the B-party belonged to the factious groups, and were responsible for the disturbed state in the village, and from their conduct it was found expedient to increase the number of police. It cannot be legitimately contended by the persons whose conduct was responsible for the quartering of the additional police, that all other inhabitants of the area should also be burdened with the cost of the additional police force. On the other hand, there is a duty cast on the Government by sub-section (5) of the S. 15 to exempt innocent inhabitants of the area from the liability to bear the cost of the additional police force. As already mentioned, sub-section (3) of S. 15 does not contemplate the giving of notice to the inhabitants as it merely provides that all the inhabitants of the disturbed area shall be liable to bear the cost of the additional police force. Sub-section (5) of S. 15 empowers the Government to exempt any person or class or section of the inhabitants from the liability to bear the additional cost, and as the said order of exemption is favourable to the persons exempted, the question of giving any notice or opportunity to the exempted persons does not arise. No doubt, by exempting some inhabitants of the area from bearing the cost of the additional police force, the liability of the persons not so exempted, would stand enhanced. But, so long as the grant of exemption is made on relevant material and the liability to bear the cost of additional police force is imposed only on the inhabitants found to be responsible for the disturbed state, we do not think that the order granting exemption can be challenged as arbitrary or discriminatory. In the instant case, the Government found on relevant material that the 60 members of the A-party and 61 members of the B-party were responsible for making the area disturbed and it was their conduct which necessitated the quartering of the additional police in the village. It cannot, therefore, be said that the Government acted either arbitrarily or capriciously or made any invidious discrimination in issuing the notification in

G.O.Ms. No. 407 and directing the 60 members of the A-party and 61 members of the B-party to bear the cost of the additional police force and exempting all the other inhabitants from bearing such liability.

22. In Rayavarapu Koteswararao and Others Vs. State of Andhra Pradesh and Others, a Division Bench of this Court consisting of Sambasiva Rao J. (as he then was) and Sri Ramulu, J. held as follows (at p. 759 of Cri LJ) :

"It is beyond doubt that when the Government exercises this power of imposing the cost of additional force on some of the inhabitants and exempts all others, it should have some material before it to come to the conclusion that only those against whom the tax was imposed were responsible for the disturbed state and not others. It should be a material on the basis of which a reasonable mind could arrive at such a conclusion."

23. In the instant case, the reports of the Superintendent of Police and the Inspector General of Police gave the particulars of the persons belonging to the rival factions and also the several criminal proceedings including proceedings under S. 107 Cr.P.C. in which the said persons were involved and on the said material the Government directed that some of the inhabitants whose conduct was responsible for the disturbed state should alone be made liable and that all other innocent inhabitants should be exempted from liability to bear the additional cost. In the circumstances, the contention of the learned counsel for the petitioners that G.O.Ms. No. 407 is illegal or arbitrary or capricious or that it constitutes an invidious or hostile discrimination against the petitioners, and that it is violative of the provisions of Art. 14 of the Constitution, is devoid of any force.

24. We shall then take up for consideration the third question, viz., whether the impugned order of the Collector and District Magistrate apportioning the cost of the additional police between the persons mentioned in the G.O. Ms. No. 407 is violative of the provisions of S. 15(4) or the principles of natural justice. It is contended for the petitioners that the apportionment made by the Magistrate, based upon the particulars of landed and house properties and their values furnished by the Police and revenue officials without giving an opportunity to the affected persons to make representations with respect to the said particulars, is violative of principles of natural justice.

25. In Syda Reddy v. Govt. of A.P. ILR (1967) AP 37 (supra), it was held by Jagan Mohan Reddy, J. (as he then was) and Anantanarayana Ayyar, J. that :

"Section 15(4) does not confer any quasi-judicial power. Merely because the words "enquiry" and "judgment" are used in that sub-section, it does not mean that the enquiry must consist of giving a show cause notice, recording evidence and pronouncing an order. A Judicial Magistrate cannot be a Magistrate of the District under S. 15 because he is not an officer charged with the executive administration of a district. The Collector therefore who is charged with the duty of apportioning the charges between the persons liable to bear the same, may or

may not hold an enquiry, because he may know from his experience and from his knowledge of the district and the areas the means of the persons called upon to contribute to the extra cost; or he may, if he is not fully aware of it, call for such information and form an opinion."

