
(1965) 06 GUJ CK 0008
In the Gujarat High Court

Siddimiya Gulammohmad

APPELLANT

Vs

The Asst. Collector and Others

RESPONDENT

Date of Decision : 22-06-1965

Acts Referred:

Jagir Abolition Act — Section 2(1)(vi), 2(1)(vi)

Citation : (1966) 7 GLR 467

Hon'ble Judges : J.M. Shelat, C.J;Akbar S. Sarela, J

Bench : Division Bench

Judgement

J.M. Shelat, C.J.—This petition is directed against two orders, (1) the order passed by the Additional Collector and confirmed by the State Government, determining that the grant in question was a non-proprietary Jagir, and (2) the orders determining compensation, Exhibits L to N to the petition, by which the Assistant Collector, Anand, determined compensation payable to the petitioner for the abolition of his Jagir under the Bombay Merged Territories and Areas (Jagirs Abolition) Act, XXXIX of 1954, hereinafter referred to as the Jagir Abolition Act.

2. According to the petitioner, he was at all material time the Inamdar in respect of shared villages, Jamalpur, Aspur, Bhan-talavdi and Chikhli-Joza, situate in the territories of the ex-Balasinor State. The case of the petitioner was that his ancestors, who were pirjadas, were holding these four villages as personal inams even before the existence of the Balasinor State. It appears that certain disputes regarding the management of these four villages arose between the State of Balasinor on the one hand and the sharers on the other, in consequence of which certain sharers (but not the petitioner's ancestors) entered into kabuliyat dated September 8, 1893 whereby they surrendered their interest in the villages Aspur in consideration of the State of Balasinor giving to them lands situate in another village called Ghantia in Virpur Paragana and other lands admeasuring, about ninety-three acres. As a result of the aforesaid kabuliyat, the right, title and interest of those co-sharers in Aspur village came to be transferred to the State

of Balasinor. As regards the disputes between the State of Balasinor and the petitioner's ancestors regarding the management of the aforesaid four villages, it appears that they were referred to the Karbhari stete, one Premchand Karsandas. On or about September 11, 1893, the petitioner's ancestors and the other sharers in these villages gave an writing to the said Karbhari which was subsequently sanction by the ruler of the Balasinor State by a formal resolution dated May 2, 1894. The said resolution provided that the villages in which the no share in the sagi jungle and bamboos, the State and the Inamdars would have half and half share. In the villages in which the Durbar had, however, a share, the Durbar would have half the share and as far the rest of the jungle the Durbar and the Inamdar would share half and half. The resolution also provided that the forests which then existed and which would come in future in existence would be managed and sold by the Durbar and the Durbar would then hand over, after deducting the necessary expenses, to the Inamdars the shares which would come to them. The resolution also provided that the Inamdars would have a right to get the fallow land situated in the jungle cultivated and to take the income thereof, but the Inamdars were to get the land so cultivated without damaging the sag forest. The resolution further nermitted the Inamdars to obtain from the forests free of charge wood for rafters to build houses. It also provided that the Durbar would only take, in respect of villages in which he had a share, his share of income from licences, licence fees for chuna bhathis (i.e. lime kiln) built in these villages, tax on artisans and the land tax which the Durbar was exclusively realising till then. It also provided that the Durbar would not take the salami i.e. transfer charges in respect of land either purchased or dharmada directly from the owner in these villages, and the charges for grazing cattle realised from the visiting Rabaris would be appropriated by the Inamdars so long as such grazing cattle did not exceed two hundred. The resolution also stated that except for the taxes enumerated therein, no other new tax whatsoever would be imposed by the Durbar on these villages, that the civil and criminal jurisdiction over these villages would be retained by the Durbar and the Durbar undertook to observe and abide by the resolution for ever.

