
(1969) 01 DEL CK 0007

In the Delhi High Court

Case No : Civil Writ Appeal No. 742 of 1968

Seth Munna Lal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 07-01-1969

Acts Referred:

Citation : (1970) 6 DLT 47

Hon'ble Judges : S.K. Kapur, J;Hardayal Hardy, J

Bench : Division Bench

Advocate : S.N. Chopra, S.P. Aggarwal and Prakash Narain, for the Appellant;

Judgement

S.K. Kapur, J.

(1) On July 17, 1968, the Collector of Delhi, acting as Competent Authority under the Requisitioning and Acquisition of Immovable Property Act, 1952, issued a notice in exercise of the powers conferred on him by sub-section (1) of section 3 calling upon Munna Lal petitioner to show cause as to why the property, 26, Ferozshah Road, New Delhi, be not requisitioned. In the notice it is inter alia stated that the property described in the Schedule hereto annexed is needed for a public purpose, viz. accommodating Government Officers/Offices being a "purpose of the Union,.....". Section 3 of the said Act requires that where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him why the property should not be requisitioned. Sub-section (2) of section 3 authorises the competent authority, if such authority is satisfied after considering the cause, if any, shown by any person interested in the property or in possession thereof that it is necessary or expedient to requisition the property, to requisition the same by order in writing. Certain properties are, by a proviso to section 3, excluded from

the operation of the Act but it is not necessary to detail the same for the purposes of decision in this case. The power to requisition u/s 3 can, Therefore, be exercised if the property is needed "for any public purpose, being a purpose of the Union". u/s 5 of the said Act the requisitioned property can be used for such purposes only as may be mentioned in the notice of requisition, which in this case was-"accommodating Government Officers/officers being a purpose of the Union.."The petitioner filed objections to the proposed requisition which were disposed of by the competent authority by the order dated 13th August, 1968. In the said order it is inter alias stated-

" A notice u/s 3(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952 was issued on 17th July, 1968 to the owner of the property No. 26, Feroze Shah Road, New Delhi. A copy of this notice was also pasted on the premises of the building. The notice required the owner to show cause within 15 days as to why the property should not b" requisitioned for accommodating the Government Offices/Officers of Delhi Administration." The words "Delhi Administration" did not, however, occur in the notice. Possibly accommodating the Government Offices/Officers of Delhi Administration may have been the purpose of the Union having regard to the political set up of Delhi. I cannot, however, take notice of the addition in the order as the words "Delhi Administration" did not occur in the notice. Dealing with the objection of the Petitioner which rear"s "the public purpose mentioned in the notice challenged hereunder, speaks .about accommodating Government Officers."

The notice does not mention the type, class and category of Government Officers. The notice does not mention the department to which such Government Office is are attached. It is submitted that the notice suffers from vagueness and legal infirmity. It is submitted that accommodating any Government Officer would not satisfy the import and or meaning of a public purpose as the law laid down by the Supreme Court of India requires", the competent authority in its order said-

"IT is clear in the notice that the building is required for accommodating Government Offices/Officers. This purpose is by no means vague and it is certainly not necessary to give in the notice the details of the offices/officers for which the building is required, nor should it be difficult for any person to file objections against the show cause notice in the absence of such details."

The requisitioning order was passed on 13/19th August, 1968, and it is inter alias stated therein-

"I,B.N. Tendon, Collector ,Delhi, being the competent authority under the said Act, having been satisfied that it is necessary and expedient so to do, I do hereby requisition the said property for accommodating Government Offices/ Officers and I hereby order the said Shri Munna Lal to surrender or deliver possession thereof to the Tehsildar, Delhi."

In the order the statement of "public purpose, being a purpose of the Union", is

confined to "accommodating Government Officers/Offices", which, as I shall elaborate a little later, may be a purpose of the Union or may not be a purpose of the Union. In that sense there is no clear statement in the order that the property was required for a public purpose, being a purpose of the Union. It is this order dated 13/19th August, 1968, which has been impugned by the present writ petition.

(2) The order has been challenged on various grounds but in the view that I am taking it is unnecessary to deal with all such grounds. One of the points raised in the petition is that the requisition is not for the purpose of the Union. Of course, in the petition the challenge has been made on the ground that housing of Officers/Offices of Delhi Administration is not a purpose of the Union. This objection seems to have been so couched in view of the use of the words "Delhi Administration" in the order of the Collector dated 13th August, 1968, disposing of the objections of the petitioner. Counter affidavits were filed by respondents Nos. 3 and 4, namely, the Collector of Delhi (Competent Authority) and Shri K.N. Joshi, Officer-in-charge (Requisitioning). In the affidavits of Shri B.N. Tandon, Collector of Delhi (Competent Authority), it is inter alia stated that-

(1)"as the premises were lying vacant and the same were required for a public purpose, viz. accommodating Government Officers/Offices, which is a purpose of the Union. the impugned notice dated 17th July, 1968 was issued by me to the petitioner under the provisions of section 3(1) of Act 30 of 1952"; and