26. In an unreported decision of this Court in *S. Venkataswami Reddy v. Govt. of A.P.* (W.A. No. 207 of 1973, D/- 20-7-1974) it was held by Gopalrao Ekbote, Chief Justice and A. V. Krishna Rao, J. that :-

"Keeping in view the scheme of the Act and the specific wording of sub-section (4) it will be erroneous to say that the enquiry which the Magistrate makes for the purpose of apportionment is a judicial or quasi-judicial enquiry inviting the application of the principles of natural justice. It is time and again settled that principles of natural justice cannot be put in a strait-jacket and applied to every case."

27. The learned Judges followed the decision of the Privy Council in *Patterson v. District Commr. of Accra* (1948) AC 341. Before the Division Bench, it was contended that even if it is held that the enquiry to be held by the Magistrate under sub-section (4) of S. 15 is not a judicial or quasi-judicial enquiry but is an administrative one, the principles of natural justice are equally applicable to administrative acts as held by the later decisions of Supreme Court and, therefore, the decisions in *Syda Reddy v. Govt. of A.P.* ILR (1967) AP 37 and *S. Venkataswami Reddy v. Govt. of A.P.* (W.A. No. 207 of 1973, D/- 20-3-1974) (Andh Pra) (supra) are no longer good law. It is now well settled that the principles of natural justice not only apply to enquiries of judicial or quasi-judicial nature but also to administrative orders which result in civil consequences.

28. In *State of Orissa Vs. Dr. (Miss) Binapani Dei and Others*, it was held that :

"An order by the State to the prejudice of a person in derogation of his vested rights may be made only in accordance with the basic rules of justice and fair play. The deciding authority, it is true, is not in the position of a Judge called upon to decide an action between contesting parties, and strict compliance with the forms of judicial procedure may not be insisted procedure may not be insisted upon. He is, however, under a duty to give the person against whom an enquiry is held an opportunity to set up his version or defence and an opportunity to correct or to controvert any evidence in the possession of the authority which is sought to be relied upon to his prejudice. For that purpose the person against whom an enquiry is held must be informed of the case he is called upon to meet, and the evidence in support thereof. The rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies alike to judicial tribunals and bodies of persons invested with authority to adjudicate upon matters involving civil consequences. It is one of the fundamental rules of our constitutional setup that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially would, therefore, arise from the very nature of the function intended to

be performed : it need not be shown to be super-added. It there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case."

Again, their Lordships observed :

"It is true that the order is administrative in character, but even an administrative order which involves civil consequences, as already stated, must be made consistently with the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof and after giving an opportunity to the first respondent of being heard and meeting or explaining the evidence."

29. This principle was reiterated in A.K. Kraipak and Others Vs. Union of India (UOI) and Others, , where his Lordship Hegde, J. speaking for the Court observed as follows :-

"The dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated. For determining whether a power is an administrative power or a quasi-judicial power one has to look to the nature of the power conferred, the person or persons on whom it is conferred, the framework of the law conferring that power, the consequences ensuing from the exercise of that power and the manner in which that power is expected to be exercised. In a welfare State like ours it is inevitable that the organ of the State under our Constitution is regulated and controlled by the rule of law. In a welfare State like ours it is inevitable that the jurisdiction of the administrative bodies is increasing at a rapid rate. The concept of rule of law would lose its validity if the instrumentalities of the State are not charged with the duty of discharging their functions in a fair and just manner. The requirement of acting judicially in essence is nothing but a requirement to act justly and fairly and not arbitrarily or capriciously. The procedures which are considered inherent in the exercise of a judicial power are merely those which facilitate if not ensure a just and fair decision. In recent years the concept or quasi-judicial power has been undergoing a radical change. What was considered as an administrative power some years back is now being considered as a quasi-judicial power."