3. According to the petitioner, his ancestors were entitled under this resolution to the rights and interest in the soil in respect of these four villages. According to him, ever since the said original grant and the recognition thereof by the State of Balasinor by the aforesaid resolution dated May 2, 1894, the petitioner and before him his ancestors have been enjoying these four villages as personal Inams, realising income from the land revenue, from the soil and the forest trees, from the licence fees for chuna bhathi, kasab vera (tax on artisans), bhom vera and the licence fees for permitting the visiting Rabaris to graze their cattle and the licence to carry away stones and timru leaves from these villages, and have thus acquired proprietary rights in these villages. The petitioner's case was that these rights constituted proprietary interest in these villages and were not merely assignment of land revenue or the rent due to the State from persons holding lands therein. In or about the year 1923, an enquiry was constituted

before the Alienation Inspector of Revakantha Agency in the course of which one Chunilal Chhotalal, an employee of the State of Balasinor, gave his deposition. The said Chunilal in his aforesaid deposition conceded that the inami villages referred to by him were in the exclusive possession and enjoyment of the petitioner's ancestors for nearly two hundred to four hundred years, that they were realising income in respect of the said villages and that those villages were registered in the records of the State as Bakshis Inam, i.e. personal Inams. He also conceded that the State had no objection to a sanad being issued by introducing summary settlement. Accordingly, the State of Balasinor issued sanads to the petitioner's ancestors in respect of the villages of Aspur, Jamalpur, Chikli-joza and Bhan-talavdi. According, however, to the affidavit in reply made by the Collector, Kaira, the case in which the said Chunilal gave his deposition was in respect of other villages and not the villages in question and that, therefore, the issuance of the said sanads by the State of Balasinor in 1923 had nothing to do with the aforesaid deposition given by the said Chunilal Chhotalal. There is, however, no dispute that the Balasinor State did issue in favour of the petitioner a sanad dated May 22, 1923 and that sanad was issued in the form of a personal Inam. The sanad inter alia recited that by resolution No. 5043 dated September 2, 1914 of the Political Department, Province of Bombay, it was resolved in connection with the Bahar Khali lands of the Balasinor State that the inami village Chikli-joza in Virpur Mahal of Balasinor State was held as personal Inam in accordance with the custom prevailing in respect of the lands of the State and that, therefore, it was decided that "the said land will be continued to be considered as Personal Inam property of the landholder as per terms fixed (there) under. According to the terms, the landholder should live as Inamdar subject of the Government and should pay Rs. 52-8-0 per year to the Government as per rules provided and terms decided for land. "This sanad was issued by the State of Balasinor and bore the signature of the Alienation Enquiry Officer, the then ruler of the Balasinor State and his Karbhari. It appears that though the sanad was issued on May 2, 1923, it was not handed over to the petitioner and subsequently, an endorsement was made under the aforesaid Sanad dated September 4, 1924 by the Alienation Enquiry Officer, Revakantha, wherein it was stated that though the pirjadas were to enjoy income from the lands and the forest and other miscellaneous income, "the suzerainty of this village land becomes of the State, but the income from cultivable land of Kharaba and produce and other miscellaneous income will be of the inamdars as per the settlement this resolution. In this sanad, no settlement is made for forests land, as per order No. 4107. "According to the petitioner, certain disputes arose between him and the State of Balasinor in respect of the forest and the lands situate in Aspur village, and three orders were passed by the Agent to the Governor General dated December 15, 1935, November 22, 1936 and June 14, 1943 which allowed the petitioner's claim in respect of the share in the revenue of the forest land put to cultivation and given over to third parties as also the share in the transfer charges or khed hak charges in respect of the land given for cultivation to third parties. This was the documentary evidence which appears to

have been relied upon by the petitioner in support of his claim that the aforesaid grant was a proprietary grant and not a non-proprietary grant or an assignment of mere land revenue.

