

(1964) 08 MP CK 0007

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No's. 21 and 22 of 1963

Ranojirao Madhavrao

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 18-08-1964

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1), 19(5), 245, 246
Madhya Pradesh Abolition of Cash Grants Act, 1963 — Section 2(1), 3, 3(1)

Citation : AIR 1965 MP 77 : (1964) JLI 527

Hon'ble Judges : P.V. Dixit, C.J.; K.L. Pandey, J

Bench : Division Bench

Advocate : A.P. Sen, P.W. Sahasrabudhe and A.D. Deoras, for the Appellant; M. Adhikari, General and R.J. Bhawe, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Dixit, C.J.—This order will also govern the disposal of Misc. Petition No. 22 of 1963.

2. These are two petitions under Article 226 of the Constitution of India challenging the validity of the Madhya Pradesh Abolition of Cash Grants Act, 1963 (hereinafter referred to as the Act.) The petitioners seek a declaration that the Act is invalid, ultra vires and unenforceable and pray that the opponent State be restrained by a suitable direction from putting the Act into operation.

3. One of the petitioners claims to be the recipient of a cash payment of Rs. 500 per month as a muafidar from the respondent-State. The other petitioner says that as a silledar he is entitled to receive a cash payment of Rs. 72.50 nP. per month from the State. The petitioners claim that their right to receive these cash payments is "property right" and that the impugned legislation has been enacted for the purpose of depriving them and other "recipients of cash grants" of their property rights. Shortly stated their contentions are that the Act is ultra vires the Constitution in that:

(1) it was beyond the legislative competence of the Madhya Pradesh Legislature to enact it;

(2) that there is no public purpose behind the discontinuance of these "cash grants" and the compensation provided by the Act is illusory; and thus the Act is ultra vires Article 31(2) of the Constitution;

(3) that, alternatively, the Act is ultra vires Article 31(1) of the Constitution as it infringes the petitioners' fundamental right under Article 19(1)(f) and is not saved by Article 19(5);

(4) that the Act is on the face of it discriminatory and infringes Article 14 of the Constitution;

(5) that the provisions of Sections 4, 5 and 7 of the Act in so far as they relate to persons already getting payments are wide and irrational inasmuch as they compel the grantee for a second scrutiny and amount to an unreasonable restriction on the right to get the payment every month without any break;

(6) that the definition of "cash grant" given in Section 2 (i) of the Act is vague and uncertain; and by giving to the Government unchecked and absolute power to treat anyone it likes as a grantee, the Legislature abdicated its legislative function; and lastly,

(7) that the Act is a piece of colourable legislation and does not subserve any public purpose or public interest.

4. Before dealing with the petitioners' contentions it is necessary to refer to the salient features of the Act. The long title of the Act is:

"An Act to provide for the discontinuance of cash grants in Madhya Pradesh and to make provision for other matters connected therewith".

It does not contain any preamble. It received the assent of the President on 25th July 1963 and the assent was published in the Madhya Pradesh Gazette, Extraordinary, on and August 1963. The Act extends to the whole of Madhya Pradesh and is to come into force on such date as the State Government may, by notification, appoint. No such notification has been issued so far. Section 2 (1) defines "cash grant" as meaning

"a grant of money which is enforceable by the grantee against the State Government on the the date of the coming into force of this Act but does not include".

The grants which have been excluded from the the definition are those paid for services and worship in public temples or mosques or church, those received by charitable or religious institutions and grants of money or pension or annuity or special or perpetual annuity sanctioned under the statutes mentioned in Section 2 (1) (iii) of the Act. Section 3 of the Act runs as follows:--

"3. Abolition of certain cash grants:--(i) Notwithstanding anything contained in

any law, custom, usage, sanad or a decree or order of a Court or other authority whatsoever, all cash grants shall be discontinued and cease to have effect from the commencement of this Act:

Provided that where the grantee is a person specified in column (1) of the Table below, the cash grant may, at the option of the grantee exercised in such manner, within such period and in such form as may be prescribed, be continued subject to the conditions and during the period mentioned in the corresponding entry in column (2) of the said Table:--

TABLE.

