

(1995) 09 MAD CK 0045

In the Madras High Court

Case No : Writ Appeal No's. 853 and 865 of 1995

T.T.V. Dinakaran and another

APPELLANT

Vs

The Enforcement Officer, Enforcement Directorate,
Government of India, Madras

RESPONDENT

Date of Decision : 27-09-1995

Acts Referred:

Constitution of India, 1950 — Article 20(3), 21, 226, 311, 311(2)
Criminal Procedure Code, 1973 (CrPC) — Section 167(1), 167(2)
Evidence Act, 1872 — Section 24
Penal Code, 1860 (IPC) — Section 193, 228

Citation : (1997) CriLJ 130 : (1997) 57 ECC 25

Hon'ble Judges : K.A. Swami, J; Doraiswamy Raju, J

Bench : Division Bench

Advocate : Soli Sorabjee, for N. Jothi, for the Appellant; A.N. Jayaram, Addl. Solicitor General for K. Ramakrishna Reddy Addl. Central Government Standing Counsel and V.T. Gopalan, Central Govt. Standing Counsel, for K. Kumar, Addl. Central Govt. Standing Counsel, for the Respondent

Judgement

Raju, J.—The above writ appeals, involve for consideration identical questions of law and, therefore, were heard together and are

considered in common.

2. The appellant in W.A. No. 853 of 1995, who has been served with a summon dated 12-7-1995 under S. 40 of the Foreign Exchange

Regulation Act, 1973, hereinafter referred to as "the Act", by the respondent, calling upon him to appear before him to give evidence and/or to

produce the documents specified in the schedule thereto viz., his Passport, his Bank account, pass books relating to accounts in India and abroad

and his property details on the view that his attendance is necessary for the above purposes, in an investigation being made by the respondent

under the Act, has filed W.P. No. 9354 of 1995, seeking for a writ of certiorari to call for and quash the said summons issued in T3/157/S2/95. In

the affidavit filed in support of the writ petition, it was pleaded that he is not concerned in any way with the Super duper T.V. Private Limited, that

with ulterior motives and sinister designs to achieve oblique objectives the impugned summons were issued since he happened to be the sister's

son of Mrs. Sasikala stated to be the close friend of the Chief Minister of Tamil Nadu, that the political overtones of the action is too obvious and

that even without any shred of evidence or material the appellants' personal liberties are being jeopardised. It has been further pleaded therein, that

the impugned summons does not fulfil the basis requirement necessary for a valid issue of summons u/s 40 of the Act, that there is no indication in

the summons of any investigation or proceedings under the Act or as to in respect of what investigation or proceedings under the Act, the appellant

is sought to be summoned and that it is absolutely essential that a person summoned must be furnished information of the subject matter of the

investigation or proceedings, particularly because the persons summoned is bound to state the truth upon the subject matter in respect of which one

is summoned and the Statute deem such proceedings and recording of statements as a judicial proceeding for the purpose of Sections 193 and

228 of the Indian Penal Code. The issue of summons u/s 40 of the Act, it is said, could never be a mechanical act or device to conduct a roving

enquiry to find out a violation, that the person summoned should not be exposed to any coerced action or subjected to any methods of pressure

not sanctioned in law and otherwise it would amount to gross violation of Section 24 of the Evidence Act and Article 21 of the Constitution of

India. It is also insisted that it is enjoined upon the respondent to disclose at least to this Court the basis and justification for the issue of Summons

to make it a reasonable exercise of power.

3. When the writ petition No. 9354 of 1995 came up before the learned single Judge for orders regarding admission, the learned single Judge by

his order dated 31-7-1995 dismissed the same. Before the learned single Judge, as could be seen from his order, only three grounds of challenge

have been pursued and they are :

(a) The issue of a summons u/s 40 of the Act could be made or justified when

some investigation or proceeding under the Act is pending and when there is no such investigating or proceeding, there is no authority to invoke Section 40 of the Act. Therefore, it is the bounden duty or necessity for the authority issuing the summons to inform the appellant as to the nature of investigation or proceeding, pending before him under the Act and the non-specification of the same in the summons vitiated the same.

(b) The fact that mechanically a printed form has been issued without even scoring out the alternative purposes for which the summons has been issued is indicative of non-application of mind on the part of the authority which issued the summons.

(c) When documents have been directed to be produced under the summons, it was necessary for the authority to state the nexus between the documents and the object of the enquiry and in the absence of any details it has to be only presumed that there is no such nexus and consequently the appellant cannot be compelled to produce the documents.

None of the above three grounds urged in support of the challenge to the summons issued to the appellant merited the acceptance of the learned

Judge who was also of the view that the mentioning of details regarding the nature or person with reference to whom the investigation or

proceedings are pending in connection with a person is summoned would defeat the very purpose of investigation and there are no legal infirmities

as alleged in the summons under challenge and, therefore, the appellant should comply with the same. Aggrieved, the above appeal has been filed.

4. In Writ Appeal No. 865 of 1995, the appellant is one P. Srinivasan, said to be the Managing Director of a Private Limited Company under the

name and style of ""Emerald Promoters"", carrying on business in Real Estate. Admittedly, the office and the residential premises were searched by

the Officers of the Enforcement Directorate on 15-7-1995 and he was also subjected to interrogation, that after further examination on 17-7-1995

he was called upon to attend on 18-7-1995 once again and since he had no further material or information to be furnished, he did not appear on

that day. In other respect, this appellant also repeats the similar type of challenge as in the other appeal under the guise of challenging the summons

dated 15-7-1995 issued in T.3/157/S.2/C/95 (BK) u/s 40 of the Act. When the Writ Petition No. 9761 of 1995 filed by this Appellant came up

before the learned single Judge, the same was dismissed on 31-7-1995 following the judgment in W.P. No. 9354 of 1995. Hence, this appeal.

