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in the proceedings under s. 145 Criminal Procedure Code, because according to the evidence on the record the entries were made somewhere in March and this could not have helped Adit Pande, as the magistrate had already decided the proceedings under s. 145 Criminal Procedure Code in December 1950, and had ordered possession to be delivered to the complainant; and, therefore, this entry could not affect the result of the proceeding under s. 145 Criminal Procedure Code.

Mr. Mathur founded his case also on s. 16 of the U.P. Zamindari Abolition and Land Reforms Act, (U.P. Act I of 1951), which provided that a person, who was recorded as an occupant of the land for the year 1356 F and who, on the date mentioned in the section was in possession of the land, shall be deemed to be a hereditary tenant of the land. But the entry complained of is not for the year 1356 F but for the year 1358 F, and this entry would not have been of any avail to Adit Pande for the purposes of s. 16 of the Zamindari Abolition Act. In the circumstances of the case it cannot be said that an offence under s. 218 has been committed by the appellant as in our opinion the prosecution has failed to prove the necessary criminal intention.

In these circumstances, we would allow the appeal, set aside the order of conviction and acquit the accused. As a consequence the bail bond shall stand cancelled.

Appeal allowed.

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(and connected petitions)

S. R. DAS C.J., VENKATARAMA AYYAR, B. P. SINHA, S. K. DAS and GAJENDRAGADKAR JJ.)

Import and Export, Control of—Soda ash, if can be imported without licence—Issue of licence, if amounts to delegated legislation—Trafficking in licence—Confiscation of consignments and seizure of licence by Sea Customs Authorities—Issue of Writs—Policy Statement

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by Government, if. amounts to monopoly—Import and Export(Control) Act. 1947 (XVIII of 1947), s. 3(1)(a)—Constitution of India, Art. 32.

The petitioner obtained a licence for importing soda ash during the free licencing period in 1952. On the basis of the licence certain consignments of soda ash were received in Bombay. The Customs Authorities had reason to suspect that the petitioner was trafficking in his licence and on investigation found that two of the consignments had actually been imported by another party and confiscated them. The petitioner appealed to the Central Board of Revenue and thereafter moved the Government of India, but to no effect. The Collector of Customs ordered the goods to be auctioned. Five petitions were filed in this court under Art. 32 of the Constitution seeking for the issue of appropriate writs in respect of the confiscation of the goods and seizure of the licence. It was contended on behalf of the petitioner that the Imports and Exports (Control) Act, 1947 not having re-enacted the provisions of r. 84(2) of the Defence of India Rules, s. 3(1)(a) of the Act had no application to soda ash and no licence was required to import it; that, in the alternative, legislation authorising the issue of licences amounted to delegated legislation and was, therefore, invalid. It was further contended that the Policy Statement made by the Government in the Press Note dated February 3, 1955, and Public Notice dated June 30, 1956, created a monopoly and infringed the petitioner's fundamental right to carry on his trade and business and lastly, that the virtual invalidation of his licence having been improperly made should be set aside and the same directed to be revalidated for the unexpired period.

Held, that the contentions raised on behalf of the petitioner must fail and the petitions must be dismissed.

The language of s. 3(1)(a) of the Imports and Exports (Control) Act, 1947, made it abundantly clear that it was intended to apply to the import of all goods of specified description covered by r. 84(2) of the Defence of India Rules including soda ash so as to render the re-enactment of that rule wholly unnecessary. The provision of the section must be read disjunctively and distributively and it was wholly unreasonable to suggest that the words 'import' and 'export' could be qualified by the expressions 'carriage coastwise' or 'shipment as ships' stores' occurring in the section.

Nor could the section be held to be *ultra vires* on the ground of delegated legislation as the preamble and the relevant sections of the Act as also those of the Defence of India Act, which it purported to continue and to which reference would be perfectly legitimate, show that the Legislature had clearly indicated the policy and enunciated the principles that were to guide those entrusted with the implementation of the Act which had for its purpose the maintenance of supplies essential to the community.

Harishankar Bagla v. *The State of Madhya Pradesh*, (1955) 1 S.C.R. 380, applied.