(1)

(2)

(i) A widow

So long as she remains a widow.

(ii) A minor-

(a) in the case of a male.

Till the date he attains 21 years of age.

(b) in the case of a female

Till the date of her marriage or till she attains 21 years of age, whichever is earlier.

(iii) A person above the age of 60 years.

During his life-time.

(iv) A person subject to physical disability or mental infirmity owing to which he is incapable of earning his livelihood.

During his life-time.

(2) Upon the discontinuance of a cash grant under Sub-section (1), it shall not be obligatory on the grantee to perform the function or discharge the duty, if any, attached to such grant".

Sections 4 and 5 deal with the submission of a statement of claim by the grantee for determination of compensation. The authority competent to determine compensation is required to determine the amount payable to the grantee whether or not the grantee files a statement of claim; and this has to be done after making such enquiry as the competent authority may think fit and giving an opportunity of hearing to the grantee. Section 6 makes the provisions of Chapter V of the Madhya Pradesh Land Revenue Code, 1959, relating to appeal, revision and review applicable to an order passed by the competent authority u/s 5. By Section 7 it is provided that if during the course of an enquiry before it a

question of title is raised, then the competent authority shall determine it summarily; that the order of the competent authority on a question of title will not be open to pay appeal or revision; but that the party aggrieved may institute a suit in the Civil Court to have the order of the competent authority set aside, and, subject to the result of any such suit, the order of the competent authority shall be final and conclusive. Section 9 provides for compensation payable to the grantee whose cash grant is discontinued u/s 3. It is as follows:

"9. Payment of compensation:--(i) The State Government shall pay, to each grantee whose cash grant is discontinued u/s 3, compensation as follows:--

(a) in the case of a hereditary cash grant, a sum equivalent to six times the amount payable annually to the grantee under the cash grant;

(b) in the case of a life grant, a sum equivalent to four times the amount payable annually to the grantee under the cash grant:

Provided that where the amount of cash grant received by a grantee specified in the proviso to Sub-section (i) of Section (3) under the conditions specified therein, falls short of the amount of compensation payable under this section, the amount by which it falls short shall be paid to the grantee or his legal heir, as the case may be, in such manner as may be prescribed.

(2) Where the grantee is a person specified in the proviso to Sub-section (i) of Section 3, the total amount of cash grant payable to him during the period specified therein in respect of such grantee and the additional amount, if any, payable under the proviso to Sub-section (1) of this section shall be deemed to be compensation payable to him for the discontinuance of the cash grant".

Section 10 prescribes the manner of payment of compensation. If the total amount of compensation does not exceed Rs. 1,000/- then the compensation has to be paid in cash in full within nine months of the date of the order of the competent authority u/s 5. If the amount of compensation exceeds Rs. 1,000/-, then payment has to be made in instalments as provided by Clause (b) of Section 10 (i). Provision has been made by Section 10 (2) for payment of interest on the compensation amount if it "remains unpaid within the period mentioned in Sub-section (1) on within a period of three months from the date on which it becomes due for payment under the said sub-section." Section 11 empowers the Government to make rules for carrying out all or any of the purposes of the Act.

5. The first question that arises for determination is whether the State Legislature had the power to enact the impugned legislation. It is evident from the summary given of the provisions of the Act, and especially from Sections 2 (1) and 3 of the Act, that the legislation has been enacted for the purpose of discontinuing the payment of "cash grants", that is grants of money enforceable by the grantees against the State Government. Now, money is undoubtedly property and if the right to receive a grant of money is a vested enforceable right

to receive the money and use or possess it, then that right of getting the "cash grant" is also property. The cash grants intended to be discontinued by the Act impugned include, payments made to silledars of the former Gwalior State which payments were treated by the Supreme Court as property right, in *Madhaorao Phalke Vs. The State of Madhya Bharat*, . Indeed, if "cash grants" as defined in Section 2 (i) of the Act were not property, then it would not have been necessary at all to enact a law for their discontinuance. Those grants could have been discontinued by an executive order. But the Act recognizes the right to receive cash grants as property, and proceeds to provide for their discontinuance and payment of compensation to the grantee whose grants may be discontinued. The Act thus in substance deprives the grantees of their property rights. This being the nature of the Act, the State Legislature was clearly competent to enact the legislation by virtue of its power under Entry, No. 42 of the Concurrent List in the Seventh Schedule to the Constitution. That entry, read with Article 246(2), gives to the State Legislature the power to make law with respect to acquisition and requisitioning of property.

