Sub Divisional Officer & Ors. Etc vs Dr. Mehar Singh And Ors. Etc on 17 August, 1988

Equivalent citations: 1989 AIR 206, 1988 SCR SUPL. (2) 467, AIR 1989 SUPREME COURT 206, (1988) 3 JT 470 (SC), 1988 27 STL 1, 1988 22 REPORTS 568, 1988 MCC 128, 1988 30 JT 470, (1988) 3 SCJ 208, 1988 (4) SCC 200

PETITIONER:
SUB DIVISIONAL OFFICER & ORS. ETC.

Vs.

RESPONDENT:
DR. MEHAR SINGH AND ORS. ETC.

DATE OF JUDGMENT17/08/1988

BENCH:
RANGNATHAN, S.
BENCH:
RANGNATHAN, S.
NATRAJAN, S. (J)

CITATION:
1989 AIR 206 1988 SCR Supl. (2) 467
1988 SCC (4) 200 JT 1988 (3) 470
1988 SCALE (2)391

ACT:
Punjab Municipal Act 1939: Section 244-Challenging the Constitutional validity of section 244-Guidelines discernible in section 241 to be read into section 241-Whether provisions of section 244 are ultra vires Article 14 of the Constitution.

HEADNOTE:
Certain areas in Punjab State were constituted as notified areas. An ares was declared a 'notified area by notification under s. 241 of the Act. The Government nominated members, issued the necessary enabling notifications under s. 242 and appointed a notified area committee consisting of certain persons. Later, the Government issued a notification under s. 244, cancelling the earlier notification under s. 241.

Writ Petitions were filed in the High Court by the office-bearers of the notified area committees challenging

the constitutional validity of s. 244. The challenge was sustained by the High Court; heading to the appeals in this Court.

Before the High Court, bare proposition of law was urged that s. 244 violated Art. 14 of the Constitution for the reason that it gave an arbitrary and unduided power to the State Government to cancel a notification issued under s. 241 without specifying/indicating the godliness or the principles on the basis of which such cancellation could be effected.

Allowing the appeals, the Court,

HELD: The preliminary objection raised by the appellants to the locus standi of the members of the notified area committees to pursue the matter was not tenable. As a result of the notification, the rights of the members under the statute had been taken away, and they were entitled to come to the Court impugning the notifications which affected them. Merely because they had ceased to be members of the notified area committees, their locus standi to ventilate their grievance was not affected. [473D, G]

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Section 244, by itself, does not in express words spell out the circumstances in which a notification issued under s. 241 or an order unders. 242 may be cancelled or modified, but s. 244 should not be read or construed in isolation from the rest of the Chapter dealing with this subject-matter. The whole purpose of notifying areas under Chapter XIII of the Act is to grant a degree of self autonomy to an area which is comprised in a village. [477H; 478A]

As and when the economy of a particular area develops, the State Government should see to it that arrangement for its administration also improve and provide for more efficient local administration. [478G-H]

The provisions that notified area will exercise only such powers as are entrusted to it by the State Government under s. 242 and that only such provisions of the Act as the State Government considers fit can be applicable to a notified area, show that the principal consideration was the economic and administrative viability of the particular unit to look after its own local affairs. If the area develops further and proves viable and self-sufficient economically and efficient administratively, it may be eventually converted into a municipal area. If the area is not financially solvent or is administratively weak, the status quo ante may have to be restored. [479B-C]

Section 244 is intended as a power enabling the Government to go forward or backward in the process of this evolution depending upon the circumstances of each case. It may turn out that a particular area is not economically viable and the notification issued under s. 241 has to be cancelled. [279D]

The situations, in which a cancellation or modification of a notification under s. 241 may be called for, will be numerous and impossible to be spelt out in a statutory provision. The power of cancellation or modification is not an arbitrary and unduided one but is one intended to be exercised in the light of the implementation of the notification in a particular local area having regard to the main principle and purpose behind s. 241. [279E-G]

There are sufficient guidelines or indications available in the Statute as to the circumstances in which the power can be invoked. It could not be said to be a naked and arbitrary power. Section 244 contains sufficient guidelines to act thereunder and it was not possible to accept the plea that s. 244 itself was ultra vires and should be declared void.The provisions of s. 244 are valid. They could not be

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said to be bad being violative of Article 14 of the Constitution. [481F-G]

Gram Sabha Begowal v. State of Punjab and another, AIR 1981 P and H 101, approved.

