

(1982) 12 GAU CK 0001
In the Gauhati High Court
Case No : Civil Rule No. 887 of 1981

Suresh Chandra Deka

APPELLANT

Vs

The State of Assam and Others

RESPONDENT

Date of Decision : 16-12-1982

Acts Referred:

Citation : (1983) 1 GLR 377

Hon'ble Judges : S.M. Ali, J; K.N. Saikia, J

Bench : Division Bench

Advocate : P.K. Goswami and Ranjan Gogoi, for the Appellant; D.N. Choudhury, Sr. Govt. Advocate and P. Roy, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

1. This writ application impugns the order dated 29.10.81 in Memo No. KSL. 441/81/11A passed by the Deputy Commissioner, Kamrup, Gauhati in exercise of powers conferred by Govt, Notification No. SDB. 304/58/30 dated 4.11.58, revoking the Petitioner's appointment as retailer under the Assam Foodstuffs (Distribution) Control Order, 1951 with immediate effect.

2. The Petitioner was appointed retailer under the Assam Foodstuffs (Distribution) Control Order, 1958, hereinafter referred to as "the Control Order", in 1965 and he had been working as such. The Petitioner received a notice dated 3.10.81 issued for the Additional Deputy Commissioner (K) and Special Officer of Food and Civil Supplies, Kamrup, Gauhati requiring him to show cause within seven days as to why his retail dealership would not be cancelled for violation of provisions of the Control Order as he was "found selling Kerosene at a price exceeding the Govt. fixed price and also dealing in open market rice in the same shop premises". In the copy of the notice to the Supdt. of Food and Civil Supplies, East Zone there was the direction. He will withdraw the F.I. Card from the retailer and tax same to a nearby shop. The relevant registers and permit book may be obtained from the retailer as per formality if not ready done".

3. The Petitioner showed cause on 12.10.81 stating that as the Government of Assam had not intimated the rates at which kerosene was to be sold, he had fixed and displayed the price Rs. 1.78 per litres according to a news item that appeared in the daily Dainik Asom; that he had purchased 60 kgs. of (sic) rice for his personal construction which was left in his shop by the carrier, that under condition 12 of his licence he was allowed to sell rice which did not come under the category of rice sold at controlled price; and that as such there was no violation of any rules or regulations by him.

4. The Petitioner thereafter received the following order in Memo No. KSL 35. 441/81/11A dated 29.10.81; passed by the Deputy Commissioner, Kamrup Gauhati;

ORDER

Whereas on perusal of the explanation submitted by Shri S.C. Deka, an approved retailer of ward No. 30 in pursuance of the show cause notice issued to him, it appears that the explanation submitted by the said retailer is not satisfactory and he has failed to show sufficient cause. And whereas I am satisfied that the said retailer has violated the provisions of the Assam Food stuffs (Distribution) Control Order 1958, so as to necessitate termination of his dealership.

Now therefore, J.S.K. Agnihotri, Deputy Commissioner of District of Kamrup, in exercise of powers conferred vide Govt. Notification No. SDB. 304/58/30 dt. 4.11.58 do hereby order the REVOCATION of the appointment of Shri S.C. Deka as "retailer" with immediate effect.

Hence this, petition impugning that order.

5. Mr. P.K. Goswami, the learned Counsel for the Petitioner its inter alia, that the order is violative of the principles natural justice as no personal hearing was given him before (sic)ation of his retailer ship that it is not a speaking order as reasons have been recorded in it as required under para 3(2) (sic)the Control Order; that the impugned order is not stated to (sic) been passed in the interest of the general public, which is a condition precedent under the Control Order; that the Petitioner's explanation and the reasons given therein have not been considered at all; that the Additional Deputy Commissioner had no authority to issue the show cause notice, and consequently the initiation of the proceeding itself has been illegal; and that the show cause notice itself containing a direction for withdrawal of the Petitioner's F.I. cards, it discloses a pre-determined mind, rendering the proceeding a mere formality.