5. The respondents have filed counter-affidavits in the above appeals, on the direction of the Court to take notice so that the appeals can be

disposed of in the presence and with the participation of the Department in the proceedings. In the counter-affidavit filed in W.A. No. 853 of

1995, it is stated that the appellant therein has furnished different and varying addresses at different stages, that the department has information that

the said appellant is associated with M/s. Super Duper T.V. (P.) Ltd., having its office at 25, I Floor Wellington Plaza, No. 90, Anna Salai,

Madras-2, that inspite of several and sincere efforts taken, no one is in a position or prepared, to give the correct or present address of the

appellant, that when the premises of M/s. Super Duper T.V. (P) Ltd. was searched on 12-7-1995 it disclosed that the appellant had purchased

the property along with two others from a person who is a non-resident and since the appellant was not available at the premises, the summons

under challenge came to be issued and that even the brother of the appellant/petitioner by name Sudhakaran who came there subsequently also did

not disclose the whereabouts of the appellant and the Manager of the Company who also was not in a position to give such information. The

summons, therefore, had to be served both at the premises at Teynampet and Greenways Road, Adyar. Subsequent enquiries made by the

authorities also appears to have revealed that the appellant was also one of the Directors of M/s. Emerald Promoters (P) Ltd., Madras-40 and

during the search of the said office premises also some of the records and documents have been seized. On coming to know from the appellant in

W.A. No. 865 of 1995, that the appellant Dinakaran was residing at No. 27-D, Luz Avenue, Madras, attempts were made to reach him but the

watchman informed that the appellant and his wife had gone out of Madras about a week back and it is not known where they had gone. Hence,

there was no other go but to issue the impugned summons. In others respects, the various averments, claims and contentions raised on behalf of the

appellant in his affidavits in the writ petition were meticulously traversed and denied. While contending that the summons issued is proper, legal and

valid, that since the term investigation has been construed to mean "search for material and facts" in order to find out whether or not any

contravention has taken place and, therefore, if the nature or the subject-matter of the investigation and nexus between the investigation and the

documents are disclosed to the persons to whom the summons has been issued it would become easy for him to manipulate the records and

evidence and also tamper with the same stultifying the very purpose of investigation and rendering the effective enforcement of the provisions

nugatory. It is also stated in the counter-affidavit that the officer who issues the summons or investigates and obtains statements is not a Police

Officer and the persons to whom summons issued is also not in the position of an accused and the issue of summons contemplated u/s 40 is

designed to facilitate the investigatory process by examination without any restriction of person, place and time and that the alleged violation of

Articles 20(3) or 21 of the Constitution of India is devoid of merit. It is also stated by the respondents that the department has reason to believe

that the appellant will be in a position to clarify and help the investigation to a substantial extent, undertaken by the Department in respect to hawala

transaction of great magnitude, at the instance of the Supreme Court of India. The alleged political overtones said to be involved in the action of the

Department is also strongly denied. While denying the claim that the summons came to be issued in a casual manner without any application of

mind, it is stated for the respondent that since the investigation was commenced pursuant to certain materials and information available with the

Enforcement Directorate, it was considered necessary that the appellant should also be summoned to give evidence or produce the documents the

details of which have been disclosed and it is neither necessary nor appropriate that any further information about the nature or extent or the person

or transaction with reference to which investigation has been undertake should be disclosed in the summons. A rejoinder to the counter also has

been filed and we do not consider it necessary to deal with the same in detail, except stating that the appellant reiterated the stand taken earlier and

tried to explain some of the facts on merits.

6. So far as the appellant in W.A. No. 865 is concerned, it has also been stated in the counter-affidavit, in addition to the stand taken in the

counter-affidavit in the other case, that the office premises of M/s. Emerald Promoters (P) Ltd., Madras-40 and the residential premises of the

appellant in this case has been searched on 15-7-1995 u/s 37 of the Act as a result of which it is claimed that certain documents were recovered and seized. It is also stated that pursuant to a summons earlier issued on 15-7-1995, this appellant appeared and gave statement in his own hand explaining his personal details, details about the Company and another Director of the Company, viz., the appellant in the other case. He was also asked to produce pass-book for his personal bank account and this appellant as well as the Accountant of M/s. Emerald Promoters (P.) Ltd., appeared on 17-5-1995 and produced certain documents and gave further statements and this appellant again undertook to appear on 18-7-1995 and produce further records. This appellant failed to appear as undertaken and issued a telegram seeking further time to appear and in the meantime filed a writ petition in this Court. The other claims and details made on the merits of the case and the other materials disclosed do not deserve or require at this stage of the proceedings, to be noticed. In this case also a rejoinder has been filed by this appellant reiterating his stand taken earlier.

7. Mr. Soli Sorabjee, learned Senior Counsel, appearing for the appellant in W.A. No. 853 of 1995, contended that the powers conferred u/s 10(40) of the Act are not either an unconditional or an untrammelled one, but instead conditioned upon the existence of the necessary satisfaction as the Act uses the expression "considers necessary" either to give evidence or to produce a document during the course of any investigation or proceedings under the Act and that, therefore, any or every person cannot be summoned at the whim and fancy of the Officer exercising such power. In substance, it was contended that the consideration of necessity contemplated as a condition for the very exercise of power is really a condition precedent which should exist prior to or at the time of the very exercise of power and if questioned, the authority should be in a position to place before Court relevant materials from which an inference of necessity which really existed or activated the authority exercising powers could reasonably be inferred. It was also contended that the existence of the necessary material, to necessitate the exercise of power must be even anterior to such exercise of power itself and there is no scope for the authority to justify its action on the basis of subsequent materials or by

supplementing reasons or materials subsequently since public orders, publicly made in exercise of a statutory authority must not only be informative by themselves but the validity of the same also must be judged only from the terms of the order and the initial infirmities or defects, if any, therein cannot be subsequently cured by any amount of material later addressed or produced or the explanation given by the (sic). On the said premise, it is contended that, so far as the case on hand is concerned, the authority in question had no relevant material whatsoever, warranting or justifying the issue of the impugned summons to the appellant at the point of time when the authority decided to issue such summons and consequently, the impugned summons is liable to be quashed.