Pannalal Binjraj v. *The Union of India,* (1957) S.C.R. 233, referred to.

It was perfectly open to the Government of India to change its import and export policy with a view to adjust it to the varying needs of the country and if importers were found to resort to malpractices leading to instability of prices, it would be its duty to intervene and regulate distribution, if need be, with the assistance of importer-stockists working under its general supervision and no exception could be taken to such a policy on the ground that it created a monopoly or infringed the fundamental right to carry on trade or business.

As, in the instant case, the goods were lawfully confiscated by the Sea Customs Authorities as a result of an investigation which they were competent to make, it was not open to the petitioner under Art. 32 of the Constitution to challenge their conclusions on the ground that they had not been properly drawn and no question, therefore, of any revalidation of his licence could at all arise.

ORIGINAL JURISDICTION: Petitions Nos. 377 of 1955 and 42, 46, 164 and 423 of 1956.

Petitions under Article 32 of the Constitution of India for the enforcement of fundamental rights.

Petitioner in person in Petitions Nos. 377 of 1955 and 164 and 423 of 1956.

H. J. Umrigar and *Y. Kumar,* for petitioner in Petitions Nos. 42 and 46 of 1956.

C. K. Daphtary, Solicitor-General of India, Porus A. Mehta and *R. H. Dhebar,* for respondents in Petitions Nos. 42, 46 and 423 of 1956.

C. K. Daphtary, Solicitor-General of India, B. Sen. and *R. H. Dhebar,* for respondents in Petitions Nos. 377 of 1955 and 164 of 1956.

1957. February 21. The Judgment of the Court was delivered by

Gajendragadkar J.

GAJENDRAGADKAR J.—This is a group of five petitions filed by the petitioners Messrs Bhatnagars & Co. Private Ltd. In all these petitions, the petitioner Shri B. S. Bhatnagar, Managing Director of the above company, seeks to obtain appropriate writs from this Court mainly in respect of orders which have been passed by the Sea Customs Authorities against the petitioner. This petitioner seems to feel a grievance

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that, in the matter of licences which had been issued to him for importing soda ash, he has not received a fair treatment from the appropriate authorities and, since the impugned orders were passed, he has been moving the High Court of Punjab and this Court by several petitions under the Constitution. The present petitions show obvious traces of unskilled draftsmanship. They are extremely diffused and in many places incoherent. Statements of fact are not logically or chronologically made and there is complete confusion in the narration of the story giving rise to the petitioner's claim. In several places, the petitions refer to facts which are both irrelevant and immaterial and, often enough, the petitioner is unable to restrain himself from making unjustified and irrelevant suggestions against the authorities. Even in regard to the claim ultimately made by the petitioner, it is not easy to find what exactly the petitioner's grievance is and what particular writ he seeks to obtain from this Court. However, since the petitions purport to invoke the jurisdiction of this Court substantially under Art. 32 of the Constitution, it is necessary to deal with the relevant points in disposing of these petitions.

Three of the petitions have been argued by Shri Bhatnagar in person. They are Petitions Nos. 423 and 164 of 1956 and No. 377 of 1955. Petitions Nos. 42 and 46 of 1956 have been argued by Shri Umrigar on behalf of the petitioner. The material facts which it is essential to mention are very few and they lie within a very narrow compass. It appears that the petitioner obtained a licence for the import of soda ash only worth about Rs. 50,00,000 during the free licensing period in 1952. In pursuance of this licence, and relying on the same, consignments of soda ash to the extent of 100 tons, 200 tons and 20 tons respectively were received at Bombay ; but meanwhile the Customs Authorities had received informantion that, though the petitioner had obtained a licence in his name for the import of soda ash for such a large amount as Rs. 50,00,000, his capital did not exceed Rs. 15,000 and that he was in fact trafficking in these licences. On receiving this report, investigation was made and