Again, his Lordship observed :

"Till very recently it was the opinion of the courts that unless the authority concerned was required by the law under which it functioned to act judicially there was no room for the application of the rules of natural justice. The validity of that limitation is not questioned. If the purpose of the rules of natural justice is to prevent miscarriage of justice one fails to see why those rules should be made inapplicable to administrative enquiries. Often times it is not easy to draw the line that demarcates administrative enquiries from quasi-judicial enquiries."

Enquiries which were considered administrative at one time are now being considered as quasi-judicial in character. Arriving at a just decision is the aim of both quasi-judicial enquiries as well as administrative enquiries. An unjust decision in an administrative enquiry may have more far-reaching effect than a decision in a quasi-judicial enquiry."

It was further held as follows :

"As observed by this Court in Suresh Koshy George Vs. University of Kerala and Others, , the rules of natural justice are not embodied rules. What particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the enquiry is held and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principle of natural justice had been contravened the court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case."

In The D.F.O., South Kheri and Others Vs. Ram Sanehi Singh, , it was held as follows :-

"Granting that the order was administrative and not quasi-judicial, the order had still to be made in a manner consonant with the rules of natural justice when it affected the respondent's rights to property."

30. The principle laid down in the aforesaid decisions was reiterated by the Supreme Court in State of Gujarat and Others Vs. Ambalal Haiderbhai and Others, . Again, in Mrs. Maneka Gandhi Vs. Union of India (UOI) and Another, , his Lordship Bhagwati, J. observed after referring to the decisions in A.K. Kraipak and Others Vs. Union of India (UOI) and Others, , Suresh Koshy George Vs. University of Kerala and Others, and the The D.F.O., South Kheri and Others Vs. Ram Sanehi Singh, that :

"The law must, therefore, now be taken to be well settled that even in an administrative proceedings, which involves civil consequences, the doctrine of natural justice must be held to be applicable."

31. In Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, , his Lordship Krishna Iyer, J. observed in paragraphs 44 and 45 that :

"The dichotomy between administrative and quasi-judicial functions vis-a-vis the doctrine of natural justice is presumably obsolescent after Kraipak A.K. Kraipak and Others Vs. Union of India (UOI) and Others, in India and Schmidt v. Secy. of State (1969) 2 Ch 149 : (1969) 1 All ER 904 in England.

Kraipak supra marks the watershed, if we may say so, in the application of natural justice to administrative proceedings."

32. But, at the same time, his Lordship observed in Paragraph 47 as follows :-

"It is fair to hold that subject to certain necessary limitations, natural justice is now a brooding omnipresence although varying in its play."

33. In a recent decision of the Supreme Court in *S.L. Kapoor Vs. Jagmohan and Others*, his Lordship Chinnappa Reddy, J. speaking for the court, observed :

"The old distinction between a judicial act and an administrative act has withered away and we have been liberated from the psittacine incantation of "administrative action". Now, from the time of the decision of this court in *State of Orissa Vs. Dr. (Miss) Binapani Dei and Others*, even an administrative order which involves civil consequences must be made consistently with the rules of natural justice."

34. In another recent decision of the Supreme Court in *Swadeshi Cotton Mills Vs. Union of India (UOI)*, , their Lordships Sarkaria and D. A. Desai, JJ. observed that :

"In India, this court has consistently taken the view that a quasi-judicial or administrative decision rendered in violation of the audi alteram partem rule, wherever it can be read as an implied requirement of the law, is null and void."

35. From the aforesaid rulings of the Supreme Court, it has to be taken as firmly settled that the principles of natural justice alike apply to judicial, quasi-judicial and administrative tribunals invested with authority to adjudicate upon matters involving civil consequences.