State of Punjab v. Dewan Chand, AIR 1979 P & H 46 and Ayodhya Prasad Vajpai v. State of U. P. and others, AIR 1968 SC 1344,
referred to.

JUDGMENT:

CIVIL APPELLATE JUTRISDlCTION: Civil Appeal Nos. 1888 and 1888-A of 1982.

From the Judgment and Order dated 16.9.1987 of the Punjab and Haryana High Court in Civil Writ Nos. 3880 of 1980 and 1839 of 1981, C.M. Nayyar for the Appellants.

E.C. Agarwala and Ms. Purnima Bhatt for the Respondents. The Judgment of the Court was delivered by S. RANGANATHAN, J . These appeals raise a common point. They arise out of two out of a batch of writ petitions, disposed of by the Punjab & Haryana High Court, which challenged the validity of Section 244 of the Punjab Municipal Act. The High Court concluded that, both on principle and precedent, the provisions should be struck down as they plainly suffer from the taint of unconstitutionality. 'The State of Punjab has preferred these appeals.

The Punjab Municipal Act (hereinafter referred to as the 'Act') was an Act to make better provisions for the administration of municipalities in Punjab. The procedure for constituting any local area as a municipality is set out in Sections 4 to 10 (Chapter II) of the Act. Under section 4 the State Government is empowered by notification to propose any local area (other than any part of a military cantonment) to be a municipality under the Act. Any inhabitant, who desires to object to such a proposal, can put forward his objections in writing within a specific period. The State Government is obliged to take such objections into consideration. It may then, by a notification, declare the local area to be a municipality of the first, second or third class as the case may be.

Section 5 enables the Government to alter the areas of a PG NO 470 municipality by including within the municipality any other local area. In such a case also the inhabitants of the municipality or the local area proposed to be included, are entitled to file objections which the State Government is obliged to take into account before notifying the inclusion of the local area in the municipality. Section 6 provides for a notification of the intention of the Government to exclude from a municipality any local area comprised therein. Here again, any in habitat of the municipality or local area is entitled to put forward his objections and a final notification of exclusion of the local area from the municipality will be issued by the State Government after taking such objections into consideration. Section 9 confers a power on the State Government to except any municipality or part thereof from the operation of such of the provisions of the Act as are unsuited thereto. Section 10 of the Act (as originally enacted) gave power to the State Government to withdraw from the operation of the Act the area of any municipality constituted thereunder with the result that the Act would not apply within the limits of that area. These are the sets of provisions relating to the constitution of a local area as a municipal area to be fully governed by the provisions of the municipal Act. These municipalities are managed by committees constituted as provided in Section 12 and they have powers of raising money by taxation. The fund of the municipality, called the municipal fund, consists of all sums raised by or on behalf of the Committee under the Act or otherwise. The funds are to be defrayed by the committee on various types of civil needs set out in detail in Section 52 of the Act.

The Act also contemplates the constitution of certain local areas into what may be described as 'notified areas. These notified areas do not function as municipalities proper but they are given a certain amount of local autonomy. The State Government appoints a committee and the committee manages the affairs of the local area. they are in charge of all aspects of local administration like a full- edged municipality. They are given powers to impose certain taxes as are permitted by the State Government and only such provisions of the Act are applicable to them as may be extended by the State Government. The creation of a notified area is the recognition by the Government of the necessity for granting powers of local administration to a particular area in a smaller measure than is the case with a municipality. The provisions governing the constitution of a notified area are set out in Section 241 to Section 245 (Chapter XIII!) of the Act. It is however, sufficient to set out the provisions of Section 241 to section 244 here for a proper appreciation of the issue that arises in these appeals:

> PG NO 471 Section 241:
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> Constitution of Notified Area (1) The State Government may, by notification, declare that with respect to some or all of the matters upon which a municipal fund may be expended under section 52, improved arrangement are required within a specified area, which nevertheless, it is not expedient to constitute as a municipality.
>
> (2) An area in regard to which a notification has been issued under sub-section (1) is hereinafter called a notified area.