subsequently the matter was left in charge of the Special Police Establishment. During the course of this investigation, certain documents were seized from the petitioner-company's office as well as from the office of one Messrs N. Jivanlal & Co. at Bombay. The complaint made against the petitioner that he was trafficking in licences was confirmed by this investigation. It transpired that a person carrying on business in the name of Messrs. N. Jivanlal & Co., had a free hand in dealing with the licences of the petitioner and that the petitioner used only to receive commission for the imports that he allowed to be made in the name of Messrs Bhatnagars & Co., Ltd. In regard to the two consignments of 100 tons and 20 tons of soda ash respectively, it was found on an inspection of the documents that the same had been imported by Messrs N. Jivanlal & Co., and since Messrs N. Jivanlal & Co., held no licence, the consignments were seized by the Collector of Customs. The offices of the petitioner and Messrs N. Jivanlal & Co., were raided during the course of this investigation on November 7, 1952 and February 6, 1953, respectively. The goods arrived in Bombay in March and April 1953 and they were confiscated by the Collector of Customs in May and June 1953. Subsequently, the documents including the licences which had been seized were returned to the petitioner. The confiscation of the goods was challenged by the petitioner by preferring an appeal to the Central Board of Revenue. The said appeal was, however, dismissed. The petitioner then moved the Central Government against this order but on September 22, 1955, the Central Government refused to interfere. It appears that on March 31, 1956, the Collector of Customs ordered that the goods should be auctioned. When this order was passed, the petitioner filed one of the petitions before us. He obtained an interim order of stay but the said order was ultimately vacated. Broadly stated, these are the facts which give rise to the present petitions.

Though five petitions have been presented by the petitioner, his grievance substantially is against the confiscation of the consignments of soda ash and

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against the seizure of his licences by the investigating authorities. Each petition seeks to put the grievance of the petitioner in a different form and, though the prayers ultimately made are also not of the same pattern, in the main, the petitioner wants this Court to give him relief against what he regards as illegal seizure of the goods and against the virtual invalidation of his licences for import. The period during which the licences granted to him could have been operated upon has expired and the petitioner, in one of his petitions, seeks an order from this Court directing the Government to revalidate the licences so as to allow the petitioner to import the article in question during the unexpired period of his licences.

Though it would have been possible to deal with these petitions collectively by delivering a common judgment, we would prefer to deal with the matter separately and consider the points raised in each petition by itself.

Petition No. 423 of 1956 in a sense stands apart from the other petitions in the present group. The facts which we have already mentioned are enumerated by the petitioner even in this petition but the substantial relief which he seeks to claim and which the petitioner pressed before us in his argument is in respect of his allegation that the Union of India and other respondents to the petition have acted in contempt of this Court and appropriate action should, therefore, be taken by us against the said respondents. This contention arises in this way. The petitioner had made a similar petition to this Court, No. 571 of 1954, in respect of one of the three consignments in question. This petition had come before this Court for hearing on March 24, 1955. Shri K. R. Chaudhury appeared for the petitioner before this Court. The order passed by this Court would show that the learned Solicitor-General of India made a statement to the Court indicating that the goods which had been confiscated by the Customs Authorities would not be sold or otherwise dealt with for a month from the date of the communication to the petitioner of the final order that the Central Government may pass in the revisional petition

preferred by him before them. Acting on this undertaking, this Court allowed the petitioner a period of one month from the date of the communication to him of the final order which the Central Government might pass on his revisional petition to enable him to file a petition for Special Leave to appeal if he was so advised. Then the order recorded the undertaking given by the Solicitor-General. Subject to this order the petition was dismissed. However, no order was passed as to costs. It is common ground that for several months thereafter the revisional petition preferred by the petitioner to the Central Government was not disposed of. Ultimately it was dismissed. The petitioner seems to be under the impression that the Solicitor-General, on behalf of the Central Government, had given an undertaking that the petitioner's revisional petition would be disposed of within a certain specified time. Indeed the petition seeks to suggest that the undertaking was that the revisional petition would be disposed immediately in a day or two, and, since the revisional petition was not disposed of within the time mentioned by the Solicitor-General, the petitioner says that all the respondents are guilty of contempt. It is clear that the petitioner's grievance and the prayer for a writ are entirely misconceived. The petitioner is entirely in error in assuming that, on behalf of the Union of India, any undertaking was given that his revisional petition would be disposed of within a day or two. Indeed, the Solicitor-General fairly told us that, at the time when the petitioner's earlier application was disposed of, he had expressed the hope that the petitioner's revisional petition would be dealt with by the Central Government at an early date ; but the expression of this hope had nothing to do with the undertaking which the Solicitor-General gave and which was included in the Court's order. The petitioner presumably thinks that the Court's order required that his revisional petition should be disposed of by the Central Government within a month. This assumption is entirely unwarranted. The period of one month which is mentioned in the order was the period granted to the petitioner to move