4. On August 1, 1949, the State of Balasinor merged with the State of Bombay. Thereafter, the Bombay Legislature enacted several Acts extinguishing the various, types of land tenures prevailing in the merged territories. So far as the present petition is concerned, two such relevant Acts are the Jagir Abolition Act, 1953 and the Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955. However, according to the petitioner, no enactment providing specifically for the abolition of personal Inams was passed and, therefore, the aforesaid grant of the recognition thereof by the State of Balasinor would be governed, not by the Jagir Abolition Act, 1953, but by the Miscellaneous Alienations Abolition Act, 1955. The petitioner's case was that though the Bombay Legislature enacted the Bombay Personal Inams Abolition Act, 42 of 1953 by which personal inams in the State of Bombay were abolished, the Act did not apply to personal Inams situate in the merged territories and, therefore, the aforesaid Act did not extinguish the personal Inams held by him inspite of the merger of the State in the State of Bombay and consequently, the personal Inams held by him continued to be held by him until they were abolished by the Miscellaneous Alienations Abolition Act, 1955 which came into force on August 1, 1955. After the Jagir Abolition Act was passed, the petitioner however filed two applications under the Act addressed to the Collector of Kaira, claiming compensation amounting to Rs. 2,80,000/- on the basis that the aforesaid grant enjoyed by him in respect of these four villages constituted proprietary Jagirs. In those applications, the petitioner prayed that the aforesaid four villages should be declared to be his proprietary Jagir. In support of those applications, the petitioner produced, on July 4, and September 5, 1958, the aforesaid documentary evidence in order to establish that he had right, title and interest in the soil of the said villages. The Additional Collector, Kaira, by his order dated November 26, 1959, held that the said grant amounted to Jagir within the meaning of the Jagir Abolition Act, 1953 but held that that Jagir was a non-proprietary Jagir. On passing the aforesaid order, the Additional Collector endorsed the said order to the Assistant Collector, Anand, with a direction that that official should proceed with the compensation claim filed by the petitioner on the footing that the Jagir held by the petitioner was a non-proprietary Jagir. Aggrieved by this order, the petitioner filed an appeal before the State Government Revenue Department, on January 18, 1960 along with another application for an order staying the said compensation proceedings pending before the Assistant Collector, Anand. The State Government, however, did not pass any stay order and consequently, though the appeal filed by the petitioner before the State Government was pending, the Assistant Collector proceeded with the compensation proceedings and determined compensation payable to him by orders, copies whereof are Exhibits L to N to this petition. During the pendency of his appeal before the State Government, the petitioner filed yet

another application dated October 8, 1960 inter alia contending that the alienation in question was not a Jagir within the meaning of the Jagir Abolition Act, 1953 and that the petitioner was not a Jagirdar in respect thereof, and urged that the Act which would be applicable in this case was the Miscellaneous Alienations Abolition Act, 1955 and that, therefore, compensation payable to him for the abolition of the aforesaid alienation would be under that Act and not under the Jagir Abolition Act. The petitioner was represented at the hearing of the said appeal by an advocate and had also filed before the State Government a memorandum of appeal as also the application dated October 8, 1960. The advocate appearing for the petitioner before the Government had also urged that the Act applicable would not be the Jagir Abolition Act, 1953 but the Miscellaneous Alienations Abolition Act. After the hearing, the petitioner's advocate also submitted written arguments on all the points involved in the said appeal, contending therein that the Act which would apply was the Miscellaneous Alienations Abolition Act, and not the Jagir Abolition Act as the grant in respect of the four villages held by the petitioner was not a Jagir and petitioner was not a Jagirdar, meaning thereby a person to whom any ruling prince or chief had assigned any village or land in consideration of any military services rendered by him or a cadet to whom villages or lands had been assigned for his maintenance. The petitioner contended that his ancestors were neither military persons nor cadets of the Balasinor State and, therefore, the Jagir Abolition Act was not applicable to him. In the alternative, the petitioner urged that in the event of it being held that the alienation in his favour was a Jagir, the Jagir was a proprietary Jagir and not a non-proprietary Jagir as held by the Additional Collector, since it was clear from the sanad that the said villages were granted to the petitioner's ancestors as a grant of soil. While the said appeal was still pending, the petitioner received a communication dated March 11, 1961 from the Watan Mamlatdar, Balasinor which stated that by an award dated February 27, 1961 the Assistant Collector, Anand, had fixed Rs. 1,951-98 nP. as compensation in respect of the said village Aspur. The petitioner also received another communication dated June 13, 1961 whereby he was informed that compensation in respect of village Chikli-joza was fixed at Rs. 76-51nP. and for that other two villages Bhan-Talavdi and Jamalpur at Rs. 604-17 nP. On May 6, 1961, he received yet another communication from the third respondent which informed him that the State Government did not see any reason to interfere with the order of the Additional Collector and had, therefore, rejected his appeal.