36. In *Syda Reddy v. Govt. of A.P.* ILR (1967) AP 37 (supra), it was held that sub-section (4) of S. 15 does not contemplate any judicial proceedings and that it is a mere executive order. In the unreported Division Bench decision in *S. Venkataswamy Reddy v. Govt. of A.P.* (W.A. No. 207 of 1973, D/- 20-3-1974) (supra), it was held that it would be erroneous to say that the enquiry which the Magistrate was required to hold for the purpose of apportionment under sub-section (4) of S. 15 was a judicial or a quasi-judicial enquiry inviting the application of principles of natural justice.

37. Sri Panduranga Rao, the learned counsel for the petitioners does not challenge the view taken by the aforesaid two Division Bench decisions that the enquiry to be held by the Magistrate under sub-section (4) of S. 15 is not a judicial or a quasi-judicial enquiry, but he contends that though the enquiry under sub-section (4) of S. 15 is of an administrative nature, the principles of natural justice would apply in view of the rulings of the Supreme Court referred to above.

38. The question then arises for consideration is, whether the principles of natural justice are to be observed by the Magistrate before passing an order of apportionment under S. 15(4) of the Act. The provisions of sub-section (4) of S. 15 do not provide for any notice or opportunity being given to the persons affected by the apportionment. In *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, it is observed that :

"What particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the frame-work of the law under which the enquiry is held and the constitution of the tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principle of natural justice has been contravened, the court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case."

39. Under S. 15(4), the Magistrate is statutorily bound to apportion the compensation (cost ?) amongst such inhabitants as are mentioned in the proclamation. The obligation to bear the cost imposed on the said persons is fastened by the statute itself. The Magistrate gives effect to or implements the said statutory man-date. The power exercised by him under S. 15(4) is merely of an executive or a ministerial nature. In so implementing or giving effect to the statutory mandate with regard to apportionment of the cost, the Magistrate is required to take into consideration the respective means of the inhabitants, within such area.

40. The liability to bear the cost of the additional police force by the said persons no doubt results in civil consequences, but that is incurred by reason of the statutory provisions of S. 15 (1), (2), (3) and (5). When it is found that the conduct of the inhabitants of an area or any class or section of them led to the disturbed state of such area and the proclamation is made in accordance with the provisions of S. 15 (1) and (2), an obligation is imposed by the statute on such inhabitants to bear the cost of the additional police force subject to any exemption that may be granted under sub-section (5) of S. 15. Hence, the question of giving any notice with regard to imposition or apportionment of the liability does not arise. The only question is, whether the Magistrate acted honestly or impartially and apportioned the cost on the basis of relevant information or material with respect to the respective means of such inhabitants.

41. Though the principles of natural justice have been extended to administrative order which involve civil consequences, in recent times, the courts have cautioned against the unreasonable extension of the application of the said rule to exercise of administrative powers which involved maintenance of security of the State or public interest. In *Union of India (UOI) and Another Vs. P.K. Roy and Others*, it was held that the doctrine of natural justice cannot be imprisoned within the strait-jacket of a rigid formula, and that its application depends upon several factors.

42. In *Hira Nath Mishra and Others Vs. The Principal, Rajendra Medical College, Ranchi and Another*, it was observed as follows :-

"Rules of natural justice cannot remain the same applying to all conditions. We know of statutes in India like the Goonda Acts which permit evidence being collected behind the back of the goonda and the goonda being merely asked to represent against the main charges arising out of the evidence collected. Care is

taken to see that the witnesses who gave statements would not be identified. In such cases there is no question of the witnesses being called and the goonda being given an opportunity to cross-examine the witnesses. The reason is obvious. No witness will come forward to give evidence in the presence of the Goonda."

43. In Union of India (UOI) Vs. Col. J.N. Sinha and Another, , it was observed that :

"Rules of natural justice are not embodied rules nor can they be elevated to the position of fundamental rights."

and that :

"If a statutory provision can be read consistently with the principles of natural justice, the courts should do so. But if a statutory provision either specifically or by necessary implication excludes the application of any rules of natural justice then the court cannot ignore the mandate of the legislature or the statutory authority and read into the concerned provision the principles of natural justice. Whether the exercise of a power conferred should be in accordance with any of the principles of natural justice or not depends upon the express words of the provision conferring the power, the nature of the powers conferred, the purpose for which it is conferred and the effect of the exercise of that power."