6. Mr. P. Roy, the learned Counsel appearing for the State, traverses submitting that the issue of the show cause notice dated 3.10.81 for Addl. Deputy Commissioner (K) and Special Officer of Food and Civil Supplies, Kamrup, Gauhati did not amount to any exercise of power under the Control Order; that the Petitioner was given adequate opportunity to explain his case and no oral hearing is contemplated under the Control Order; that the Petitioners explanation

having been considered by the Deputy Commissioner, there is no violation of any principle of natural justice; that the impugned order is in conformity with the provisions of the Control Order; that public interest is implied in the nature of the order itself; that reasons have been recorded in the order itself that taking of emergent steps by withdrawing F.I. cards pending trial and proceedings does not disclose any pre-determined mind; and that this writ Court may not enter into the subjective satisfaction of the Deputy Commissioner on the facts found by him on enquiry.

7. Mr. D.N. Choudhury, the learned Senior Govt. Advocate, taking over, further submits that natural justice depends on the, circumstances of a case; that this being a case of violation of the Control Order issued under the Essential Commodities Act, which is a piece of socially beneficial legislation aiming at fair and equitable distribution of essential commodities in the community, no full fledged hearing, as envisaged under the services, (Discipline and Appeal) Rules, is contemplated; and that the impugned order having been in conformity with the provisions of the Control Order it is not liable to be interfered with under the writ jurisdiction of this Court.

8. There is no dispute about the Petitioner having displayed the price of kerosene as Rs. 1.72 per litre instead of the official price of Rs. 1.63 P per litre and the finding of 60 Kgs of Ijang rice in the shop. Whether the Petitioner's explanation that he displayed the price of kerosene as Rs. 1.72 P. per litre on the basis of a news item, was acceptable or not, has necessarily to be left to the satisfaction of the appropriate authority. Similarly, the question whether the keeping of Ijang rice found in the Petitioner's shop was violative of the terms of the fair price appointment, has also to be left to the satisfaction of the appropriate authority. The question that has been posed is whether there was at all such a satisfaction, if so, whether it was arrived at after an enquiry giving the Petitioner a reasonable opportunity to state his case.

9. There is no dispute that any violation of the Control Order has to be considered in the light of its deleterious effect on the community if such violations are condoned. It cannot also be disputed that a fair price shop provides employment and the income derived by the Petitioner there from constitutes at least a segment of his livelihood and hence its deprivation should be based on a commensurate enquiry. The submission of Mr, Choudhury that full fledged enquiry, as contemplated under the Services (Discipline and Appeal) Rules is not contemplated appears to be reasonable, but at the same time a farcical or a pretence of an enquiry may not be enough; and any revocation or termination of such appointment pursuant to such a farcical or eye-wash enquiry may be held wrongful. Though a full-fledged enquiry may not be necessary, yet the basic requirements of an enquiry ought to be observed. What will be commensurate enquiry will necessarily depend on the facts and circumstances of the case. In the State of Madras Vs. V.G. Row, it has been observed:

It is important in this context to bear in mind that the test of reasonableness

wherever prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. 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.

In *Mineral Development Ltd. Vs. The State of Bihar and Another*, where section 25 of the Bihar Mica Act contained a provision for cancellation of license or proprietor's certificate of any license or registered proprietor, only after affording him reasonable opportunity to show cause, the Supreme Court observed that the concept of "reasonable opportunity" is an elastic one and is not susceptible of easy and precise definition; that what is reasonable opportunity under one set of circumstances need not be reasonable under different circumstances; and that it is the duty of the Court to ascertain in each case, having regard to the overall picture before it, to come to a conclusion whether reasonable opportunity is given to a person "to show cause".

10. Under the Control Order an "Appointed retailer" means retail dealer appointed or deemed to be appointed under the provisions of paragraph 3 in respect of any foodstuff. Paragraph 3 of the Control Order reads thus:

3.(1) With a view to distributing foodstuffs under the Government Scheme, the Director may, by order, appoint in respect of any area a person as a retail dealer in respect of any foodstuff for the purpose of this order and there upon such retail dealer shall be entitled to supply in accordance with the provisions of this order such food-stuff within such area;

Provided that retail dealers appointed as such under orders of appointment issued before the commencement of this order and in force immediately before the commencement of this order shall be deemed to be appointed under the provisions of this paragraph.