5. The points sought to be raised by Mr. Shah for the petitioner were that the orders of compensation, Exhibits L to N, by reason of their having been passed under the Jagir Abolition Act, have deprived the petitioner of his property without authority and without compensation according to law and are, therefore, violative of Article 31(1) and 31(2), that the said orders determining compensation were violative of the principles of natural justice inasmuch as they were passed behind the back of the petitioner and without his having been given an opportunity of being heard, that the lands in the said four villages were held by the petitioner

as personal Inams and that that being so, their abolition was effected, not under the Jagir Abolition Act, 1953 but under the Miscel-Ignepns Alienations Abolition Act, 1955 and that, therefore compensation ought to have been awarded to him under the Miscellaneous Alienations Abolition Act and not under the Jagir Abolition Act and the authorities have consequently failed to observe the correct law and failed to exercise jurisdiction vested in them by law in not deciding the proceedings under the proper law, that the State Government failed to apply its mind to the fact that the law applicable was the Miscellaneous Alienations Abolition Act, 1955, that the authorities exceeded the jurisdiction vested in them in holding that the alienations in his favour were non-proprietary Jagirs, that there was an error apparent on the face of the record inasmuch as the authorities misconstrued the documentary evidence produced before them, that the appellate authority, namely, the State Government, acted with irregularity and illegality in failing to give reasons for its order of dismissal of the appeal though the proceedings before it were quasi-judicial and subject, therefore, to the superintendence of this Court, and lastly that the orders were violative of Articles 19(1)(f) and 31(1) and 31(2). We may at this stage observe that Mr. Shah for the petitioner has not pressed any constitutional points arising under either Article 19 or Article 31(1) or 31(2).

6. It will be seen from what has been stated above that the challenge in this petition to the two orders is two-fold, in respect of the two categories of orders passed by two different authorities holding different jurisdictions and, therefore, has to be examined separately. The challenge is, (1) against the order of the Additional Collector, who, as the officer authorised u/s 2 of the Jagir Abolition Act, 1953, by the State Government, held that the Jagir Abolition Act applied and that though the grant was called personal inam, it was in law a Jagir and further that the Jagir was not a grant of soil but of revenue and was non-proprietary, and (2) against orders of compensation passed by the Assistant Collector, Anand, having a jurisdiction different from that of the Additional Collector and under a different provision of the Jagir Abolition Act.

7. As seen from the record before us, the four villages in question were co-shared villages of the pre-merger Balasinor State. From the resolution of 1894 and the sanad issued in favour of the petitioner in 1923, it is clear that the alienations in questions were held by the petitioner's ancestors originally as a grant and which grant was subsequently recognised first in 1894 and thereafter in 1923. The sanad, no doubt, was issued in the form of a personal inam and the grant was named therein as a personal inam. Thus, although the sanad was in the form of a personal inam and was named as such by the State of Balasinor, the Additional Collector and the State Government in turn held that as a result of the amplitude and the width of the definition of "Jagir" in Section 2(1)(vi) of the Jagir Abolition Act, 1953 and the alienation being a grant having also received recognition from the State of Balasinor, it was Jagir and fell under the aforesaid definition in the Jagir Abolition Act. As already observed, the petitioner himself filed two applications for compensation, one in respect of Aspur village and the

other in respect of the other three villages under the Jagir Abolition Act and, except at the stage of the appeal, he had not raised the contention that the Miscellaneous Alienations Abolition Act applied and not the Jagir Abolition Act or that the grant in question was not Jagir. There can be no doubt that the order passed by the Additional Collector was with jurisdiction and was passed after examining the documentary evidence produced by the petitioner and after hearing the petitioner. It is also clear from the record that though the petitioner filed an appeal against the order of the Additional Collector and the appeal was pending before the State Government, no stay order was passed in that appeal preventing the compensation proceedings before the Assistant Collector to proceed. Therefore, in the absence of any such stay order, the Assistant Collector was competent to proceed with the compensation proceedings and determine the compensation.