44. In The Chairman, Board of Mining Examination and Chief Inspector of Mines and Another Vs. Ramjee, , His Lordship Krishna Iyer J. observed :

"Natural justice is no unruly horse, no lurking land mine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction."

45. Again in Shrikrishnadas Tikara Vs. State Government of Madhya Pradesh and Others, , His Lordship Krishna Iyer, J. observed :

"It is well established that the principles of natural justice cannot be petrified or fitted into rigid moulds. They are flexible and turn on the facts and circumstances of each case."

46. In the instant case, the provisions of S. 15 exclude the application of principles of natural justice and expressly require that the powers conferred on the State Government and the Magistrate should be exercised in accordance with the statutory provisions contained therein, and so long as the statutory provisions have been complied with, the action taken under S. 15 including the apportionment under S. 15(4) cannot be challenged as being violative of the

principles of natural justice.

47. In *R. v. Secy. of State for The Home Department : Ex Parte Hosenball* (1977) 3 All ER 452, an order of deportation was made by the Secretary of State against Mr. Mark Hosenball, a citizen of United States, on the ground that his departure would be conducive to the public good as being in the interests of the national security. That order was challenged on the ground that the order of deportation was made without notice and opportunity to Mr. Hosenball. Lord Denning rejected the contention holding that :

"Where national security was involved the rules of natural justice were liable to be modified. The public interest in the security of the realm was so great that the sources and nature of the highly confidential information supplied to the Secretary of State for the purpose of reaching a decision to make a deportation order in the interests of national security ought not to be disclosed. Accordingly, the requirement of the public interest that such information should be kept confidential might outweigh the public interest in the administration of justice."

48. In *Judicial Review of Administrative Action*, Third Edition, the learned author S.A. de Smith observed at Page 166 that *audi alteram partem* rule "may also be modified, by legislation or judicial decision, for the protection of particular facets of the public interest - e.g. the maintenance of secrecy about aspects of national policy or the sources of information leading to the detection of crime or other information supplied in confidence for the purposes of government."

49. Again, the learned author observed at Page 167 as follows :-

"Summary action for the maintenance of public security or public order in normal times may also be permissible. Orders may be made regulating the conduct of a public procession, or prohibiting the holding of all public processions or all public processions of a specified class for a period in a locality, if the police have reasonable grounds for apprehending serious public disorder."

50. The learned author further observed at page 168 that :

"One may assume that the rule will be held to be impliedly excluded in so far as the number of persons affected by a particular order, act or decision is so great as to make it manifestly impracticable for them all to be given an opportunity of being heard by the competent authority beforehand."

51. The maintenance of public peace and law and order is of paramount importance and, therefore, S. 15 advisedly does not provide for any enquiry or opportunity being given before taking action under S. 15, or before making an order of apportionment of the cost of stationing the additional police force in the disturbed areas.

52. In *Patterson v. District Commr. of Accra* (1948 AC 341) (*supra*), the provisions of the Peace Preservation Ordinance (Laws of the Gold Coast, 1936 Revision, c. 40), which are similar to S. 15 of the Police Act, fell for

consideration. The relevant provisions of the Ordinance are as follows :

"2. In this ordinance, unless the context otherwise requires -

xxx xxx xxx xxx"

"Proclaimed district" means and includes any specified part of the Gold Coast as to which any proclamation u/s 3 has been made so long as such proclamation is in force.

3. Whenever it shall appear to be necessary for the preservation of the public peace in any part of the Gold Coast, the Governor may declare by proclamation that it is unlawful to have or carry arms or ammunition within any specified part of the Gold Coast after the date specified in such proclamation and subject to any exception in the said proclamation provided for.

xxx xxx xxx xxx"

9. Where additional constabulary or police have been sent up to or stationed in a proclaimed district the Governor in Council may order that the inhabitants of such proclaimed district be charged with the cost of such additional constabulary or police.