8. The learned Senior Counsel, by way of an alternative submission, also contended that even assuming for the purposes of consideration that there had been sufficient material or evidence in this case, justifying the action of the respondent, the summons issued is liable to be quashed on account of the total non-application of mind, in that there is no disclosure whatsoever of the nature of the investigation or the purpose for which the appellant is summoned and such lapse or absence of disclosure vitiates the very exercise of power u/s 40 of the Act. Even if there be any necessity, according to the learned Senior Counsel, a blanket and omnibus summons of the kind issued in this case without any indication in the summons itself as to why and for what purpose it has been issued, is not permissible in law. While elaborating the said ground of challenge, it was submitted that the person summoned, at least, must be able to know from the summons itself, the purpose for which he is summoned and only such disclosure would protect the rights of a citizen and will ensure a proper, reasonable, fair and just exercise of powers under S. 40 of the Act. This submission of the learned Senior Counsel was made with a reservation that it was not meant to ask for the disclosure of the evidence that the department has or to give or disclose all the materials at their disposal. On a comparison of the scope of powers under Sections 33 and 40 of the Act, it was contended that the restriction on the exercise of powers conferred u/s 33 is less in rigour than the one u/s 40 on account of the alternative "or expedient to obtain" used therein. In order to apparently overcome the objection that the challenge now made is pre-mature having

regard to the present stage of the proceedings the learned Senior Counsel also contended that the relevant question for consideration would be the

manner of exercise of powers and not of the stage at which it can be questioned. In support of the said stand taken on behalf of the appellant,

reliance has been placed on the decisions reported in *The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others*, *New*

Central Jute Mills Co. Ltd. Vs. T.N. Kaul and Others, *A.K. Kaul and another Vs. Union of India and another*, *R.S. Seth Gopikrishan Agarwal*

Vs. R.N. Sen, Assistant Collector of Customs and Others, *Commissioner of Police, Bombay Vs. Gordhandas Bhanji*, *Mohinder Singh Gill and*

Another Vs. The Chief Election Commissioner, New Delhi and Others, and *The Barium Chemicals Ltd. and Another Vs. Sh. A.J. Rana and*

Others, .

9. Mr. Jayaram, learned Additional Solicitor General, appearing on behalf of the respondent in W.A. No. 85 of 1995, while contending that the

reasons assigned by the learned single Judge for declining to interfere in the matter and that too at the present stage of the proceeding, were

perfectly legal, valid and unassailable, also contended that the powers conferred u/s 40 of the Act are general and wider in ambit than contained in

S. 33 or Section 37 of the Act and that the investigation visualised u/s 40 may be for either securing information or a document, to give even a

slender clue about a violation of the provisions of the Act and it would be futile to contend that even at that stage of investigation, in aid of which

the power to summon a person to give evidence or produce documents has been conferred, there should be either concrete materials existing of a

definite violation or positive material about the involvement of such a person summoned either to give evidence or produce documents. According

to the learned Additional Solicitor General, placing such a construction on the scope of powers u/s 40 of the Act, would not only defeat the very

purpose of Section 40 of the Act but, would render it otiose and superfluous in the teeth of the other provisions contained in Section 33 of the Act

to take care of such a situation. It was also contended for the respondent-department that any indication or disclosure of the nature of violation or

the purpose or subject or object of investigation would not only defeat the utility or the effectiveness of the investigation but place the persons

summoned on the alert, and help him and those connected with any of the violations under investigation also get alerted and enable them to

streamline, manipulate or even erase or cause to disappear the evidence or documents which would otherwise expose the violations.

Consequently, it was contended for the respondent that at the stage of investigation, no one can expect to be told of the purpose for which or in

respect of which one is summoned without detriment to the investigatory process. The learned Additional Solicitor General also contended that the

alleged violation of fundamental rights pleaded or the prejudice to which the appellant may be put to, proceed upon a thorough misconception of

the scope, purpose and the nature of the proceedings at this stage. Reliance has been also placed upon some of the decisions to demonstrate that

neither the authority undertaking the investigation could be said to be a Police Officer nor the process of investigation at this stage, can either be

said to be of criminal or penal nature or the appellant an accused and that, therefore, there are no merits in the above writ appeal. It was also

contended that the disclosure in summons of even the details or particulars to the extent desired by the appellant would not only be destructive of

the very object of investigation but also defeat the very purpose for which the appellant has been summoned.

10. So far as the other appeal is concerned, Mr. N. Jothi, learned Counsel for the appellant, adopted the submissions of Mr. Soli Sorabjee. Mr.

V. T. Gopalan, learned Senior Central Government Standing Counsel, while adopting the submissions of the learned Additional Solicitor General,

submitted that the contentions on behalf of the appellant proceed on an hypothesis of equating the nature or the exercise of powers u/s 40 of the

Act to the one conditioned upon the passing of an order.

11. The decision in *The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others*, is that of a Constitution Bench of the

Supreme Court, wherein the Court was considered among other things the question, the scope of Section 237 of the Companies Act, 1956 which

enabled the Central Government to appoint one or more competent persons as Inspectors to investigate etc., if in the opinion of the Central

Government, there are circumstances enumerated under various clauses mentioned therein. It was observed therein that the words "in the opinion

of the Central Government" indicates that the opinion must be formed by the Central Government and it is also implicit that the opinion must be

a honest opinion. The next requirement to be satisfied was considered to be, having regard to the words ""there are circumstances suggesting etc.

that before the Central Government forms its opinion it must have before it circumstances suggesting certain inferences of several kinds enumerated

in the section and an action not based on circumstances suggesting an inference of the enumerated kind will not be valid. It was observed therein

as hereunder (at p. 309 of AIR) :-

These grounds limit the jurisdiction of the Central Government. No jurisdiction, outside the section which empowers the initiation of investigation,

can be exercised. An action, not based on circumstances suggesting an inference of enumerated kind will not be valid. In other words, the

enumeration of the inferences which may be drawn from the circumstances, postulates the absence of a general discretion to go on a fishing

expedition to find evidence. No doubt the formation of opinion is subjective but the existence of circumstances relevant to the inference as the since

qua non for action must be demonstrable. If the action is questioned on the ground that no circumstance leading to an inference of the kind

contemplated by the section exists, the action might be exposed to inference unless the existence of the circumstances is made out. As my brother

Shelat has put it trenchantly :

It is not reasonable to say that the clause permitted the Government to say that it has formed the opinion on circumstances which it thinks exist

.....

Since the existence of ""circumstances"" is a condition fundamental to the making of an opinion, the existence of the circumstances if questioned, has

to be proved at least prima facie. It is not sufficient to assert that the circumstances exist and give no clue to what they are because the

circumstances must be such as to lead to conclusions of certain definiteness. The conclusions must relate to an intent to defraud, a fraudulent or

unlawful purpose, fraud or misconduct or the withholding of information of a particular kind. We have to see whether the Chairman in his affidavit

has shown the existence of circumstances leading to such tentative conclusions. If he has, his action cannot be questioned because the inference is

to be drawn subjectively and even if this Court would not have drawn a similar inference that fact would be irrelevant. But if the circumstances

pointed out are such that no inference of the kind stated in S. 237(b) can at all be drawn the action would be ultra vires the Act and void.