8. From the contentions raised by Mr. Shah, three questions would seem to arise, (a) whether the Jagir Abolition Act, 1953 applied, (b) whether the order that the Jagir was non-proprietary was correct, and (c) whether the orders of compensation were legal or whether they contravened principles of natural justice.

9. As regards the first question, Section 2(1)(vi) of the "Jagir" Abolition Act, 1953, defines "Jagir" as meaning the grant or recognition as a grant, by the ruling authority for the time being before the merger of a village, a group of villages or a portion of a village, whether such grant is of the soil or an assignment of land revenue or both, and includes villages, group or portions of villages. It is obvious from the petition itself that the case of the petitioner there has been that the alienation in favour of his ancestors was originally by way of a grant, i.e. even before the State of Balasinor came into existence, and that the ancestors of the petitioner enjoyed the said alienation by virtue of that grant. His case also has been that sometime prior to 1894, certain disputes arose between the co-sharers on the one hand and the State of Balasinor on the other in regard to the management of those villages, which disputes, as aforesaid, were referred to the decision of the State's Karbhari and a resolution thereafter was passed by the State dated May 2, 1894 recognising certain rights of the petitioner's ancestors set out therein. Thereafter, disputes persisted between the State and the petitioner's ancestors and ultimately a decision was given by the Alienation Enquiry Officer and in accordance with that decision, a sanad was issued in 1923 by the State of Balasinor whereby certain rights to certain incomes and certain taxes of the petitioner were recognised. These rights, being based originally on a grant and subsequently by a recognition by the State of Balasinor, would be a grant or an alienation falling under the definition of "Jagir" as enacted in Section 2(1)(vi) of the Jagir Abolition Act, 1953. So far as the Bombay Personal Inams Abolition Act, 1952 is concerned, it is evident from Section 1(2) of that Act that that Act did not apply as it did not extend to the territories merged in the pre-reorganisation State of the Bombay, for the Act has been expressly excluded for its applicability to those areas. It is also clear that the Miscellaneous Aliations

Abolition Act, 1955, also would not apply to the grant in question, despite the fact that it was named a personal inam by the State of Balasinor, for Section 3(1) (f) of that Act in clear terms excludes the applicability of the Act to "the land tenure to which the provisions of any of the enactments specified in the Schedule apply. "One of the Acts so specified in the Schedule is the Jagir Abolition Act, 1953. The preamble to the Act also states that the Act was enacted to abolish certain alienations of miscellaneous character not so far abolished by the various Acts previously enacted. That being so, neither the Personal Inams Abolition Act nor the Miscellaneous Alienation Abolition Act of 1955 would apply. The alienation in question clearly falling under the Jagir Abolition Act, 1953, it would be that Act which applied and, therefore, the Additional Collector and the State Government were right in holding that the Jagir Abolition Act applied. The rights claimed by the petitioner being based on a grant or, at any rate, on a recognition of a grant by the ruling authority, i.e. the State of Balasinor, before the merger of the State, these rights fell u/s 2(1)(vi) of the Jagir Abolition Act, 1953 and, therefore, no question of a wrong enactment having been applied, or failure or excess of jurisdiction, can conceivably arise.