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this Court for Special Leave after the decision of his revisional petition by the Central Government was communicated to him. In other words, if the decision of the Central Government had gone against the petitioner, the petitioner was given one month's period within which to move this Court for Special Leave and the Union of India agreed not to deal with the property of the petitioner or dispose of it during that period. In our opinion, the order is plain and unambiguous and there is no scope for any misunderstanding whatever. If no undertaking was given as assumed by the petitioner, it is impossible to understand how any contempt can arise on the ground that the undertaking had not been complied with. Besides, the petitioner has not stopped to consider which person the Union of India represents as Respondent No. 1 in his petition. He has also not paused to consider how the other respondents could be guilty of contempt. We have no hesitation in holding that the prayer for a writ in respect of the alleged contempt made by the petitioner in this petition is thoroughly unjustified and, we regret to add, wholly irresponsible. This was the only point which the petitioner urged before us in this petition. The result is the petition fails and it must be dismissed with costs.

In *Petition No. 164 of 1956*, so far as we were able to gather, the petitioner's grievance is in respect of a policy statement made by the Government in the Press Note dated February 3, 1955 and Public Notice No. 25-ITC (PN)/56 dated June 30, 1956. The petitioner's contention appears to be that the policy enunciated in these two documents amounts to a monopoly and he wants this Court to issue appropriate writs terminating this monopoly and to ensure to the petitioner his fundamental right of carrying on his trade and business. In our opinion, this petition is also entirely misconceived and there is no substance in the contention raised by the petitioner. It is hardly necessary to emphasize that, in modern times, the export and import policy of any democratic State is bound to be flexible. The needs of the country, the position of foreign exchange, the need to protect national industries

and all other relevant considerations have to be examined by the Central Government from time to time and rules in regard to export and import suitably adjusted. It would, therefore, be idle to suggest that there should be unfettered and unrestricted freedom of export and import or that the policy of the Government in regard to export and import should be fixed and not changed according to the requirements of the country. It is in the light of this position that the policy statement in the Press Note has to be considered. The Press Note covers several commodities, but, since we are concerned with Light soda ash in the present case, it would be relevant to refer briefly to the contents of the Press Note in regard to Light soda ash. In regard to this commodity, Government have decided, says the Press Note, that the import should be canalised through importer-stockists who would be required to keep buffer stocks and effect sale in a manner so as to eliminate fluctuations in prices and supplies experienced by consumers in the recent past. The Government realized that, without canalisation of distribution of this commodity, consumers were always at the mercy of the importers and even distribution of the commodity to all parts of the country where it was needed was also difficult to obtain. That is why the Government decided to canalise the distribution of this commodity with the assistance of two selling organisations of Messrs. Tata Oil Mills Co. Ltd., and Messrs. I.C.I. (India) Ltd. These two concerns had agreed to procure soda ash from suppliers selected on the basis of offers which were being invited by means of public notice which was issued on the same day as the Press Note. Then the Press Note concludes that soda ash so imported would be stocked at convenient centres and sold in accordance with the general directions that may be issued by the Government from time to time. The sale price would be fixed by the Government on f.o.r. Port basis and the importer-stockists would be paid remuneration for their services at the rate of $12\frac{1}{2}\%$ of the landed cost, additional profit, if any, on the transaction being made over to Government. The Public Notice

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which was issued about the same time gives the relevant particulars in regard to the import of soda ash and other commodities. Tenders were invited and cl. 4 of the Public Notice shows that the offerer whose offer was accepted by the Chief Controller of Imports would be required to enter into a contract of sale within ten days of the acceptance of the offer with the importer-distributor selected by the Government in that behalf. No doubt discretion was left to the Chief Controller of Imports to reject any offer without assigning any reason. Subject to the terms and conditions set out in the Notice, if a contract was concluded, an import licence for the quantity contracted to be purchased would be issued in favour of the buyer subject to such conditions as might be imposed by the Government of India in that behalf.