6. Shri Sen, learned counsel for the petitioners, however, submitted that the word "acquisition" in Entry No. 42, List III, meant acquisition of title in whole or part of the property; that Section 3 (i) of the Act nowhere provided for any transfer of title of the grantees in the property right of cash grants to the State; and that it simply spoke of discontinuance of the cash grants and this meant deprivation of the property. The narrow construction put by the learned counsel on the word "acquisition" in Entry No. 42 cannot be accepted. In *The State of West Bengal Vs. Subodh Gopal Bose and Others*, the words "taking of possession or acquisition" occurring in Article 31(2), as it stood before it was amended in 1955, and the words "acquisition or requisitioning" in Entry No. 33 of List I and Entry No. 36 of List II as also the words "acquired or requisitioned" in Entry No. 42 of List III, as this List stood before the amendment of 1956, were held to be different expressions connoting the same idea and instances of different kinds of deprivation of property within the meaning of Article 31(i) of the Constitution; and it was pointed out that the word "acquisition" did not necessarily imply any transfer or vesting of title and was wide enough to include deprivation of property which did not involve any transfer of title. A similar construction on the word "acquisition" was put by the Supreme Court in *Dwarkadas Shrinivas of Bombay Vs. The Sholapur Spinning and Weaving Co. Ltd. and Others*, . That the construction put by the Supreme Court on the word "acquisition" in the two cases referred to above still holds good and is not affected by the amendments made in the Constitution in 1955 and 1956 becomes clear by the insertion of Clause (2A) in Article 61. That clause says:--

"Where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property".

The words "it shall not be deemed to provide for the compulsory acquisition" are significant and only emphasize the fact that depriving any person of his property amounts to acquisition; but that for the purpose of Clause (2) of Article 31 it shall not be deemed to amount to compulsory acquisition if there is no transfer of ownership or right to possession of any property to the State or to a corporation owned or control-led by the State, If "acquisition" as used in Entry No. 42 implied acquisition of legal title by the State in the property taken possession of, then it would not have been necessary to insert Clause (2A) in Article 31. The fiction created by Clause (2A) only shows that the word "acquisition" is of a wide concept and includes deprivation of property where there is no transfer of title as such. It follows, therefore, that, even though the Act does not provide for the transfer of any title of the grantees to the State and simply deprives the grantees of their cash grants, it is a legislation with regard to acquisition of property which the State Legislature was competent to enact under Entry No. 42, List III.

7. Learned Advocate-General submitted in the alternative that if the right to receive cash grants is not a property right, even then the State Legislature was competent to enact the impugned Act under Entry No. 42 of the State List which gives the power to the State Legislature to make laws with respect to "State pensions", that is to say, pensions payable by the State or out of the Consolidated Fund of the State. Learned Advocate-General referred to the definition of "pension" given in Article 366(17) and said that cash grants paid to the petitioners were pensions. It is not necessary to consider this alternative submission or the question whether the word "pension" as used in Entry No. 42, List II, or in Clause (17) of Article 366 is restricted to ex gratia payments or includes what may be called "enforceable payments." The reason is that "cash grant" as defined in Section 2 (i) of the Act clearly shows that the right to receive the grant from time to time is a property right of the grantee. The cash grants dealt with by the Act are those enforceable by the grantees against the State and the word "property" extends to all those recognized types of interest which have the insignia or characteristics of proprietary rights. It cannot be doubted that cash grant falling u/s 2 (i) has this characteristic.