10. These rights being, therefore, a Jagir, the next question is whether this Court can issue a writ of certiorari, quashing the order of the Additional Collector as confirmed by the State Government in an application for compensation admittedly filed by the petitioner under the Jagir Abolition Act, 1953. Section 2(4) of the Jagir Abolition Act provides inter alia that if any question arises whether a Jagir is proprietary or non-proprietary, the State Government shall decide the question and such decision shall be final. The proviso to that subsection empowers the State Government to authorise any officer to decide questions arising under any of the Sub-clauses (i), (ii) and (iii) and, subject to an appeal to the State Government, his decision is made final. It is clear from these provisions that the State Government or the officer authorised by it has the exclusive jurisdiction to decide the question whether a Jagir is proprietary or non-proprietary, and the decision of the State Government or the authorised officer, as the case may be, is made final subject, in the latter case, to an appeal to the State Government. As held by this Court more than once, an order which is made final in an enactment means that such an order is not subject either to an appellate or a revisional jurisdiction. That being so, this Court cannot sit in appeal against any such order, nor can it alter or set aside such an order in exercise of any revisional jurisdiction. The special prerogative jurisdiction of this Court is available thus in certain limited cases where an order suffers from invalidity or illegality, such as want of jurisdiction, or where an order is passed in fraud of a statute or discloses an error apparent on the face of the record. No such plea has been averred in the petition, the only plea urged being that it was not the Jagir Abolition Act, but the Miscellaneous Alienations Abolition Act, 1955, which applied. As already, stated, there is no validity in that contention. The other plea in the petition that the order of the Additional Collector, as confirmed by the State Government, was contrary to the documentary evidence produced

by the petitioner, has also no justification. It is clear from the order of the Additional Collector that the evidence produced and the arguments submitted by the petitioner were taken into account before the order was passed. Obviously, therefore, there is no question of any non-application of mind. It is well-settled that if evidence is produced by a party and has been examined by the authority concerned, the mere fact that this Court would come to a different conclusion from such evidence is not a valid ground for interfering with such an order. The appreciation of such evidence is obviously left by the Legislature to the special forum created by it u/s 2(4) of the Act and not to this Court.

11. The third contention raised by Mr. Shah that the order is bad because the State Government did not record reasons in its order, requires some consideration. Mr. Shah, in support of his contention, relied upon *Nagendra Nath Bora and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others*, for his proposition that where a statute or the rules made thereunder provides for an appeal from the order of a subordinate authority and the function to be performed is a quasi-judicial one, the appellate authority while passing its order must give reasons in its order or, in other words, pass a speaking order. We are of the view that Mr. Shah has been reading too much in this decision. The decision dealt with the nature of the function to be performed by a hierarchy of authorities under the Eastern Bengal and Assam Excise Act, 1910. The Supreme Court here held on examination of the provisions of the Act and the rules made thereunder that those provisions did not expressly lay down a procedure from which it could be gathered that the function entrusted to those authorities was not administrative but quasi-judicial, but the fact that appeals and revisions were provided for from one authority to another indicated that the authority against whose order an appeal or a revision was provided had to pass a reasoned order. Therefore, the Supreme Court observed at page 406 of the report that:

Section 9 of the Act has laid down a regular hierarchy of authorities, one above the other, with the right of hearing appeals or revisions. Though the Act and the rules do not, in express terms, require reasoned orders to be recorded, yet, in the context of the subject-matter of the rules, it becomes necessary for the several authorities to pass what are called "speaking orders." Where there is a right vested in an authority created by statute, be it administrative or judicial, to hear appeals and revisions, it becomes its duty to hear judicially, that is to say, in an objective manner, impartially and after giving reasonable opportunity to the parties concerned in the dispute, to place their respective cases before it.

12. These observations only mean that unless the authority from whose order an appeal or a revision is provided for records reasons for "its order, a right of appeal or revision cannot be effectively exercised, and the appellate authority too would not be able to properly exercise its authority. The decision decides no more than this and in any event does not lay down anywhere that the authority whose order is made final by the statute has also to pass a speaking order merely because that order, though final, is challengeable in a writ petition under