(2) The Director may, after giving an appointed retailer an opportunity of stating his case and for reasons to be recorded in writing, amend, vary, suspend or revoke his appointment whenever, in the opinion of the Director, it is in the interest of the general Public necessary or expedient so to do, and in every such case the appointed retailer shall be bound to surrender, on demand, to the Director the order of appointment for endorsement or cancellation as the case may be.

Under sub-para (2) above, a reasonable opportunity is, therefore a statutory requirement. Admittedly in the instant case the show-cause notice was given and the Petitioner replied thereto, but were his explanations enquired into and considered? We have consulted the records but do not find any material to show as to whether the price of kerosene was officially fixed to the knowledge of the Petitioner and as to whether he was at all justified in relying on the news item, which, as the Petitioner submits, was not controverted. Similarly, when the

Petitioner explained that keeping of the Ijang rice that was found in his shop was not in contravention of any of the terms or conditions of his license, the same should have been properly verified. In the words of the case we do not even find a copy of the license on appointment of the retailer, In the absence of any such verification it cannot be stated that his explanation was duly considered. An opportunity to explain one's case will be denied if his explanation is not considered at all. In such a case the explanation given does not at all go into the decision making. Any deprivation of right without considering the explanation will be reckoned as one without giving reasonable opportunity; and the same may also amount to violation of the principles of natural justice. Whether such a consideration was made should be manifest.

11. In *Regina v. Burnsley Metropolitan Borough Council, Exparte Hook* (1976) J.W.L.R. 1052 Mr. Harry Hook was stallholder in an ancient town market under an oral licence from the borough council. The owners had his licence terminated in October, 1974, by a letter from the market manager. His appeals to the two council committees were dismissed without any specific reasons being given to him. He applied to the Divisional Court for an order of certiorari to quash the decision on the ground. that there had been a denial of natural justice in that he had not been told what, if any, rule or practice of the market he has alleged to have breached; that the committee meetings had been held substantially in his absence; and that neither he nor his representative had an opportunity to bear or question the evidence if any, on which the market manager's decision had been confirmed. He set in his statement the conduct in respect of which the market manager had banned him, namely, that at about (sic)30 p.m, after the market had closed and the public lavatories been locked he had been seen urinating in a side street by two council sweepers; that words had been exchanged which had been overheard by a council security officer who had reported the incident to the market manager; and that the next day the market manager by letter terminated his licence at a few days" notice. The market manager's affidavit evidence was that he had done so because of the abuse or his staff and not because of the urinating. The Divisional Court dismissed the application on the ground that the council, decision was administrative and within its powers. On appeal, the Court received further evidence, including the Barnsley Corporation Act, 1969 an bye-laws made under the Act which contained no express provisions about, inter alia, the determination or revocation of the stall holder's licence or the terms on which it was held. The Court of its own motion inquired into the common law rights of the public in an ancient market and into the evidence, which showed that the market manager had been present (sic)about the two appeal proceedings. it was held by the Court of Appeal allowing the appeal, that where council was exercising its discretionary power under the Act of 1969 to regulate the common law public right to buy and sell in a market, it was not merely dealing with the contractual relationship but also with the common law right of a man to earn his living in the market; that in these circumstances it was under a duty to act judicially; and that the appeal

hearings had been conducted in breach of the rules of natural justice because on the evidence the market manager, the prosecutor, was present throughout the proceedings while the applicant was not; accordingly certiorari was the appropriate remedy to quash the decision, a fortiori where the punishment for trivial misconduct unconnected with the market was excessive. Thus the decision of Division Court of the Queen's Bench Division was reversed. Lord Denning M.R. observed:

So it was quite right for the committee to hold the hearings. I will assume that Mr. Hook was given sufficient notice of the charge to be able to deal with it. But, nevertheless, each of the hearings was, to my mind vitiated by the fact that the market manager was there all the time. He was the one who gave evidence the only one who did and hearsay evidence, too. His evidence given privately to the committee, not in the presence of Mr. Hook or his representative, Mr. Hook was (sic) himself in the room. His representatives were there, (sic) they were heard. But when the committee discussed the case and came to their decision, the market manager was there all the time. His presence all their deliberations is enough to vitiate the proceedings. It is contrary to natural justice that one who is in the position of a prosecutor should be present at the deliberations of the adjudicating committee. That is shown by *Reg v. London County Council, Ex parte Akkersdyk, Ex parte Kermenia* (1892) 1 Q.B. 190 and *Cooper v. Wilson* (1937) K.B. 309