(2)"with regard to the C.B.I. I say that immediately possession was taken on 14th September, 1968 the same was handed over to the C.B.I who occupied the premises. An affidavit of Shri B.N. Tandon had also been filed in reply to the stay application and it is necessary to refer to the same as well as the learned counsel for the respondents placed reliance on the same. In the said affidavit also Shri Tandon says that- (1) "as the premises were required for a public purpose, namely, accommodating Government Officers/offices which is a purpose of the Union, a notice dated 17th July, 1968 was issued by me to the petitioner. ;and (2) the possession of the premises has been handed over to the Director, Central Bureau of Investigation, who is now in possession of the same in accordance with law. The fourth Respondent in his counter-affidavit, however, says- "I was directed by the Collector, Delhi, to make enquiries as to whether the bungalow at 26, Ferozeshah Road, New Delhi, was lying vacant or not as the said premises were required for the purpose of the Union, viz,, location of the Forensic Laboratory of the Central Bureau of Investigation, Ministry of Home Affairs, Government of India, New Delhi "

The learned counsel for the respondents also relied on this affidavit to show that the premises were actually required for the purpose of the Union, In deciding the question as to Whether or not the property has been requisitioned turn a public purpose, being a purpose of the Union, no notice can be taken of the above statement as-

(1) the said Statement is merely a reiteration of what the Collector told Shri Joshi about the purpose of the requisition and does not deal with what has actually happened ;and (2) though according to Shri Joshi's affidavit proceedings for requisitioning the premises were taken because the same were required for allocation to the Forensic Laboratory of the Central Bureau of Investigation yet no such purpose was shown in the notice of requisition in spite of the fact that the property can, in view of section 5 of the said Act, be used only for such purpose as is mentioned in the notice .If the property was sought to be requisitioned for the Central Bureau of Investigation I find no justification for a statement in the notice that the same was required for accommodating Government Officers.

(3) It is in this state of pleadings and the record that we have been called upon to decide as to whether or not the order of requisition is in conformity with the said Act. When dealing with such a matter a very close scrutiny has to be brought to bear on the facts and law for the meagre safeguards available to the subjects cannot be diluted by conjectural approach to the problem. Of course statutes represent the common will and a compromise arrived at the floor of the Legislature between competing interests and must, Therefore, be interpreted in accordance with the recognised canons of interpretation. In so doing the Courts should not introduce their sympathy and say what ought to have been the law, but at the same time they must see whether or not the law has been fully complied with.

(4) As I have said earlier, requisition can be made only for a public purpose and that public purpose must be a purpose of the Union. It cannot be disputed that a public purpose may not necessarily, and in all cases, be a purpose of the Union. Whatever may be the precise scope of the expression "purpose of the Union", it cannot extend to a purpose with which the Union is not at all concerned. The purpose of the Union may be co-extensive with its executive or legislative functions. It may also extend to matters with which the Union is either administratively or financially concerned. It cannot, however ,be extended, for instance, to a purpose with which only a private body, or individual, or even a State as distinct from the Union may be concerned. It follows Therefore that accommodating an office or officer of a State Government per se cannot be a purpose of the Union. The question, Therefore, is as to whether or not the respondents have shown that the requisition was made for the purpose of the Union. Handing over of the possession to the Central Bureau of Investigation cannot be decisive of the matter as a property requisitioned for a purpose other than the purpose of the Union may, though wrongly, be utilised for accommodating the Central Bureau of Investigation. The respondents were required to show that the property had been requisitioned for a public purpose, being a purpose of the Union. The notice and the order do not, in my opinion, show that. Section 3 of the said Act requires the purpose to be stated in the notice. The notice in this case has merely copied Form "A" prescribed under rule 3 of the Rules framed under the Act. We were asked by the respondents to

construe the words "being a purpose of the Union" in the notice as a statement that the requisition was for accommodating Government Officers/Offices connected with the Union. In my opinion, these words merely mean that according to the authority issuing the notice accommodating Government Officers/ Offices parse and irrespective of who and which those officers and offices are, is a purpose of the Union. The said words are indicative of the opinion of the competent authority about the purpose of the requisition being a purpose of the Union and do not elaborate either the nature of the officers or offices or the purpose of requisition. In short, the words "being a purpose of the Union" merely convey that the premises are required for Government Officers/ Offices and irrespective of the nature of officers or offices that purpose is a purpose of the Union. As a matter of fact, it was not disputed on behalf of the respondents that the Government Officers/Offices of a State totally unconnected with the affairs of the Union will not be a purpose of the Union. In the order even the words "being a purpose of the Union" are also missing and the only purpose stated is "accommodating Government Officers/Offices". That lends further support to the view that I am taking that the competent authority was under the impression that accommodating any Government Officer or office would be a purpose of the Union. In the affidavit Shri Tandon says that the premises were requisitioned for accommodating Government Officers/ Offices which is a purpose of the Union. That brings out clearly what was operating in the mind of the competent authority and shows that according to him accommodating Government Officer or office would in all cases be a purpose of the Union, it appears to me that. at the time of issue of notice the competent authority was not clear in its mind as to the purpose for which the property was likely to be used and vague expression "Government Officers/Offices" was stated in the notice as well as in the order in view of the impediment caused by section 5 which limits the use of the property requisitioned to the purpose stated in the notice, as otherwise I see no reason why the notice and the order did not say that the property was required either for the Central Bureau of Investigation or for a Central Government office. In my opinion, Therefore, the respondent have failed to show that the requisition was made in conformity with the provisions of the said Act.

(5) I am relieved, in the circumstances, from deciding the other contentions raised by the petitioner. I would, Therefore, allow the petition and quash the impugned order dated 13/19th August, 1968, but with no order as to costs.

Hardayal Hardy, J.

(6) I agree.