(3) No area shall be made a notified area unless it contains a town or a bazar and is not a purely agricultural village.

(4) The decision of the State Government that a local area is not an agricultural village within the meaning of sub-section (2) (sic) shall be final, and a publication in the Official Gazette of a notification declaring an area to be notified area shall be conclusive proof of such decision.

Section 242:

Power of State Government to impose taxation and regular expenditure of proceeds thereof- (1) The State Government may-

(a) impose in any notified area any tax which could be imposed there by the committee under the provisions of section 6 if the notified area were a municipality:

Provided that any tax imposed on buildings and lands shall not be subject to the maximum limits prescribed by sub clause (a) of clause (f) of section 6:

Provided also that a tax payable by the owner may be made payable by the occupier:

(b) apply or adapt to the notified area for the assessment and recovery of any tax imposed under clause (a), any of the provisions of this Act, or of any rules for the PG NO 472 time being in force, with respect to the assessment and recovery of any tax imposed under this Act: (C) arrange for the due expenditure of the proceeds of taxes imposed under- clause (a) and for preparation and maintenance of proper accounts.

(d) appoint a committee of one or more persons for the purposes of clauses (b) and (c) :

(e) appoint a president of such committee and fix the term of office of member or president of the committee.

(f) extend to any notified area provisions of any section of this Act subject to such restrictions and modifications, if any, as the Government may think fit. (2) The proceeds of any tax levied in any notified area under this section shall be expended only in some (sic) manner in which the municipal fund of such notified area might be expended if the notified area were a municipality.

Section 243:

Application of Act to notified area--

For the purposes of any section of this Act which may be extended to a notified area the committee appointed for such area under section 243 shall be deemed to be a municipal committee under this Act and the area to be a municipality. Section 244 Discontinuance of notified area-

The State Government may at any time cancel or modify any notification under section 241 or any order under section 242.

In Punjab, certain areas in the State-it is not necessary to set out these in detail-were constituted as notified areas. To give the relevant details in regard to PG NO 473 one of them, it was declared a 'notified area' by a notification under section 241 of the Act dated 19. 10. 1978. It took sometime for the State Government to nominate members and issue the necessary enabling notifications under section 242. These were issued only on 11.2. 1980 and a notified area committee consisting of certain persons was appointed. The committee functioned for a few months. Soon thereafter, on 7.10.1980, the Government issued a notification under Section 244 cancelling the earlier notification made under section 241. A batch of writ petitions was filed in the High Court by the office bearers of the notified area committees challenging the constitutional validity of section 244 and this challenge has been sustained by the division bench leading to the present appeal.

At the outset, the counsel for the appellant raised a preliminary contention. He stated that the members of the various notified area committees were appointed only for a period of three years. Even if the notifications under section 241 had continued to be in force, their term of office would have expired quite some time back. He. therefore, submitted that the writ petitioners have ceased to have any locus standi to pursue the matter further. In our opinion, this objection is neither tenable nor can it entitle the appellant to any relief automatically. At the time the writ petitions were filed, these persons were the members of the notified area committees and as a result of the notification, their rights under the statute had been taken away. They were, therefore, entitled to come to the Court impugning the notifications which affected them. The High Court has sustained their challenge and, since the conclusion of the High Court affects the appellant. the appeal has to he heard on the merits and cannot be disposed of as infructuous. That apart, the petitioners were concerned with the matter not only in their capacity as members of the notified area committees but also in their capacity as inhabitants of the concerned notified areas. They had. and continue to have. an interest in seeing that the uplift in status conferred on their local area by the notifications under section 241 continues to be in operation and is not with-drawn or cancelled to their determent. Merely because some or all of them have ceased to, be members of the notified area committees, their locus standi to ventilate this grievance is not affected. Coming to the principal question, the short ground on which the High Court has accepted the plea of the petitioners is that section 244 does not contain any guidelines or indications as to the considerations which should be taken note of by the Government in deciding to cancel a notification already issued

under section 241.