It may be noticed even at this stage that the nature of powers u/s 237 of the Companies Act, the manner of its exercise and the circumstances

under which alone such powers are conditioned upon to be exercised are totally different from the one conferred u/s 40 of the Act with which we

are concerned and the principle laid down by the Apex Court in this decision cannot be readily applied for interpreting the scope of S. 40 of the

Act.

12. The decision in *New Central Jute Mills Co. Ltd. Vs. T.N. Kaul and Others*, is that of a learned single Judge of the Calcutta High Court

(Sabyasachi Mukherji, J.) as the learned Judge then was) wherein the scope of Section 19-D of the Foreign Exchange Regulation Act, 1947, the

forerunner to the present Foreign Exchange Regulation Act, 1973, came up for consideration. Section 19-D of the old Act is equivalent to Section

37 of the New Act. The question that was considered was as to whether the materials placed before the Court therein, it could be said that the

authority concerned had reason to believe that the documents which would be useful or relevant to any proceeding under the Act were secreted or

were likely to be secreted in any place. It was held therein as follows (at pp. 180 and 181 of AIR) :-

After reviewing all the relevant cases and the relevant provisions including the cases referred to and relied upon on behalf of the petitioner, it was

observed that fulfilment of the condition precedent to the exercise of the power conferred by sub-sec. (1) of Section 19-D was justiciable. If the

jurisdiction of the officer who exercised the power was challenged in a Court of law, it was incumbent upon the officer concerned to prove by

giving satisfactory evidence of objective facts that the condition precedent had been fulfilled. The officer concerned had to show that he had reason

to believe that documents which would, in his opinion, be relevant to or useful for proceedings either pending or contemplated under the Foreign

Exchange Regulation Act were secreted or were likely to be secreted. The Officer whose jurisdiction was challenged had to prove to the

satisfaction of the Court the fulfilment of the condition precedent by reference to facts or materials which were known to him prior to the issued of authorisation or warrant for search. Materials or facts which came into the possession of the officer subsequently were not, however, altogether irrelevant. Though such facts and materials standing by themselves alone could not establish the jurisdiction of the officer, they could be used to corroborated to officer's contention that he had the requisite reason to believe. In this case, apart from the two documents, one of September, 1965 and another of June 1966, in which certain allegations had been made by City Trade and Industries Ltd. regarding transactions they had with the New Central Jute Mills Co. Ltd., there is no further document or materials indicated in the affidavit filed on behalf of the respondent. It may also be mentioned that the said allegations of the City Trade and Industries Ltd., as it appears, were not unknown to the respondent. The Reserve Bank authorities were kept informed about the said complaint. The complaint made by City Trade and Industries Ltd. was ultimately dismissed by the American Court asking the parties to go to arbitration according to arbitration clause and it appears from the statement made in the affidavit-in-reply that the arbitration was held in India and ex parte and award was made in favour of the new Central Jute Mills Co. Ltd., For information given in 1966 search in 1968 cannot be justified. For formation of belief in 1968 that documents were secreted or likely to be secreted it is not proper to refer to transactions or information which came into possession two and half years ago. The belief required is not that documents useful would be found at a particular place but that those documents are "secreted". These statements were also known to the respondents and in respect of which it is not stated that this information was not known to the respondents prior to the filing of the complaint by the City Traders. These, in my opinion, cannot be justifications for the formation of belief that the documents were "secreted" to authorise a search. Apart from the said fact no other materials were placed before me. In the aforesaid view of the matter I am of the opinion that in this case, the respondents have failed to establish that they had reasons to believe that the documents were secreted or were likely to be secreted.

13. In R.S. Seth Gopikrishan Agarwal Vs. R.N. Sen, Assistant Collector of Customs and Others, a Constitution Bench of the Supreme Court

considered the scope of section 105 of the Customs Act, 1962 and held as hereunder (at p. 1301 of AIR) :-

Then it is contended that Section 105 of the Act confers an unguided and arbitrary power on the Assistant Collector of Customs to make a

search, the only condition being that he has reason to believe in the existence of the facts mentioned therein. It is said that the said belief is

practically a subjective satisfaction and the section neither lay down any policy nor imposes any effective control on his absolute discretion. So

stated the argument is attractive, but a deeper scrutiny of the provisions indicates not only a policy but also effective checks on the exercise of the

power to search by the Assistant Collector of Customs. The object of the section is to make a search for the goods liable to be confiscated or the

documents secreted in any place which are relevant to any proceeding under the Act. The legislative policy reflected in the sections is that the

search must be in regard to the two categories mentioned therein, namely, goods liable to be confiscated and documents relevant to a proceeding

under the Act. No doubt the power can be abused. But that is controlled by other means. Though under the section, the Assistant Collector of

Customs need not give the reasons, if the existence of belief is questioned in any collateral proceedings, he has to produce relevant evidence to

sustain his belief. That apart, under S. 165(5) of the Code of Criminal Procedure, read with S. 105(2) of the Act, he has to send forthwith to the

Collector of Customs a copy of any record made by him. The Collector would certainly give necessary directions if the Assistant Collector went

wrong, or if his act was guided by mala fides. But the more effective control on him is found in S. 136(2) of the Act.

14. In Commissioner of Police, Bombay Vs. Gordhandas Bhanji, , the Apex Court held as follows (at p. 18 of AIR) :-

(9). An attempt was made by referring to the Commissioner's affidavit to show that this was really an order of cancellation made by him and that

the order was his order and not that of Government. We are clear that public orders, 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 actings and conduct of those

to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Similarly in *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others*, it was held as follows (at p. 858 of AIR) :

8. The second equally relevant matter is 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. We may here draw

attention to the observations of Bose, J. in *Commissioner of Police, Bombay Vs. Gordhandas Bhanji*, :

Public orders 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. Orders are not like old wine becoming better as they grow older.