8. Here it will be convenient to dispose of the contention of the petitioners that the Act is a piece of colourable legislation. The petitioners attribute this nature to the Act on the ground that it affects a very small section of the grantees belonging to the former State of Madhya Bharat and because of the grants excluded from the definition of "cash grant" given in Section 2, (i). There is no substance in this contention. The fact that in enacting the impugned legislation the State Legislature desired to discontinue the cash grants paid to certain class or classes of persons while preserving the grants of others can at the most be the motive which impelled the Legislature to place the Act on the Statute Book. But, as is now well settled, if an enactment is within the legislative competence of the State Legislature then the motives which impelled it to act are really irrelevant and have no bearing on the question whether the Act is or is not a

piece of "colon-cable legislation". See K.C. Gajapati Narayan Deo and Others Vs. The State of Orissa, , Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, and The Board of Trustees, Ayurvedic and Unani Tibia College, Delhi Vs. The State of Delhi and Another, . In the Act there is no attempt to encroach or trespass on the powers of Parliament, or any patent, manifest, direct, disguised, covert or indirect transgression of the limits of the legislative authority of the State Legislature. The objection that the Act is a piece of colourable legislation must, therefore, fail.

9. Turning to the attack on the validity of the Act resting on Article 31 of the Constitution, it is first necessary to state that as held by the Supreme Court in Kavalappara Kottarathil Kochuni and Others Vs. The State of Madras and Others, , Clause (i) and Clause (2) are mutually exclusive; that Clause (2) applies only to those cases of acquisition or requisitioning of property where there is transfer of ownership or right to possession to the State or to a corporation owned or controlled by the State; that Clause (i) deals with all cases of acquisition of property by law not falling under Clause (2); and that under Article 31(i) a person, cannot be deprived of his property save by authority of a valid Law. A law depriving a person of his property will be invalid if it infringes Article 19(i)(f) unless it imposes a reasonable restriction on the person's fundamental right.

10. In the present case, Clause (2) of Article 31 is not attracted as Section 3(1) of the Act, when it says that all cash grants shall be discontinued and cease to have effect from the commencement of the Act, does not in any way provide for the transfer of ownership of any proprietary interest of the grantees in the cash grants to the State. It simply extinguishes the right of the grantees to receive any cash grant. To put in other words, Section 3(1) is a provision; relieving the State of its obligation to pay cash grants to the grantees even though the cash grants were enforceable by the grantees against the State Government. The validity of the Act cannot, therefore, be tested with reference to the provisions of Clause (2); and it is unnecessary to consider whether there is a "public purpose" to support it, or whether it provides for compensation in terms of that clause, or whether the compensation provided is illusory, or whether the petitioner are precluded under Clause (2) from urging that the compensation provided by the Act is really no compensation and the principles on the basis of which it is to be computed are not really principles of the kind envisaged by Article 31(2).

11. It may, however, be observed that there is no public purpose to support the Act. It is, not to be found either in the statement of "Objects and Reasons" or in any provision of the Act. The Act simply provides for the discontinuance of the cash grants without disclosing the purpose for which this is being done. In the return it has been repeatedly stated that there is no justification for continuing the payment of the cash grants merely because there is no justification for the continuance of the grants, it does not follow that there is a public purpose behind their discontinuance. The discontinuance may result in a very imperceptible,

insignificant and negligible reduction in the State expenditure. But, as observed by the Supreme Court in *The State of Bihar Vs. Maharajadhiraja Sir Kameshwar Singh of Darbhanga and Others*, at pp. 942-944 : (AIR 1952 SC 252 at pp. 274-275), acquisition for the purpose of raising revenue is not acquisition for a public purpose, however widely the expression may be construed. If acquisition of a property for the purpose of raising State revenues cannot be regarded as any acquisition for a public purpose, so also acquisition of a property for reducing the State expenditure cannot be so regarded.

12. Learned Advocate-General suggested that as the Act did not purport to take away any moneys belonging to the grantees and what was being acquired was only their right to receive the cash grant amounts, so the proposition that moneys and choses in action could not be the subject-matter of acquisition can have no applicability here. The distinction sought to be drawn is unreal and merely verbal. Without expressing any opinion on the question whether moneys and choses in action can be the subject-matter of acquisition, we think that if moneys cannot be acquired, then to take away the right under which it is payable is virtually to effect the acquisition of the money itself.