It appears that, prior to 1953, import licences were freely granted. In 1953, licences began to be granted to established importers subject to certain conditions. It also appears that Government decided from time to time the total quantity of the specified commodity which should be imported. Then the extent of the business of the applicant for licences during the prescribed period was taken into account and the total amount of import was then distributed *pro rata* amongst the several applicants. When it was found that even this method did not work satisfactorily, the Government decided to canalise distribution but while canalisation was introduced in this manner, tenders were invited for import licences and they were considered on merits and licences granted to several claimants. It may be that, if the I.C.I. and the Tata Oil Mills Co. Ltd., were amongst the applicants for licences, their competitors in the line may have found it difficult to fight with these two powerful rivals but that is very different from saying that, by the method of canalisation, the Government had introduced a monopoly in the import of the commodity in question. It is also important to emphasize that the petitioner is not even an established importer. He was granted a licence during the free period, and so it is difficult to understand his grievance that a monopoly had been

created and that he was thereby deprived of his fundamental right to carry on his trade. Government found that the importers of soda ash resorted to malpractices leading to speculation, and violent fluctuations, in prices of the commodity. It was open to the Government, and indeed national interests made it their duty, to intervene and regulate the distribution of the commodity in a suitable manner. That is all that Government purported to do by the policy statement to which objection has been taken by the petitioner. Besides, it is difficult to entertain the argument from the present petitioner that the alleged monopoly has affected his right to carry on trade. In substance no monopoly has been created and the petitioner's application is entirely misconceived. The result is the petition fails and must be dismissed with costs.

Petition No. 377 of 1955 is directed broadly against orders of confiscation and sale passed by the relevant authorities and the petitioner claims that an appropriate writ should be issued by this Court calling upon the said authorities to forbear from giving effect to the said orders. We have already mentioned the material facts in regard to the confiscation of the consignments of soda ash of 100 tons and 20 tons respectively which has given rise to all these proceedings. Now, the order dated May 3, 1954, has been passed by the Controller of Imports and Exports for Chief Controller of Imports and Exports and it communicates to the petitioner the decision of the Chief Controller that no licence or customs clearance permit would be granted to him against his application for and upto the licensing period July 1953. The petitioner was, however, told that his applications for January-June 1954 licensing period would be dealt with in the normal course according to the policy contained in the Red Book. Then the order adds that it had been decided that re-validation of the licences mentioned in Annexure 'A' to the petitioner's advocate's letter on April 20, 1954, could not be allowed. That is why the said licences were returned to the petitioner. It is this latter part of the order by which the petitioner feels aggrieved and against which the petitioner seeks remedy by the

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present petition. The petitioner's case is that, since he was granted licences which were to be alive for one year from February 13, 1952, the illegal seizure of the licence and the unauthorised confiscation of the consignments in question caused considerable prejudice to him. The return of the licences is poor consolation to the petitioner because the period during which the licences were to operate had already expired. He, therefore, claims that the licences should be revalidated in the sence that the period during which he can operate upon those licences should be suitably extended. It is true that if the relevant authorities were inclined to revalidate the licences in that sense, it would have been open to them to do so. But it is difficult to understand how the petitioner can invoke the jurdiction of this Court under Art. 32 of the Constitution for obtaining this relief. We do not propose to discuss this matter elaborately because, in our opinion, the position in law is abundantly clear. The authorities have found that, though the licences were obtained by the petitioner in his name, he has been trafficking in these licences, that the consignments had been ordered by another individual Messrs. N. Jivanlal & Co., that the said individual holds no licence for import of soda ash and as such the consignments received by the said individual are liable to be confiscated. If the petitioner's grievance is that the view taken by the appropriate authorities in this matter is erroneous, that is not a matter which can be legitimately agitated before us in a petition under Art. 32. It may perhaps be, as the learned Solicitor-General suggested, that the petitioner may have a remedy by suit for damages but that is a matter with which we are not concerned. If the goods have been seized in accordance with law and they have been seized as a result of the findings recorded by the relevant authorities competent to hold enquiry under the Sea Customs Act, it is not open to the petitioner to contend that we should ask the authorities to exercise discretion in favour of the petitioner and allow his licences a further lease of life. Essentially the petitioner's grievance is against the conclusions of fact reached by the relevant authorities. If the said