15. In *The Barium Chemicals Ltd. and Another Vs. Sh. A.J. Rana and Others*, , a Constitution Bench of the Supreme Court while considering the

ambit of Section 19(2) of the Foreign Exchange Regulation Act, 1947, observed as hereunder (at p. 595 of AIR) :-

14. The words "considers it necessary" postulate that the authority concerned has thought over the matter deliberately and with care and it has

been found necessary as a result of such thinking to pass the order. The dictionary meaning of the word "consider" is "to view attentively, to

survey, examine, inspect (arch), to look attentively, to contemplate mentally, to think over, meditate on, give heed to, take note of, to think

deliberately, bethink oneself, to reflect" (vide shorter Oxford Dictionary). According to Words and Phrases - Permanent Edition Vol. 8-A "to

consider" means to think with care. It is also mentioned that to "consider" is to fix the mind upon with a view to careful examination; to ponder;

study; meditate upon, think or reflect with care. It is therefore, manifest that careful thinking or due application of the mind regarding the necessity

to obtain and examine the documents in question is sine qua non for the making of the order. If the impugned order were to show that there has

been no careful thinking or proper application of the mind as to necessity of obtaining and examining the documents specified in the order, the

essential requisite to the making of the order would be held to be non-existent.

16. The language of Section 19(2) of the Act points to the conclusion in while an order under it may be made with respect to "any information;

book or other document", it is essential that such information, book or other document should be specified in the order. This is apparent from the

concluding part of the said sub-section wherein there is reference to "such" information, book or other document". The word "such points to the

necessity of specifying the information, book or other document in the order. It is, no doubt, true that the order can relate to a large number of

books, documents or informations, it is all the same imperative that the same should be particularised in the order. According to sub-section (1A)

of Section 23 of the Act, if any person contravenes any of the provisions of this Act or of any rule, direction or order made thereunder, for the

contravention of which no penalty is expressly provided, he shall, upon conviction by a Court, be punishable with imprisonment for a term which

may extend to two years, or with fine, or with both. The fact that penal consequences follow from non-compliance with an order made under sub-

section (2) of S. 19 also highlights the importance of specifying the information, book or other document in the order.

17. The order under the above provision of law is addressed to the person who is either in possession of requisite information, book or other

document or is, in the opinion of the authority concerned, able to obtain and furnish such information, book or other document. For compliance

with such an order, it is imperative that the person against whom the order is directed should be left in no doubt with regard to the precise

information, book or other document which is required to be furnished by him. It, therefore, becomes essential that the requisite information, books

or other document should be specified in the order.

18. In the light of what has been stated above, let us examine the impugned

order in the present case. The appellants have been directed by the impugned order to obtain and furnish the documents mentioned in the schedule attached to the order. The first six items in the schedule relate to five letters and one telegram while the seventh item mentions other books, papers and documents relating to the appellants in the possession of the Registrar of this Court under Order, dated May 6, 1966, passed by this Court. The list of those documents is on the file of this case and its perusal shows that hundreds of documents and files are in the custody of the Registrar relating to the appellants. Some of those documents have not even the remotest connection with the matters for which information, book or other document may be obtained u/s 19(2) of the Act. One of the documents is a memorandum submitted by the appellant company to the Minister for Finance and Industry, Government of Andhra Pradesh. Some other documents contain agenda for the meetings of the Board of Directors. Still another document is described as "one confidential typed pamphlet of five papers heading "The Empire of T.T.K. and Company", found in the personal brief case of the Managing Director." There are also files relating to the memoranda submitted to the Minister for Heavy Engineering as also copies of letters addressed to the Chief Controller of Imports and Exports. Some sheets of papers contain chemical formulae relating to the preparation of certain barium compounds. A number of shares certificates of the appellant company in the name of the appellant, his wife and minor child are also in the custody of the Registrar. We are at a loss to understand as to how it was considered necessary for the purpose of the Act to obtain and examine any of the above mentioned documents. It cannot be gainsaid that there has to be some nexus between the documents sought to be obtained and the purpose of the Act. Where such a nexus is missing and the document has no relevance for the purpose of the Act, the condition precedent to the making of an order under S. 19(2) must be held to be non-existent.

19. The fact that an omnibus order was made in respect of all documents relating to the appellants, which were in the custody of the Registrar under the order of this Court, including some of the documents which have not even remotest bearing on the matter covered by the Act, goes to show that there was no due application of the mind by the authority concerned.

As mentioned earlier, an essential condition precedent to the making of an order under S. 19(2) is that the authority concerned should have considered it necessary to obtain and examine for the purpose of the Act the specified information, book or other document. The element of due care and attention which is an essential ingredient of the phrase "considers it necessary" is lacking in this case. As such, the impugned order should be held to be not in conformity with sub-section (2) of Section 19 of the Act.

20. Mr. Chagla on behalf of the respondents has referred to the case of Seth Durgaprasad v. H. R. Gomes 1966 2 SCR 991 : AIR 1966 SC 1209, where it was held that the power to search, granted u/s 105 of the Customs Act, is a power of general search and it is not necessary for its exercise that the authority should specify the documents for which search is to be made. The above case, in our opinion, cannot be of such assistance to the respondents. The power to search contemplated by S. 106 of the Customs Act, is similar to that conferred u/s 19-D of the Foreign Exchange Regulation Act, which also relates to search for and seizure of useful and relevant documents secreted in any place. The authorisation for search contemplated by the above two provisions need not specify the documents for which search is to be made because in a vast majority of cases, the authority concerned might not be aware of the precise nature of the secreted documents. The same reasoning would not, however, hold good in case an order is made u/s 19(2) for obtaining specified documents.

16. The decisions rendered under Sections 19 or 19D of the old Act or u/s 105 of the Customs Act, 1962 also will be of no assistance in constructing the scope and nature and the restriction, if any as to or on the exercise of the power u/s 40 of the Act for the reason there is no scope for any comparison at all of the powers under those provisions or the manner of their exercise with the one u/s 40 of the Act. The purpose and aim of exercise of powers under those Sections are also different and the person concerned against whom such powers are exercised are also not visited with similar or identical consequences or impact or saddled with any liabilities in the case of the issue of summons u/s 40 of the Act. It is not merely the reference made in the statutory provisions to the opinion or belief to

be formed or entertained that could make the powers exercisable under those various provisions similar or one and the same to those conferred under s 40 of the Act. On the other hand a careful analysis of these provisions would go to show that they are totally dissimilar not only in regard to the nature of powers conferred under the relevant provisions but also with reference to the purpose and that the circumstances for which or under which they are ordained to be exercised also drastically differ from each other.