13. If, as we think, Article 31(2) is not attracted to the impugned Act, then the question arises whether it is repugnant to Article 31(1) in that it takes away the property of the petitioners in violation of Article 19(1)(f) and is not saved by Clause (5) of Article 19. There is no dispute that Section 3 (1) of the Act is expropriatory in character and is directly hit by Article 19(1)(f). The controversy centres round the question whether the Act is saved by Clause (5) of Article 19. The validity of the Act has, therefore, to be judged by the test whether what is sought to be done by the Act and Section 3 thereof amounts to nothing more than imposing reasonable restrictions on the exercise of the petitioner's right under Article 19(1)(f) in the interests of the general public or for the protection of the interests of any Scheduled Tribe. The meaning of imposing reasonable restrictions on the exercise of fundamental right in the interests of the general public has been explained by the Supreme Court in *Chintaman Rao Vs. The State of Madhya Pradesh*, at p. 763 : (AIR 1951 SC 118 at p. 119) thus: "The phrase 'reasonable restriction' connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word 'reasonable' implies intelligent care and deliberation, that is, the choice of a course which reason dictates, Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness and unless it strikes a proper balance between the freedom guaranteed in Article 19(1)(g) and the social control permitted by Clause (6) of Article 19, it must be held to be wanting in that quality."

So also in *H.H. Sudhendra Thirtha Swamiar Vs. Commissioner For Hindu Religious and Charitable Endowments, Mysore*, it has been pointed out that the reasonableness of the restrictions which may be placed upon the fundamental

right guaranteed by Article 19(1)(f) "must be adjudged in the light of the character and the extent of that right, and the general interest of the public, which may be served by the restrictions." A close and strict scrutiny into the matter of reasonableness of the restrictions is necessary when the restriction amounts to total deprivation of property. This is clear from the decision, of the Supreme Court in *Narendra Kumar and Others Vs. The Union of India (UOI) and Others*, . In that case the Supreme Court said:

"It is reasonable to think that the makers of the Constitution considered the word "restriction" to be sufficiently wide to save laws "inconsistent" with Article 19(1) or "taking away the rights" conferred by the Article, provided this inconsistency or taking away was reasonable in the interests of the different matters mentioned in the clause. There can be no doubt therefore that they intended the word "restriction" to include cases of "prohibition" also. The contention that a law prohibiting the exercise of a fundamental right is in no case saved, cannot, therefore, be accepted. It is undoubtedly correct, however, that when, as in the present case, the restriction reaches the stage of prohibition special care has to be taken by the Court to see that the rest of reasonableness is satisfied. The greater the restriction, the more the need for strict scrutiny by the Court."

14. Now, in the Statement of Objects and Reasons, which can be referred to for the purpose of finding out the object of the enactment, it has been stated:

"In the former princely States, grants were made by paramount powers in the shape of jagir villages, Muafi and Inam lands and cash grants for maintenance or for performance of certain services. The jagir or Muafi rights in villages and lands, have already been abolished. Under the changed circumstances, there is no justification to continue payment of cash grants, except for maintenance, etc. of religious and charitable institutions. It is, therefore, proposed to discontinue the cash grants. The Bill is designed, to achieve this object."

In the Act itself there is no indication whatsoever, of the purpose behind the intended discontinuance of the cash grants. The interest of the general public likely to be served by the enactment has been narrated in paragraph 6 of the return filed by the opponent-State thus:--

"These cash grants in the various regions are, paid to the persons who render no service to the State Government but they were either granted in lieu of jagirs resumed by the ex-rulers or cash grants allowed for services rendered to the then rulers or cash grants for miscellaneous purposes such, as grants to widows, etc. The expenditure of such a huge sum every year without any return is unjust and it is an unwarranted drain on the public exchequer. It is in the public interest that such grants should be discontinued. It is also a public purpose that unwarranted drain on the public ex-chequer should be stopped and the taxpayer's money should be utilised for constructive work. Article 39 of the Constitution also enjoins that step should be taken towards equitable distribution of the material resources. The money so saved can be utilised for the

development of the country. The discontinuance of the grant is therefore a public purpose. Schedule I attached herewith gives full details of the various kinds of cash grants, that are paid in the various regions of the State and, the total expenditure that is incurred every year."