conclusions cannot be challenged before us in the present writ petition, the petitioner would obviously not be entitled to any relief of the kind claimed by him. In the result, the petition fails and must be dismissed with costs.

That leaves two more petitions field by the petitioner, *Petitions Nos. 42 of 1956 and 46 of 1956.* These petitions have been argued before us by Shri Umrigar and, on behalf of the petitioner, Shri Umrigar has raised three points before us. He contends that the Import-Export Act does not apply to soda ash and that it is every citizen's right to import and export this commodity without a licence. If that be the true position, confiscation of the two consignments would be illegal, and so, he wants an appropriate writ from this Court against the Central Government. In the alternative, he argues that the legislation which authorises the issue of licences amounts to a delegated legislation and as such is invalid. Again, if legislation is invalid on the ground alleged, confiscation of the two consignments would be invalid and the petitioner would be entitled to a writ. Failing these two contentions, Shri Umrigar argues that the conclusion of the relevant authorities that his client was trafficking in licences is based on no legal evidence and must, therefore, be reversed by this Court and appropriate relief given to him on the basis that the petitioner had obtained licences *bona fide* for his own personal use and the contrary view taken by the relevant authorities and the subsequent confiscation of the consignments were illegal and *ultra vires.* We would now briefly deal with these three points in the order in which they were urged before us by Shri Umrigar.

The first argument is based upon the fact that, while enacting The Imports and Exports (Control) Act, 1947, Act No. XVIII of 1947, the provisions contained in r. 84 (2) of the Defence of India Rules have not been included in the Act and the contention, which at best may be characterised as ingenious, is that the object of omitting the said provisions while enacting the subsequent Act of 1947 was to release, from the operation of the Import Act, articles which would have fallen

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under the said omitted provisions. R. 84 of the Defence of India Rules by sub-r. (1) defines export and import. "Import" means bringing into British India by sea, land or air. "Export" means taking out of British India by sea, land or air. Then sub-s. (2) provides :

"The Central Government may by a notified order prohibit or restrict the import or export of all goods or goods of any specified description, from or to any specified person or class of persons".

Sub-r. (3) then provides :

"The Central Government may by notified order make provision for prohibiting, restricting or otherwise controlling, in all cases or in specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order,—

(i) the import, export, carriage coastwise or shipment as ships' stores of all goods or goods of any specified description ;

(ii) the shipment of fresh water on sea-going vessels ;

(iii) the bringing into any port or place in British India of goods of any specified description intended to be taken out of British India without being removed from the ship or conveyance in which they are being carried."

Shri Umrigar contends that the import of soda ash could have been legitimately regulated under the provisions of r. 84, sub-r. (2) but since this sub-rule has not been enacted under Act XVIII of 1947, all regulations made by the Central Government and terms and conditions laid down in regard to the granting of licences are *ultra vires* of the Act. Act XVIII of 1947 gives substantially the same meaning to the words "export" and "import" and the operative portion of the Act is contained in s. 3 which is the same as r. 84, sub-r. (3), of the Defence of India Rules. In order to make his argument plausible, Shri Umrigar seeks to put a very narrow, artificial and unreasonable restriction upon s. 3, sub-s. (1) (a) of Act XVIII of 1947. Before dealing with this argument, however, it would be convenient to set out the said section as under :

"*3. Powers to prohibit or restrict imports and exports* :

(1) The Central Government may, by order published in the official Gazette, make provision for prohibiting, restricting or otherwise controlling, in all cases or in specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order,—

(a) the import, export, carriage coastwise or shipment as ships' stores of goods of any specified description ;

(b) the bringing into any port or place in India of goods of any specified description intended to be taken out of India without being removed from the ship or conveyance in which they are being carried.