Lord Denning further went on to observe:

But there is one further matter: and that is that the punishment was too severe. It appears that there had been of her cases where men and urinated in a side street near the market and no such punishment had been inflicted. Now there are old cases which show that the Court can interfere by certiorari if a punishment is altogether excessive and out of proportion to the occasion. In one case the Commissioners of Sewers imposed an excessive fine; and it was quashed by the Court of King's Bench on the ground that in law their fines ought to be reasonable: *Rex v. Northumberland Compensation Appeal Tribunal, Exporter Shaw* (1952) 1 K.B. 338, 359. So in this case if Mr. Hook did misbehave, I should have thought the right thing would have been to take him before the Magistrates under the bye-laws, when some small fine might have been inflicted. It is quite wrong that the Barnsley Corporation should inflict upon him the grave penalty of depriving him of his livelihood. That is a far more serious penalty than anything the magistrates could inflict. He is a man of good character, and ought not to be penalized thus. On that ground alone, apart from the orders, the decision of the Barnsley Corporation cannot stand. It is said to be an administrative decision; but even so, the Court had jurisdiction to quash it. Certiorari would lie to quash not only judicial decision, but also administrative decisions.

12. In *Alfred Thangarajah Durayappah of Chandikuly, Mayor (sic) and W.J. Rerando and Ors.* (1967) 2 A. C. 337 it has been held that in considering

whether the principle of audi alteram partem was applicable, the matters to be considered were (a) the nature of the property, the office held, the status enjoyed or the services to be performed by the Complainant of injustice; (b) in what circumstances or upon what occasions was the person claiming to be entitled to exercise the measure of control entitled to intervene, and (c) upon proving the right to intervene what sanctions in fact was the latter entitled to impose on the complainant, In the context of that case it was held that Minister's dissolution of the Municipal Council was not a nullity but was voidable only at the election of the Council.

13. Audi alteram partem is fundamental to fair procedure. As Wade observes- "This is the more far reaching of the principles of natural justice, since it can embrace almost every question of fair procedure, or due process, and its implications can be worked out in great detail. It is also broad enough to include the rule against bias, since fair hearing must be an unbiased hearing"". The Court have been enforcing the principle very widely, in all cases where legal rights or status are affected by the exercise of administrative power, saving only cases where the difficulty is inseparable; and it is a doctrine with a high degree of universality. However, Wade himself observes; "It does not follow that it need be modelled strictly on Court procedures hearing need not always be oral hearings, nor, need sources of evidence always be disclosed. But in general the notion of fair hearing extends to the right to have notice of the other side's case, the right to bring evidence and the right to argue" ever, since the first hearing in the human history was given by God to Adam in the Garden of Eden. This principle has been in the bosom of men and since the decision in Ridge v. Baldwin it is constantly being followed by the Courts; and it has not been confined to the conduct of strictly legal tribunals, but is applicable to every tribunal or body of persons invested with authority to adjudicate upon matters involving civil consequences to individuals. The character of the authority was not (sic) mattered; what mattered was the character of the power, exercised and if it adversely affected legal rights or interests it must (sic) exercised fairly. Every administrative act has been treated (sic) judicial, if it adversely affected any person's right, A (sic) nary power is a power to inflict punishment for an (sic) and if there is one case more than another which demands fair procedure and the right of self-defence, it is in such a case. The present position is, as pointed out by Wade, -"that the courts now have two strings to their bow. An administrative act may be held to be subject to the requirements of natural justice either because it affects rights or interests and therefore involves a duty to act judicially, in accordance with the classic authorities and Ridge v. Baldwin; or it may simply be held that it automatically involves a duty to act fairly and in accordance with natural justice".