15. It is difficult to discern, in the statements reproduced above, relating to the object of the Act, the public interest which would be served by depriving the grantees of the cash grants. Admittedly as stated in the Statement of Objects and Reasons the cash grants were made by the Rulers of the former Indian States for performance of certain services. It may be that the grantees are not now rendering any service to the State and the, continuance of the grants may not be justified in the altered circumstances existing today and on the prevailing notions of "service and sacrifice". But the mere fact that there is no justification for the continuance of these grants is not sufficient; for protecting the legislation under Article 19(5). What has to be shown is that some interest of the public will be served by the discontinuance of the grants and depriving the grantees of their property rights. In the return a pathetic attempt has been made to show this by saying that by the discontinuance of the grants "an unwarranted drain on the public exchequer" will be stopped and the moneys so saved can be utilized for "constructive work" and for the "development of the country" and thus for securing the object of Article 39 of the Constitution, namely, "equitable distribution of the material resources." These are all vague and general statements meaning in effect that by the discontinuance of the grants the public may be indirectly benefited in some unknown manner; They utterly fail to point out that the deprivation of the property rights of the grantees is necessary in the interests of the general public.

16. According to the statement filed by the opponent-State, which forms Schedule--I to the return, the total amount paid by the State to all the cash grant holders is Rs. 19,76,232.42 nP per annum. The Schedule gives details of the yearly amounts paid to the various kinds of grantees. On the basis of these details, if the amount paid to grantee receiving cash grants not falling within the purview of the definition given in Section 2(1) of the Act is excluded from the total amount of Rs. 19,76,232.42 nP., the amount that is being paid to grantees whose grants would be discontinued under the Act is in the neighbourhood of Rs. 8,00,000/-. This amount would further be reduced by taking into account the grants made to minors, persons above the age of 60 and in valid persons under the proviso to Section 3(1) of the Act. There would be a further reduction in the amount likely to be saved by the discontinuance of the grants, if the expenses that the State may incur in working and enforcing the Act are taken into consideration. What, therefore, the opponent-State says is "an unwarranted drain on the public exchequer" is nothing more than the payments amounting to Rs. 6,00,000/- or so. This saving in the expenditure of the opponent State, whose total yearly revenue receipt is of the magnitude of Rs. 95,00,00,000/-, and whose yearly expenditure is also of the same order, is clearly negligible. It is beyond one's comprehension how with this saving of Rs. 6,00,000/-, there is

going to be any contribution towards "equitable distribution of the material resources" amongst the 32.37 million inhabitants of the State.

17. For the ascertainment of "the interests of the general public or of any Scheduled Tribe" the general statement of the opponent-State in its return that the money saved by the discontinuance of the grants can be utilized for development purposes "constructive work", and "development of the country" is of no assistance whatsoever and does not present a realistic approach to the problem whether the impugned legislation is saved by Clause (5) of Article 19. The observations of the Supreme Court in *Chintaman Rao Vs. The State of Madhya Pradesh*, and *H.H. Sudhundra Thirtha Swamiar Vs. Commissioner For Hindu Religious and Charitable Endowments, Mysore*, as also in *State of Madras Vs. V.G. Row*, , make it abundantly plain that the restriction must bear a reasonable relation to the object or the public interest intended to be served by the legislation; and that the restriction must not be in excess of the requirements of the "interests".

It follows, therefore, that the balance between the restriction imposed and the public interest relied upon in support of the legislation cannot be determined unless the public interest sought to be served or the object sought to be achieved is definite and is either evident or capable of determination with some certainty. Merely saying that the money that may be saved by the cessation of the cash grants may be utilized for some constructive work at present not thought of is no answer to the attack on the validity of the Act. The reasonableness of a restriction cannot be determined by an abstract standard but by an objective standard according to the circumstances of the case, nature of the restriction imposed and the nature of the mischief or grievance sought to be remedied. This has been pointedly emphasized by the Supreme Court in its observation in *State of Madras Vs. V.G. Row*, , namely,--

"The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict."