(2) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19 of the Sea Customs Act, 1878 (VIII of 1878), and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word "shall" therein the word "may" were substituted.

(3) Notwithstanding anything contained in the aforesaid Act, the Central Government may, by order published in the official Gazette, prohibit, restrict or impose conditions on the clearance, whether for home consumption or for shipment abroad, of any goods or class of goods imported into India."

Shri Umrigar contends that s. 3 (1) (a) cannot apply to the import of soda ash, because, according to him, it is only goods of a specified description which are imported or exported, carried coastwise or shipped as ships' stores that fall within the mischief of the said provision. In other words, he reads the expression "carriage coastwise" and "shipment as ships' stores" as constituting adjectival clauses governing the words "import" and "export". In our opinion, such a construction is wholly unreasonable. We have no doubt that this provision has to be read disjunctively and distributively, and so read, the import of goods of any specified descrip-

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tion would attract the application of the said provision. If we bear in mind the definition of the words "import" and "export", it would be obvious that articles that are carried coastwise would never fall within the category of either import or export. The assumption that the Legislature wanted to release all kinds of goods from the application of s. 3 (1) (a) is, in our opinion, so completely inconsistent with the plain and natural meaning of the material clause that we have no hesitation in rejecting Shri Umrigar's argument. If the words used in the clause are given their natural meaning, it is clear that the Legislature must have felt, in enacting this Act, that it was unnecessary to continue by re-enactment the provisions of r. 84 (2) in the present Act. What was specifically provided in the said rule is in effect included in s. 3 (1) (a). We must, therefore, hold that the argument that no licence was required for the import of soda ash and so all the orders passed by the appropriate authorities in regard to the confiscation of the consignments are invalid must fail.

The next argument is that the material provision is *ultra vires* as it amounts to delegated legislation. The challenge to the validity of legislative enactments on the ground of delegated legislation often enough presents problems which are not easy of solution. The recent history of judicial decisions, however, shows that, though there is considerable divergence of opinion in the approach to the question of dealing with such a challenge, some principles may be said to be fairly well settled. There is no doubt that legislation which is conditional, properly so-called, must be distinguished from legislation which is delegated. Shri Umrigar concedes that where the Legislature provides and lays down principles underlying the provisions of a particular statute and also affords guidance for the implementation or enforcement of the said principles, it is open to the Legislature to leave the actual implementation or enforcement to its chosen delegate. The time when the provision should be implemented, the period during which it should be implemented or the place where it should be applied can, according to

him, in appropriate cases be validly left by the Legislature to its delegate. He, however, contends that, in the impugned Act, the Legislature does not lay down principle and gives no guidance to the delegate while leaving the implementation of the statutory provisions to him and consequently the validity of the legislative enactment suffers from a serious infirmity on the ground that the Legislature has surrendered its legislative power in favour of its delegate. In dealing with this narrow ground of challenge, it would be necessary to consider the preamble and the material provisions of the Act to find out whether questions of policy have been clearly decided by the Legislature and whether guidance has been given to the delegate in the matter of implementing the provisions of the statute. Unfortunately for Shri Umrigar his challenge to the validity of the impugned section under the Imports and Exports Act is completely covered by the decision of this Court in *Harishankar Bagla* v. *The State of Madhya Pradesh*(1). In this case, ss. 3 and 4 of the Essential Supplies (Temporary Powers) Act, 1946, were attacked as *ultra vires* on the ground of delegated legislation. This challenge was repelled. In repelling the argument of delegated legislation, Mahajan Chief Justice who delivered the judgment of the Court conceded that "the Legislature must declare the policy of the law and the legal principles which are to control any given cases and must provide a standard to guide the officials or the body in power to execute the law". "The essential legislative function", the judgment proceeds to add, "consists in the determination or choice of the legislative policy and of formally enacting that policy into a binding rule of conduct". Then the learned Chief Justice referred to the fact that the Legislature has laid down such a principle and that principle is the maintenance or increase in supply of essential commodities and of securing equitable distribution and availability at fair prices. It was held that the principle was clear and it offered sufficient guidance to the Central Government in exercising its powers under s. 3. In other words, in considering the question as to

(1) [1955] 1 S.C.R. 380.