17. In *A.K. Kaul and another Vs. Union of India and another*, their Lordships of the Apex Court were concerned with the scope of Article 311(2)

second proviso to clause (c). While holding that the opinion formed under Article 311, clause (c) 2nd proviso is subject to Judicial Review and its

validity can be examined on the ground that the satisfaction of the President is vitiated by mala fides or is based upon wholly extraneous or

irrelevant grounds it was further considered as to whether the Government is obligated to place all the materials before the Court and held as

hereunder (at p. 1414 of AIR) :-

It is no doubt true that unlike clause (b) of the 2nd proviso to Art. 311(2) which requires and authority to record in writing the reason for its

satisfaction that it is not reasonably practicable to hold such an enquiry clause (c) of the 2nd proviso does not prescribe for the recording of

reasons for the satisfaction. But the absence of such a requirement to record reason for the satisfaction does not dispense with the obligation on the

part of the concerned Government to satisfy the Court or the Tribunal if an order passed under clause (c) of the second proviso to Art. 311(2) is

challenged before such Court or Tribunal that the satisfaction was arrived at after taking into account relevant facts and circumstances and was not

vitiated by mala fides and was not based on extraneous or irrelevant considerations. In the absence of the said circumstances being placed before

the Court or the Tribunal it may be possible for the concerned employee to establish his case that the satisfaction was vitiated by mala fides or was

based on extraneous or irrelevant considerations.

There could be no comparisons whatsoever of the powers to be exercised under S. 40 of the Act with those under the 2nd proviso to clause (c) of

Article 311(2) of the Constitution of India. Apart from the fact that the exercise

of the powers under the said Article of the Constitution could be only by passing an order, the moment such an opinion is formed and orders are passed it has the instant effect of dispensing with the need for conducting an Enquiry into the charges, and enables the Authority concerned to pass final orders imposing any one of the major penalties upon the incumbent concerned with irreparable consequences. Hence, those decisions relied upon for the appellants, in our view, cannot really be the guiding factors to interpret or construe Section 40 of the Act.

18. In *Percy Rustomji Basta Vs. State of Maharashtra*, it was held that a customs officer making inquiry u/s 107 or issuing a summons u/s 108 of

the Customs Act, 1872, is not a Police Officer and a person against whom inquiry is made is not an accused person and a statement made by such

a person in that inquiry is not a statement made by a person accused of any offence to a Police Officer. In *Directorate of Enforcement Vs. Deepak*

Mahajan and another, , the Supreme Court, while analysing and considering the relative scope and purport of S. 167(1) and (2) of the Code of

Criminal Procedure, vis-a-vis S. 35(2) of the Foreign Exchange Regulation Act and Section 104(2) of the Customs Act, 1962, approved the

decision of the Gujarat High Court in (1984) 15 ELT 353 holding that the expression "investigation" means search for material and facts in order to

find out whether or not an offence has been committed and it does not matter whether it is made by the Police Officer or a Customs Officer who

intends to lodge a complaint and that it cannot be said that either the Officer of the Enforcement department or the Customs Officer is not

empowered with the power of investigation though not with the power of filing a final report as in the case of a Police Officer. In *Poolpandi Vs.*

Superintendent, Central Excise and others etc. etc., , the Apex Court while affirming the decision of the Madras High Court in W.P. Nos. 4690

and 4691 of 1987 dated 23-6-1987 reaffirmed the position that a person called for questioning during an investigation by the authorities under the

Customs Act or Foreign Exchange Regulation Act are not in the position of an accused and refusal to allow the presence of a Lawyer in such a

case would not be violative of Article 20(3) of the Constitution of India. In 1995 (2) Scale 127 : 1995 AIR SCW 2212 (*Director, Central Bureau*

of Investigation v. Niyamavedi - Represented by its Manager), the Supreme

Court observed that the Division Bench of the Kerala High Court should have refrained from disclosing in its order, material contained in the diaries and statements especially when the investigation in the very case was in progress and that the High Court also should have refrained from making any comments on the manner in which investigation was being conducted by the Central Bureau of Investigation having regard to the fact that the investigation was far from complete. It was also observed therein as hereunder (at p. 2213 of AIR SCW) :

Any observations which may amount to interference in the investigation should not be made. Ordinarily, the Court should refrain from interfering at a premature stage of the investigation as that may derail the investigation and demoralise the investigation. Of late, the tendency to interference in the investigation is on the increase and Courts should be wary of its possible consequences. We say no more. However, we clarify that certain directions given to the Director of Central Bureau of Investigation in regard to the investigation matters do not meet with our approval and may be ignored. In short, the adverse comments against the Central Bureau of Investigation were, to say the least, premature and could have been avoided.

19. In 1989 (42) ELT 523 Mad (Vittalnathan v. Collector of Customs), a Division Bench of this Court had a occasion to deal with the nature, character and ambit of investigation/enquiry u/s 108 of the Customs Act, 1962. The Division Bench, after a review of the relevant case law on the subject held that the object of an enquiry u/s 108 of the Customs Act, 1962 is to ascertain facts with regard to smuggling of goods and a person who is summoned u/s 108 may have nothing to do with the actual smuggling of goods although he may know other relevant facts regarding such goods and that is why even a person who has nothing to do with actual smuggling of goods can also be summoned in an enquiry under S. 108 of the said Act. Adverting to the decision in Balkrishna Chhaganlal Soni Vs. State of West Bengal, the Division Bench also observed that while the normal process of enquiry is facilitated by S. 108, investigatory emergencies are taken care of by S. 107 and that Section 107 was very wide enough, in terms and was designed to facilitate the investigatory progress by examination without restriction on person, place or time, inasmuch as