14. Ridge v. Baldwin pointed out that it had always previously been held that a breach of the rules of natural justice resulted in the determination being null and void, in the same way as any other act which was ultra vires, For the duty to not fairly, just like the duty to act reasonably, was enforced as an implied statutory

requirement, so that failure to observe it meant that the administrative act or decision was outside the statutory power, unjustified by law, and therefore ultra vires and void. In that case the decision was held to be invalid. Lord Hodson held that all authority without jurisdiction contrary to natural justice was void being vitiated by want of jurisdiction. In some administrative situations there are limits to the broad principles and the Court must always consider the statutory framework within which natural justice is to operate, and a limit may some times necessarily be implied. What is essential is substantial fairness to the person adversely affected. But this may sometimes be adequately achieved by telling him the substance of the case he has to meet, without disclosing the precise evidence on the sources of information. The extent of the disclosure required by natural justice may have to be weighed against the prejudice to the scheme of the Act which disclosure may involve. As regards procedure a hearing will normally be an oral hearing. But it has been held that a statutory board, acting in an administrative capacity, may decide for itself whether to deal with applications by oral hearing or merely on written evidence and argument, provided that it does in substance hear them; and that dealing with an appeal on written communication only (sic) not contrary to natural justice. Where an oral hearing is given, (sic) has been laid down that a tribunal must (a) consider all (sic) relevant evidence which a party wishes to submit; (b) inform every party of all the evidence to be taken into account, whether derived from another party or independently; (c) allow witnesses to be questioned; (d) allow comment on the evidence and argument on the whole case. The right to call and to cross-examine witnesses is therefore, as a general rule, part of the procedure required by natural justice, at least before tribunals of the more formal kind, and where it is not unsuitable to the statutory function being performed.

15. In *State of Punjab and Others Vs. Ajudhia Nath and Another*, it has been held that although an opportunity of being heard has to be given to a liquor vendor when his licence is sought to be cancelled, the same principle of natural justice does not come into play when the demand is merely for payment of a sum becoming due under the conditions subject to which the license was granted. Where, therefore, the demands were for payment of the amount of still-head duty which had become due under the contracts accepted by the licensee himself and had resulted from the terms of those contracts, no question of affording to the licensee any opportunity of being heard arose.

16. The next question is the recording of reasons. Though it has never been a principle of natural justice that reasons should be given for decisions, there has been a strong trend for the giving of reasons as an important element of administrative justice. An administrative authority may be unable to show that it has acted lawfully unless it gives its reasons. As was observed in *Padfield v. Minister of Agriculture and Fisheries* (1968) A.C. 997 the House of Lords has indicated that if a minister fails to explain a decision satisfactorily, it may be condemned as arbitrary and unreasonable. In licensing and commercial regulation the principle of natural justice has been applied. Since *Ridge v.*

Baldwin the Courts have shown a strong disposition to being licensing functions generally within their doctrine that administrative powers must be exercised fairly; inasmuch as it is recognized that licensing is a drastic power, greatly affecting the rights and liberties of citizens, and that this alone demands fair administrative procedure; and that no distinction may be made for the initial applications for the grant of licences and the revocation, suspension or non-renewal of licences already granted. In the case of cancellation, revocation, suspension or non-renewal the affected citizen is entitled to have his arguments heard and it is duty of the authorities to hear and determine according to the law and they must bring to that task n fair and unbiased mind.

17. We have seen Para 3(2) of the Control Order that the Director may, after giving an appointed retailer an opportunity of stating his case and for reasons to be recorded in writing, amend, vary, suspend or revoke his appointment whenever, in the opinion of the Director, it is in the interest of the general public necessary or expedient so to do. Recording of reasons is, therefore, a statutory requirement under that paragraph.