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whether guidance was afforded to the delegate in bringing into operation the material provisions of the Act by laying down principles in that behalf, the Court considered the statement of the principles contained in the preamble to the Act as well as in the material provisions of s. 3 itself. This decision shows that if we can find a reasonably clear statement of policy underlying the provisions of the Act either in the provisions of the Act or in the preamble, then any part of the Act cannot be attacked on the ground of delegated legislation by suggesting that questions of policy have been left to the delegate. Turning to the impugned sections of the present Act, it is necessary to remember that the present Act purports to continue for a limited period powers to prohibit or control imports and exports which had already been enacted by the Defence of India Act and the Rules framed thereunder. In other words, this Act does not purport to enact the material provisions for the first time but it purports to continue the previously existing provisions in that behalf and so it would be legitimate to consider the preamble of the predecessor Act and relevant provisions in it to find out whether the Legislature has laid down clearly the policy underlying that Act and has enunciated principles for the guidance of those to whom authority to implement the Act has been delegated. The preamble to the present Act says that it was expedient to continue for a limited period powers to prohibit, restrict or otherwise control imports and exports. The preamble to the Defence of India Act refers to the emergency which had arisen when the Act was passed and refers, *inter alia,* to the necessity to take special measures to ensure the public safety and public interest. Section 2 of the said Act further provides that the Central Government thought that it was essential to secure public safety and maintenance of public order and, what is more relevant and material, the maintenance of supplies and services essential to the life of the community. Thus it is clear that the broad and main principle underlying the present Act, like its predecessor, was to maintain supplies essential to the life of the community. Thus, if the preamble

and the relevant section of the earlier Act are read in the light of the preamble of the present Act, it would be difficult to distinguish this Act from the Essential Supplies Act with which this Court was concerned in *Harishankar Bagla's case*(1). Incidentally, we may also observe that in *Pannalal Binjraj* v. *The Union of India*(2), where the vires of s. 5 (7-A) of the Income-Tax Act were put in issue before this Court, the challenge was repelled and during the course of the judgment delivered on December 21, 1956, the previous history of the earlier Income-Tax Acts was taken into account to decide what policy could be said to underlie the provisions of the impugned section.

The last argument of Shri Umrigar is patently untenable. No doubt Shri Umrigar began this argument by contending that the finding made against the petitioner that he was trafficking in his licences and that the consignments in question did not really belong to him was based on no evidence but ultimately he could not help conceding the fact that there were certain circumstances on which the appropriate authorities relied against the petitioner. The contention that a finding made by a competent authority is based on no legal evidence is easy to make but very difficult to establish. Such a contention can succeed only when it is shown that there is really no legal evidence in support of the view taken by the appropriate authorities. In the present case, it is impossible to accede to the assumption that there is no legal evidence against the petitioner. His poor financial resources, his conduct at all material times when consignments were ordered, the suspicions attaching to the very existence of the firm Messrs. N. Jivanlal & Co. in Bombay and the prominent part played by this firm at all stages of the transaction in regard to the consignments as well as the reckless allegations which were made by the petitioner before the authorities which were found to be untrue by the appropriate authorities, cannot be summarily dismissed as being irrelevant or as not constituting legal evidence. At the highest it may be said that there

(1) [1955] 1 S.C.R. 380. (2) [1957] S.C.R. 233.

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are some circumstances on which Shri Umrigar wants to rely in favour of the *bona fides* of his client whereas there is a large number of circumstances against him. If all the appropriate authorities, on considering these circumstances, concurrently found against the petitioner, that obviously is not a matter which can be legitimately agitated in the present petition. That is why we do not propose to deal with this aspect of the matter any further. In the result, both Petitions Nos. 42 of 1956 and 46 of 1956 fail and must be dismissed with costs.

Petitions dismissed.

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