A District Commissioner within whose district any portion of a proclaimed district is shall, after inquiry, if necessary, assess the proportion in which such cost is to be paid by the said inhabitants according to his judgment of their respective means.

All moneys payable under this section may be levied under the law for the time being in force for the levying of moneys ordered by a Court to be paid."

A proclamation was made by the Governor of the Gold Coast declaring certain area in the Accra District as a proclaimed District under S. 3 of the Ordinance. Mr. Patterson, an inhabitant of the "proclaimed district" and ten others failed to pay the sums assessed on them by the District Commissioner whereupon writs of attachment were issued by the District Magistrate for levying the sums out of property of the appellant and ten others. The appellant moved the Supreme Court for the issue of a writ of prohibition restraining the District Commissioner from attaching the appellant's property. The petition was dismissed and the appeal to the West African Court of Appeal was also unsuccessful. On further appeal to the Privy Council, it was contended that as the District Commissioner did not hold an enquiry as required by the S. 9 and no notice or opportunity was given to the appellant, it was opposed to the fundamental principles of justice of execution being levied without affording an opportunity of being heard. Repelling the said contention, Their Lordships observed as follows :

"Their Lordships take the view that this appeal must fail, on the ground that the proceedings whereof the appellant makes complaint were lawful and regular throughout. The appellant did not seek to challenge the proclamation of September 27, 1942, or the order of November 30, 1942. As to the assessment

made by the District Commissioner, their Lordships cannot accept the arguments that S. 9 of the Ordinance imposes on the District Commissioner the burden of carrying out the elaborate procedure outlined in counsel's argument. It seems to their Lordships most unlikely that those who framed the Ordinance ever contemplated any such procedure for the purpose of spreading, amongst the inhabitants of a proclaimed district, the cost of providing additional constabulary or police; apart from the difficulty of ascertaining exactly what persons were "inhabiting" the proclaimed district at the time when the additional police were stationed there, and of assessing persons who might have left the district shortly afterwards, it is difficult to see how the District Commissioner could conduct a judicial inquiry into the respective means of the inhabitants without having any power of compelling parties to attend and disclose their means. Moreover, the wording of S. 9 and in particular the phrases "after inquiry" if necessary and "according to his judgment of their respective means" are, in their Lordships' opinion, quite inconsistent with the view that the District Commissioner was to be bound to hold anything in the nature of judicial inquiry. In their Lordships' view, S. 9 of the Ordinance contemplates a simple and ministerial proceeding on the part of the District Commissioner. He has to form an honest opinion as to how the sum prescribed by the Governor ought fairly to be borne by the inhabitants, acting on the principle that the greater a person's means, the greater the sum which he should be called on to pay. It is contemplated that the District Commissioner may carry out this duty without making any inquiry, but if, for instance, he has been recently appointed, he may think it right to supplement his knowledge by questioning persons more familiar with the district. Their Lordships can find nothing in the section which compels that District Commissioner to give each inhabitant, on whom he proposes to make an assessment, an opportunity of being heard before the assessment is made."

Their Lordships further observed at page 350 as follows :

"Their Lordships realize that if this appeal fails the appellant will be deprived of a part of his property without having had an opportunity of being heard either by the District Commissioner or by the District Magistrate, but this unusual situation arises from legislation couched in unusual terms and designed to meet what is, in their Lordships' view, an unusual situation. The Ordinance contemplates that a riot has broken out in a particular part of the Gold Coast, and that it has become necessary to send additional police to that part in order to quell the riot and protect the persons and property of the inhabitants. In placing the cost of this protection on the inhabitants of that part of the Gold Coast, the Ordinance does not infect anything in the nature of a mass punishment. It merely provides that those who have had the protection must pay for it, and it provides a rough and ready method of securing that, in substance, the burden shall be borne by those who are best able to bear it, and who in all probability, had the most property to be protected. Their Lordships have already indicated that, in their view, the section does not contemplate any judicial proceeding, and thus a decision against the appellant does not infringe the principles stated in *Banaker v. Evans*, 16 QB

162. As their Lordships can find nothing irregular or unlawful in the proceedings whereof complaint is made by the appellant, it follows that the courts in West Africa were right in dismissing the appellant's petition for a writ of prohibition."