18. In Naresh Chandra Sen v. Deputy Commissioner (Supply), United Khasi and Jaintia Mills I.L.R.1972 Gau 73, it has been held that in passing an order of cancellation of appointment of the retail dealer, the Director has to record his reasons and pass any one of the following orders namely amending, (sic)varying suspending or revoking the appointment. It is in this background that the authority is required to form an opinion as to which particular order will be necessary or expedient in the interest of the general public; and that revocation of licence under under Clause 3(2) is not automatic. Besides his reasons the Director has to consider the interest of the general public in passing the final order in a given case. If this important consideration which is provided under Clause 3(2) is kept in mind, it stands no reasons that the authority concerned will have to consider all relevant aspects of the matter before a final order is passed. It is therefore, necessary that in the order (sic) the reports for cancellation of the licence the authority concerned gives its (sic) whether it is necessary or expedient in the interest of of the general public to pass the particular order. It has been held that even an administrative order of this kind, it is necessary (sic) reasonable opportunity should be afforded to a party against whom an order of cancellation of the kind is sought to be made, and the order in that case was held invalid for violation of (sic) principles of natural justice. In that case also the Petitioner (sic) appointed as a retail dealer and the Sub-divisional Officer (sic) shortage of 69.100 grams of sugar in the course of checking (sic) shop. The licence was later suspended by an order dated (sic) December, 1968 and he was asked to explain why the (sic) should not be cancelled and the security money forfeited.

The Petitioner in that case submitted his explanation stating that since he was personally not present in the shop, the employee concerned could not inform the officer that a part of the sugar was in his godown nearby, where it had been

removed earlier on account of the shop premises being under repairs. The Deputy Commissioner did not accept the explanation and cancelled the licence and forfeited the security deposit by the impugned order and that order was held to be invalid for violation of the principles of natural justice.

19. It is well settled that where a power is required to be exercised by certain authority in a certain way, it should be exercised in that manner or not at all and all other modes of performance are necessarily forbidden and clear that it is all the more necessary to observe this rare where power is of a drastic nature and its exercise in a mode other than the one provided will be violative of the fundamental principles of natural justice, as was ruled in *Hukum Chand Shyam Lal v. Union of India and Ors.* AIR 1976 S.C. 799. In *Secretary of State for Education and Science v. Tamoside Metropolitan Borough Council* 1977 A.C. 1014 the importance of acting reasonably, directing the authority's mind properly with the knowledge that it is not un-reasonable has been emphasised. In *Khudiram Das Vs. The State of West Bengal and Others*, it has been held that as to the subjective satisfaction of the detaining authority the Courts by judicial decisions carved out an area, limited though it be, within which the validity of the subjective satisfaction can yet be subjected to judicial scrutiny, and that the subjective satisfaction being a condition precedent for the exercise of the power conferred on the executive, the Court can always examine whether the requisite satisfaction is arrived at by the authority; if it is not, the condition precedent to the exercise of the power would not be fulfilled and the exercise of the power would be bad.

20. In *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others*, the rule has been that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. In *Gordhandas Bhan(sic) AIR 1952 S.C. (sic)* it has been aptly stated:

Public order publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the Officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself". The principle is well settled that in accordance with the rule of natural justice an adverse report cannot be acted upon to deny any right to a person unless it is communicated to the person concerned so that he has an opportunity to explain the circumstances leading to the report. Such an opportunity, as was held in *Gurdial Singh Fijji Vs. State of Punjab and Others*, is not an empty formality, its object being to enable the superior authorities to

decide on a consideration of the explanation offered by the person concerned, whether the adverse report is justified. Without recording of reasons, which has become a part of the natural justice, mere pretence of compliance will not be enough and the reasons recorded should be such as to enable the appellate or writ Court to scrutinize them.

21. As we have scrutinized the notice to show cause dated (sic).10.81, issued by someone for Additional Deputy Commissioner, who also has not been shown to have been empowered to act the Control Order, we do not find any application of mind to the facts by the Deputy Commissioner. On scrutinizing the impugned order dated 29.10.81 revoking the appointment of the Petitioner as retailer, read with the records, we do not find that (sic) one has been an enquiry in compliance with the principles of natural justice commensurate with the drastic action of revocation of the Petitioner's appointment as retailer thereby affecting his employment and livelihood. There is no evidence to show that the adverse report against the Petitioner was communicated to him or that his explanation was properly considered by the authority in accordance with law before passing the impugned order. There is also no indication as to why of the several punishments the most drastic one was considered appropriate. There is also no mention that it was necessary or expedient to pass the impugned order in the interest of the general public. The power, therefore, has not been exercised in the manner provided by the Control Order. The impugned order is, therefore, liable to be set aside which we hereby do.

22. In the result the petition is allowed and the Rule made absolute. We make no order as to costs.