Article 226 or 227 of the Constitution. Mr. Shah then pointed out another decision of the Supreme Court in *Harinagar Sugar Mills Ltd. v Shyam Sundar* AIR 1951 S.C. 1669 . But that decision also does not anywhere lay down the proposition canvassed by Mr. Shah and, therefore, cannot assist him. The Supreme Court in that decision examined the nature of the function entrusted to the Central Government u/s 111 of the Companies Act of 1956 and held that the Central Government under that section had to act as a tribunal performing judicial functions, and the proceedings before it had all the attributes of a proceeding before a judicial tribunal. It, therefore, held that since the Central Government acted as a tribunal exercising judicial powers and the exercise of that power was subject to the jurisdiction of the Supreme Court under Article 136 of the Constitution, the power of the Supreme Court could not be effectively exercised if reasons were not given by the Central Government in support of its orders. The Supreme Court observed that in the absence of anything to show that the Central Government exercised its restricted power in hearing an appeal u/s 111(3) and passed the orders under appeal in the light of the restrictions imposed by the articles of association and in the interest of the company, the Court would be unable to decide whether the Central Government did not transgress the limits of its power. Mr. Shah also relied upon the decision of a Single Judge of the Madras High Court in *R. Nagalingam Vs. University of Madras and Another*, That decision also cannot assist him, it mainly turned on the question whether an order of rustication passed by the Syndicate of the Madras University under the -Madras University Act was a quasi-judicial order or not. Relying on the-Supreme Court decision in *Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others*, the learned Judge held that on the facts of the case before him, and considering the nature of the functions entrusted to the Syndicate, the function performed by that body was a quasi-judicial one and, therefore, it was incumbent upon the Syndicate to arrive at its own conclusion after considering the accusation and the explanation rendered by the person concerned. But the learned Judge in express language declined to go any further than that, though it was urged before him that the order should be a speaking order. At page 31 of the report, the learned Judge observed that counsel for the petitioner before him had contended that the Syndicate should not only express its conclusion but also give reasons thereafter, and had referred to a decision of the Kerala High Court in *P.J. Joseph Vs. Superintendent of Post Offices and Another*, Ker wherein that High Court had expressed its opinion that where the order of an administrative authority was quasi-judicial, it must be a "speaking order", and absence of reasons in it would be fatal to its legality. The learned Judge observed that in view of the facts and circumstances of the case before him, he was not called upon to decide whether so wide a proposition could be laid down and that no question of failure to give reasons arose before him for his consideration. It is clear that in none of the decisions relied upon by Mr. Shah the broad proposition canvassed by him has been laid down, namely, that whenever an administrative authority has to discharge a quasi-judicial function, its order must contain reasons for it and the

absence of such reasons would render such an order invalid. In *Rajkot Motor Transport Co. (Private) Ltd. v. Committee of State Transport Authority* IL.R. (1961) 211, no doubt, a Division Bench of this Court said so, but it is clear from pages 216 and 217 of the report that the learned Judges held so because of the provisions of the Act which expressly laid down that reasons should be recorded. In the light of these decisions, it is not possible to accede to the proposition canvassed by Mr. Shah that the order passed by the State Government was invalid by reason of that order not being a speaking order and not containing reasons for the decisions of the State Government. There are, on the other hand, certain observations in the decision of the Supreme Court in *Express Newspapers (Private) Ltd. and Another Vs. The Union of India (UOI) and Others*, which are contrary to the proposition advanced by Mr. Shah and stated by the Kerala High Court in the decision referred to above. One of the grounds urged against the decision of the Wage Board appointed under the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, was that that decision was invalid because no reasons were given therein, nor did the order disclose what consideration had prevailed with the Board in arriving at its decision. In dealing with that contention, the Supreme Court had to examine the nature of the functions which the Wage Board under the Act had to perform and in doing so, the Supreme Court, after examining the relevant provisions of the statute, held that though the Wage Board was not a Court in the strict sense of the term, the functions which such a Wage Board had to perform were quasi-judicial in character. Though the function of the Wage Board was thus held to be quasi-judicial, the Supreme Court negatived the contention that its decision was invalid on account of its failure to record reasons therein, and observed at page 636 of the report that it was not incumbent on the Wage Board to give reasons for its decision. The Supreme Court observed that the Act made no provision in that behalf and the Board was perfectly within its rights if it chose not to give any reasons for its decision and, therefore, the fact that no reasons were given in its order would not vitiate the decision in any manner. This decision thus contains observations which are contrary to the wide proposition urged by Mr. Shah that even though the State Government had confirmed and had not set aside the order of the Additional Collector, its order would still suffer from illegality owing to its failure to record reasons therein. The fact, therefore, that no reasons were recorded in the State Government's order would not entitle us to interfere with that order. There is no doubt that the petitioner had availed himself of the opportunity of being heard. He had filed an elaborate memo of appeal and even written letters thereafter raising an additional plea. He was allowed to raise the plea and, after considering all that was placed by him including the written arguments by his advocate, the State Government passed the order stating that there was no reason established which would require it to interfere with the order passed by the Additional Collector. The order, in other words, meant that the Government as the appellate authority rejected the pleas raised by the petitioner in the memo of appeal, in his correspondence and in the arguments advanced on his behalf by his advocate.