53. The Principle laid down in the aforesaid decisions squarely applies to the facts of the present case and we are of the opinion that none of the provisions of S. 15 including sub-section (4) casts any obligation of giving notice or opportunity to the inhabitants sought to be made liable for the cost of stationing the additional police force in the disturbed area.

54. For foregoing reasons, we hold that the order dated 25-3-1974 of the Collector and District Magistrate is not violative of the provisions of S. 15(4) or the principles of natural justice and that the rulings of this Court in *Syda Reddy v. Govt. of A.P.* ILR (1967) AP 37 and *S. Venkataswami Reddy v. Govt. of A.P.* (W.A. No. 207 of 1973, D/- 20-3-1974) (Andh Pra) (supra), holding that the principles of natural justice are not applicable to orders of apportionment made by the Magistrate under S. 15 sub-section (4) and, therefore, no notice or opportunity need be given to the affected parties, are still good law.

55. The object of S. 15 is to employ police force in addition to the ordinary fixed complement with a view to afford protection to all the inhabitants including the inhabitants whose conduct was responsible for stationing the additional police in the area found to be in a disturbed state. S. 15(4) enjoins that the liability should be apportioned according to the Magistrate's judgment of the respective means within such area of such inhabitants. The persons with greater means are made liable to contribute higher amounts than those persons with lesser means. Otherwise, it will result in injustice and hardship to persons who have no means or who have only meagre means.

56. It is contended for the petitioners that the Magistrate took only the means of the inhabitants within the disturbed area and not their means outside the disturbed area. But, the scheme and object of S. 15 is to station additional police force in the disturbed area with a view to afford protection to the inhabitants of the disturbed area and the properties belonging to them in such area. The apportionment contemplated by S. 15(4) need not be in exact proportion to the means. It only requires the apportionment to be made on a rough estimate based on relevant information or material with regard to the means of the inhabitants within the disturbed area. It is not possible to expect the Magistrate to make a roving enquiry into each and every inhabitant's means within and outside the disturbed area and make an apportionment with mathematical precision and in exact proportion to the means of each and every inhabitant. The provisions of S. 15 advisedly direct that the apportionment should be made with reference to the means within the disturbed area, of the inhabitants. Therefore, in so far as S. 15(4) directs that the apportionment should be made with reference to the means of the inhabitants within the disturbed area, it cannot be said that the apportionment made by the Magistrate on the said basis is either illegal or invalid.

57. No doubt, the exemption granted to some of the inhabitants by making an order under S. 15(4) might result in increasing the burden on the other inhabitants made liable to bear the cost. But, this is a liability imposed by the statutory provisions of S. 15, the validity of which is not challenged. Therefore, the apportionment of the cost among the inhabitants except those exempted under S. 15(5) cannot be said to be arbitrary or illegal or invalid.

58. Another contention raised is that the Magistrate took into consideration only the land and buildings of the persons made liable to bear the cost and that he has omitted to take into consideration the other pecuniary resources of the said persons. No doubt, under S. 15(4) the means will cover not only lands and houses but other pecuniary resources of the persons. But, in the instant case, there is no allegation that the persons made liable were possessed of other means within the disturbed area and that they were omitted to be taken into consideration. Therefore, this contention cannot be upheld.

59. Further, in the instant case, only 22 out of 121 persons, amongst whom the cost was apportioned, have filed these writ petitions. The other persons have not been impleaded and, the order of apportionment has become final so far as the other persons are concerned and it will not be possible or permissible for the Magistrate to make any apportionment afresh at this stage.

60. For the foregoing reasons, all the contentions raised by the petitioners fail and these writ petitions are dismissed, but in the circumstances, without costs. Advocates fee Rs. 150/- in each writ petition.

61. Petitions dismissed.