the interrogation under S. 107 could be only of the potential delinquent or whether it must be confined only to witnesses who threw light on the delinquents" contravention of the law. The words "any person" were considered by the Apex Court as every person including a suspect and a potential accused. In Bheena Pharma Japadar Vs. Union of India, a learned single Judge of this Court held, while repelling a challenge to the summons issued u/s 108 of the Customs Act, 1962, that this Court exercising jurisdiction under Article 226 of the Constitution of India should not interdict investigations in matters under the Act. In Union of India Vs. K. Siraj, yet another Division Bench of this Court held that merely because adjudication proceedings u/s 124 of the Customs Act, 1962 are pending, there is no scope for contending that there shall be no further enquiry or investigation u/s 107 or Section 108 of the said Act for the simple reason that the enquiry under Sections 107 and 108 are preliminary to any action of any person found to have indulged in smuggling of the goods and the power to hold such an enquiry was considered to be so wide to cover all situations and circumstances. In Basanta Kumar Sen and Another Vs. Collector of Land Customs, Calcutta and Others, P. B. Mukherji, J., as the learned Judge then was has held that Section 171A of the Sea Customs Act, 1878, does not expressly make any limitations on the powers of the Officer of Customs and he can summon any person whose attendance he considers necessary and what is called "summons" in Section 171A is not really a summons within the meaning of the Civil or Criminal Procedure Code and that such summons cannot be held to be bad or invalid merely because it has not been stated therein anything more than an enquiry u/s 171A of the Sea Customs Act and for the reason that there was lack of details of the enquiry in the summons itself.

20. We have carefully considered the submissions of the learned Counsel appearing on either side in the light of the relevant provisions of law governing the matter in issue and the principles laid down in the several judgments produced in support of their respective stand. The entire edifice of challenge built upon in this case, for and on behalf of the appellants very much rest only on the fundamental premise and hypothesis that for the issue of a summons u/s 40 of the Act, the Officer concerned is obliged to pass an order disclosing the necessary information, material or reasons

which could show on the face of it that the officer concerned "considers necessary" the attendance of the person summoned to give evidence or to produce a document "during the course of any investigation or proceeding under the Act or disclose in the summons the information concerning the subject-matter of the investigation. As noticed earlier, every one of the decisions relied upon by the learned Senior Counsel Mr. Soli Sorabjee, in support of his submissions, were rendered in the context of construing provisions which under the scheme in-built in the very provisions, postulated the passing of an order and recording of reasons too, to justify the exercise of those powers or to command for or order the carrying out of certain things. The use of the words "considers it necessary" in those cases were interpreted in that particular manner in those cases, with particular reference also to the nature of the powers, the further stipulations contained therein and far reaching impact or the serious consequences that ensued upon the persons against whom those powers were exercised for any of the specific purposes mentioned in those provisions. Merely because the provisions of Section 40 of the Act also contain the words "he considers necessary" all the trappings of the other provisions could not be said to have been engrafted automatically into Section 40 of the Act also, making it obligatory for the Officer to make the required disclosure of materials or information or reasons which would show that there had been due deliberation or application of mind to all the relevant aspects before taking action. Countenancing such construction to be placed upon Section 40 of the Act would render the section itself otiose and superfluous inasmuch as Sections 33, 39 etc., are already there to meet such eventualities. On a careful consideration of Section 40 and the related provisions providing for production of records, search, seizure etc., we are of the view that the object of Section 40 of the Act is to facilitate the investigatory process undertaken by the concerned officer without any restriction on person, or place or time inasmuch as the interrogation enabled in this provision cannot be said to be confined to only a delinquent or a person who has committed or collaborated or abetted the commission of any act constituting an offence or violation of any of the provisions of the Act. Having regard to the purpose and object of Section 40 of the Act viz., to aid or assist the progress of investigation or proceeding under the Act, it would not only frustrate the object of the legislation but completely mutilate

the provision, if the construction of the nature as claimed on behalf of the appellants is to be placed upon Section 40 of the Act. In our view, the provisions contained in Section 40 of the Act are merely a machinery provision empowering the concerned officer to issued a process or summons and intended to facilitate the effective exercise of powers and enforcement of the provisions of the Act itself. Therefore, we are unable to agree with the submission on behalf of the appellant that the ratio laid down in the judgments relied upon on their behalf must be applied to the case on hand.

21. The further aspect that requires our consideration is as to whether the summons under S. 40 itself should disclose details or information relating to the investigation or proceeding in respect of which the concerned officer considers it necessary for him to summons a person to give evidence or produce a document. There can be no serious dispute or controversy over the position in that, the words "investigation", "enquiry or inquiry", "hearing", "trial" have distinct connotation, meaning and purpose and each one of the words is a pointer to different stages or character or nature of the proceedings under an Act. Consequently, the role of an officer exercising powers at such different stages also varies depending upon the consequences flowing from the exercise of such power. It is well settled that, the word "investigation" means search for materials and facts in order to find out whether or not an offence or violation has been committed and if so by whom and in what manner and with what result. It may be that the result of investigation disclose ultimately no offence or violation or that it might have provided a clue or turned out to be a hunch or a hoax. To read into Section 40 of the Act any limitations and restrictions on the exercise of powers by the concerned officer even at the stage of investigation would not only derail and demoralise the investigation and retard the effective enforcement of an important legislation having serious impact upon the economic viability and very development of the nation but also would help real culprits to escape from the clutches of the law with impunity. Disclosure of information or details relating to the investigation or the proceeding even at the stage of investigation or the person(s) with reference to whom such investigation or proceedings are pending would only have counter productive results defeating the very purpose or object of the

investigation or the need for summoning a person to give evidence or produce documents. It may reasonably help those concerned to erase evidence, disrupt the tails or the lead towards the real culprit and even manipulate records or fabricate evidence to alter the course of investigation and render the efforts of the enforcement authorities a vain or futile attempt only with no concrete or useful results or purpose. It is only at the stage of initiating any particular proceedings or action against any one or conducting any enquiry into any charges of violation that the need for such disclosure to enable the person concerned to explain will arise. To expect or render it obligatory to adopt or undertake such course of action even at the stage of investigation, in our opinion, would only result in obliterating the well settled differences between the stages of "investigation" and "enquiry" or "hearing". On a fair reading of Section 40 of the Act as also the scheme and purpose underlying the said provision there is nothing which warrants or justifies the reading into of those provisions a stipulation for the disclosure as to what enquiry or investigation or proceeding or with reference to whom such investigation is said to be pending, when the legislature in its wisdom though fit not to engraft such limitations or obligations while enacting Section 40 of the Act. So long as the summons indicates as in this case that the concerned officer considers the attendance of the appellants to be necessary to give evidence and/or to produce the documents specified in the schedule in an investigation being made by him under the Foreign Exchange Regulation Act, 1973, we are of the view that the summons under challenge squarely satisfies the requirements of Section 40 of the Act and that there is neither any statutory obligation cast upon the concerned officer to disclose any further or more details as desired by the appellants nor the non-disclosure of those details or particulars could be said to undermine the legality, validity or propriety of the exercise of powers under the Act or in any manner vitiate the summons issued u/s 40 of the Act.