13. The last contention urged by Mr. Shah was with regard to order of " compensation passed by the Assistant Collector, Anand, and his contention was that these orders in any event were bad in law by reason of the fact that before they were passed, no notice of any hearing was given to the petitioner and no opportunity, therefore, was given to the petitioner for being heard. Section 3 of the Jagir Abolition Act, 1953 provides that notwithstanding anything contained in any usage, grant, sanad, order, or agreement or any law for the time being in force, on and from the appointed date all Jagirs shall be deemed to have been abolished and save as expressly provided by or under the provisions of the Act, the right of a Jagirdar to recover rent or assessment of land or to levy or recover any kind of tax-cess, fee, charge or any hak and the right of any reversion or lapse etc., if any, vested in a Jagirdar and all other rights of a Jagirdar or of any person legally subsisting on the said date in respect of the Jagir village as incidents of Jagir shall be deemed to have been extinguished. Section 11 of the Act provides for compensation payable to a Jagirdar in respect of a non-proprietary Jagir, and Section 13 provides for the method of awarding compensation to a Jagirdar. Section 16 provides for an appeal against an award of the Collector to the Gujarat Revenue Tribunal. It is clear from both the petitions as also the affidavit in reply by the Collector that while the appeal against the order of the Additional Collector was still pending before the State Government, the Assistant Collector asked the petitioner to obtain a stay order from the Government staying the compensation proceedings before him. As already stated, no such order was granted by the State Government, though the appeal before it was still pending, and, therefore, the Assistant Collector was entitled to proceed with the compensation proceedings. But it is not disputed that the compensation proceedings before the Assistant Collector were quasi-judicial proceedings and, therefore, the Assistant Collector was bound to observe the principles of natural justice. Consequently, he was not entitled to dispose of the compensation proceedings behind the back of the petitioner without giving him an opportunity of being heard. As against the plea of the petitioner that these compensation proceedings were disposed of without his having been given such an opportunity the Collector has, in his affidavit in reply, sought to maintain that a notice was in fact sent to the petitioner of the date of hearing before the Assistant Collector. In paragraphs 16 and 17 of that affidavit, however it has been conceded that though such a notice was despatched on January 28, 1960- by registered post, the notice was addressed in the name of Siddimiya Mohmadmiya instead of Siddimiya Gulammahomed which is the name of the petitioner. It may be that the mistake was a typographical error, as is stated in paragraph 16. Nevertheless, since the notice was addressed in a wrong name, it is possible that it was not received by the petitioner, and the petitioner, therefore, could not present himself on January 28, 1960 before the Assistant Collector. There is nothing to show on the record that the notice in fact reached the petitioner and that the petitioner, inspite of that notice, failed to avail himself of the opportunity of being heard by the Assistant Collector. It is clear, therefore, that the orders, Exhibits L to N, were, as stated by the petitioner, passed by the

Assistant Collector without an opportunity having been afforded to him of being heard and, therefore, they suffer from an illegality by reason of their having been passed in violation of the principles of natural justice. Those orders, therefore, have to be set aside. The orders, copies whereof are Exhibits L to N to the petition, are, therefore, set aside and the rule to that extent is made absolute. The rest of the petition is dismissed and the rule in regard to that part of the petition is discharged. We understand that the petitioner had, in the course of the compensation proceedings, produced certain evidence in support of his claim for compensation and had also given his statement. The Assistant Collector will give an opportunity to the petitioner to be heard from the stage when the notice was sought to be served upon him for a hearing on January 28, 1960, and will proceed with the enquiry from that stage when it was resumed on January 28, 1960. The parties are agreed on that there should be no order as to costs.