18. It is not the case of the State that the Act under challenge seeks to redress a serious state of affairs and abuse or to remove some serious grievance or discontent felt by the members of a particular class or of the public generally or in any area or in the entire State. Nor is it their plea that the grantees have, because of the continual payments of grants to them, become dangerous persons and the discontinuance of the grants is necessary for protecting the public, or that the stoppage of grants is a step in the implementation of some planned scheme of socio-economic re-form, to wit, for making all able-bodied persons work for earning their livelihood or for abolition of all kinds of unearned income. It is possible that the grants constitute the sole means of livelihood of some of the grantees. The discontinuance of their grants will undoubtedly cause untold hard-ship to them, quite disproportionate to the benefit the general public

may derive by the pious hope of the State of utilizing the money that may be saved by the discontinuance of the grants for some "constructive work" of which the State itself has no idea whatsoever.

This hardship is heightened in the case at grantees, who are widows, minors, persons above the age of 60 years, or persons suffering from disability or infirmity, whose grants may be continued for the period specified in the proviso to Section 3(1) of the Act, but whose grants will stand discontinued immediately after the Act comes into force and who will have to wait for some years before any orders are passed by the competent authority about the continuance of their grants after following the procedure laid down in Sections 4 and 5. Section 4 of the Act requires the grantees to submit statements of their claim giving the particulars mentioned in that provision. It is difficult to understand the necessity for driving the grantees to this course when the grants were being paid to them on the basis of the State records by the authorities of the former Indian States and are still being paid to them after the formation of the new State of Madhya Pradesh, and when all the scrutinised records and particulars concerning the grants are already with the State. No doubt, Section 5 requires the competent authority to make an enquiry into a grant even if the grantee does not file a statement within the period specified in Sub-section (1) of Section 4. But then it would not be unreasonable to think that in the face of Section 4 of the Act the competent authority is not likely to deal with the claim of a grantee with speed and promptness if he has not filed the statement required of him u/s 4. It is noteworthy that Section 5 does not enjoin that the competent authority should pass a final order in the matter of any grant within a certain specified time.

19. There are numerous cases of the Supreme Court and of the High Courts, including this Court illustrating the nature of restrictions contemplated by Clause (5) of Article 19 and which have the quality of reasonableness. But the restriction imposed by the impugned Act in the form of deprivation of the property of the cash grantees for no purpose is unique and cannot be likened to any of the restrictions recognised and permissible as reasonable under Clause (5). The impugned Act aims at naked confiscation of property, wholly unrelated to the interests of the general public or to the protection of the interests of any Scheduled Tribe, and clearly interferes with the petitioners' right under Article 19(1)(f) and is not saved by Clause (5) of Article 19.

20. This view of the matter renders it unnecessary for us to consider the further contentions advanced on behalf of the petitioners that Section 2(1) and Section 3 of the Act offend Article 14 of the Constitution; that the definition of "cash grant" given in Section 2 (1) of the Act is vague; and that there was abdication by the Legislature of its legislative function. If the points be material, it is sufficient to say that the grants excluded from the definition given in Section 2(1) are those made to charitable and religious institutions and those made in respect of proprietary rights which had already been resumed. The exclusion of these grants is thus on a reasonable classification. So also the option given by Section

3, of the Act to the minors, persons above the age of 60 years and persons subject to physical disability or mental infirmity of having their grants continued for the period mentioned in the Table given in Section 3 is based on a reasonable classification. There is no vagueness about the definition of "cash grant" in Section 2(1). There is in that provision no delegation to the State Government of any power.

21. For the foregoing reasons, both the petitions are allowed. The Madhya Pradesh Abolition of Cash Grants Act, 1963, is declared to be void and ultra vires the Constitution and a writ of mandamus shall go to the opponent State restraining it from enforcing the provisions of the said Act against the petitioners. Each petitioner shall have costs of his application with Rs. 150/- as counsel's fee. The outstanding amount of the security deposit shall be refunded to the petitioner in each case.