22. We are fortified, in our above view, by the existence of not only Section 33 of the Act but also Section 39 of the Act which carries with it for

the exercise of powers conferred therein further limitations. As noticed earlier, the plea on behalf of the appellants, if accepted, would throw over

board the very scheme of legislation and the object of enacting different provisions providing for exercise of different nature of powers with totally

distinct objects altogether conditioned upon different considerations. So far as Section 40 of the Act is concerned, we are of the view that the

exercise of powers is not conditioned upon any precondition other than the fact that the summons could be issued only during the course of any

investigation or proceeding under the Act by the officer concerned on his considering it necessary to summon the person to give evidence or

produce documents. If the relevant files and records maintained contained the information relating to the investigation or proceedings, and the office

could produce the same before the Court, when so called for, it is more than sufficient compliance with the provisions of Section 40 of the Act and

there is no further necessity to disclose anything further than what has been stated in this case and in the summons challenged before us. Therefore,

we are of the view that there is no justification to read into Section 40 any restrictions or the same manner of regulation of exercise of powers as

contemplated under S. 33 or Section 39 or the provisions relating to search seizure of documents under Sections 34, 36, 37 and 38 of the Act.

We are adopting such construction of the provisions keeping in view the indisputable fact that at the stage of investigation contemplated u/s 40, it

cannot be stated that a person summoned is in the position of an accused or that he is obliged to give evidence in any criminal proceedings before a

Police Officer. The plea that the stipulations contained in Section 33 of the Act are less in vigour in view of the alternate use of the word "or

expedient" is not the proper approach to construe the relative scope, nature or extent of powers under those provisions. In our view, the powers

u/s 40 of the Act have been deliberately and purposely conferred in such wide and general terms with a definite purpose of securing all or any of

the person who can help or assist the progress of the investigation in order to get at the real truth before taking any positive or specific action

against the actual culprit. We are equally unable to approve or accept the plea on behalf of the Appellants that, now that certain information has

been given in counter affidavit regarding the investigation or proceeding pending with the respondent, there may be a direction by this Court to the

respondent to state the very purpose in the summons and re-issue the same and make it a speaking summons to enable the appellants to co-

operate with the officers in respect of such investigation or proceeding said to be and which may be stated in the summons to be pending. We have

carefully considered this aspect of the submission on behalf of the appellant but we are not persuaded to accept the same. First of all, there is no reason to assume at the stage of investigation that what has been stated as pending before the Officer is exhaustive of all matters. Secondly, by insisting upon the specification of the actual purpose for which one is summoned, apart from stating that it is for giving evidence or producing documents during the course of any investigation or proceeding under the Act, it would amount to the Court interference by the Court with the manner of investigation in such a manner which may even derail the investigation. Thirdly, at the stage of investigation materials have to be gathered from person when he was really unaware of the situation to get at the real truth and to alert him about the purpose of the investigation may result in gathering only tutored or screened or scissored evidence. Finally, it may give a handle to the person summoned to refuse to answer any further related questions or aspects or give information even on matters incidentally arising and adopt a confrontationist attitude that nothing other than the purpose or subject with reference to which he has been summoned can be asked of him. To allow such things to happen even at the stage of investigation in a matter relating to the enforcement of the provisions of an Act like the one under consideration would only amount to the Courts placing a veil or protective umbrella making it difficult or at times rendering it even impossible for the Enforcement Authorities to get at the truth or the real state of affairs in respect of a particular matter or aspect. A summons contemplated u/s 40 of the Act cannot also be equated to the position of a show cause notice and unless it is held to be so, there will be no justification in law for the claims of the Appellants that the object or purpose or person with reference to which the investigation or proceedings are pending must be disclosed on the summons itself. We, therefore, reject the plea in this regard.

23. The further grievance made about the summons not indicating as to what type of properties in respect of which details have been called for is equally untenable. Nothing precludes the appellants from appearing and producing documents relating to all properties which he considers to be worthwhile disclosing and he can during such examination or interrogation get further details or even further time for producing details relating to

such of those properties which the officers desire from him or want him to disclose. The department cannot be expected to know what all properties appellants own or possess and if any one or more of specific items are mentioned, that itself would be a justification for him to suppress the relevant details of other properties which may be even relevant or necessary for the investigation or furnish a sufficient clue of any violation, not necessarily and only by the appellant but others as well. As stated supra, the Courts have to be more cautious and must hesitate to tread upon the investigatory process by interposing themselves at this premature stage, when no concrete damage or prejudice could legitimately be pleaded or substantiated by any one, including the appellants. The plea that public orders must be preguated with reasons and materials to justify the order or course of action or decision taken, as on the date of the order of action taken and no subsequent reason or material, other than the one which made the public authority to pass such an order or take the particular course of action could be allowed to be urged in support of the order passed has no relevance or application to the case of the nature of question, having regard to the view taken by us supra as to the nature of and scope of the powers and the requirements of law under S. 40 of the Act. On merits, the materials disclosed in the counter affidavit, in any event, would justify the summons issued to the appellant in WA. No. 853 of 1995 to obey the same and comply with the terms of the summons. So far as the appellant in W.A. No. 865 of 1995 is concerned, no grievance at all can be made out by him, since there was a search and unearthing of materials and documents in respect of which he has been already interrogated and he has chosen to this Court after taking time before the authorities, apparently emboldened by the move of the other appellants. We are also of that the repulsiveness exhibited by the appellants to the summons issued u/s 40 of the Act is wholly unjustified and unwarranted in law and the same appears to be merely a move to gain time, with some ulterior objects.

24. For all the reasons stated above, we do not see any merit whatsoever in the challenge made to the impugned proceedings. The decision of the learned single Judge, dismissing the writ petitions also do not call for any interference in our hands. These writ appeals, therefore, fail and

consequently shall stand dismissed. No costs.

25. In view of the dismissal of the writ appeals, no further orders are necessary in the miscellaneous petitions.

26. Appeals dismissed.