PG NO 474 Referring to the earlier decision of the same High Court in Gram Sabha v. State, AIR 1981 P & H 101 which repelled a like challenge to the constitutionality of section 241, the Bench observed that the criteria spelt out by the statute for the creation of a notified area committee under section 241 could have little or no relevance to the pre-conditions which might be necessary for its denotification and dissolution. Reliance was placed on a decision of the Punjab High Court in State of Punjab v. Dewan Chand, AIR 1979 P & H 46 by which section 10 of the Municipal Act was declared to be unconstitutional. The Court was of the opinion that the ratio of Dewan Chand case covered the issue before them. It added that even de hors the same, on principle and on the existing statutory provisions, the same conclusion appeared to be inevitable. The learned judges distinguished the decision in Ayodhaya Prasad Vajpai v. State of U.P. and others, AIR 1968 SC 1344 on which the State relied and repelled an argument of desperation, that section 244 should be treated as merely a statutory declaration of the inherent power of cancellation of any order that is vested in any authority under the General Clauses Act. Referring to the well established constitutional proposition that a statute has to be held to be discriminatory irrespective of the way in which it is applied, "if the statute itself does not disclose a definite policy or objective and confers authority on another to make selection at its pleasure", the Court declared section 244 to be unconstitutional.

It may be mentioned at the outset that, before the High Court,the writ petitioners had also taken certain objections on the merits and also attributed mala fides to the State Government in issuing the notifications of cancellation but these allegations.,of mala fides and extraneous considerations having vitiated the notifications were expressly given up. Only a bare proposition of law was urged that section 244 violates article 14 of the Constitution for the sole and simple reason that it gives an arbitrary and unduided power to the State Government to cancel a notification issued under section 241 without also specifying, or atleast indicating, the guidelines or principles on the basis of which such cancellation could be effected.

It will be appropriate first to notice the Full Bench decision of Punjab High Court in Gram Sabha Begowal) v. Stare of Punjab and another, AIR 1981 P & H 101 repelling a similar challenge to the provisions of section 241 and 242. Two objections were raised to the validity of sections 241 and 242. It was said first that these sections do not provide enough guidelines regarding the circumstances in which an area can be constituted into a notified area and PG NO 475 empowered to administer its own fund for local administration. Secondly, it was submitted that there was no provision to provide persons affected by such notification with an opportunity of hearing and that this was violative of article 14. In that case, an area comprised in a gram sabha was included under section 241 and the gram sabha came to the court urging that it could not be so notified without hearing its objections. These contentions were overruled by the Full Bench [to which one of the members of the Bench which heard the present batch of cases was a party). The principle of the decision is contained in the head note of the report of the said case :

> "Section 241 of the Act gives sufficient guidelines to the State Government as to which area deserves to be declared as notified area. Whenever the State Government finds that the proposed area is not big enough to be constituted as a municipality, but nevertheless requires improved arrangements with respect to some or all of the matters enumerated in s. 52 for which municipal funds may be expended,it can constitute a notified area. Further, the State Government has been prohibited from declaring a purely agricultural village to be a notified area but if such a village contains a town or a Bazar, then it can be declared to be a notified area. Before a decision is taken under s. 241, the State Government has to apply its mind fully to consider the pros and cons whether the area can be constituted as a municipality but if it finds that it is not possible to do so because it is not such a large area so as to be able to sustain the expense of a municipality but at the same time the State Government considers that some of the improved arrangements as detailed in section 52 of the Act deserve to be made in that area, then the State Government has been given the power to constitute that area into a notified area subject to the restrictions imposed in sub-s. (3) of section 241 of the Act. Similarly, once a notified area is constituted, s. 242 merely authorises the State Government to impose tax under s. 61 and to apply any of the provisions of the Act to the notified area subject to such restrictions and limitations, if any, as the State Government may think proper besides doing other beneficial acts for the notified area as detailed in the section. Section 242 is merely consequential authorising the State Government to levy tax and to frame the procedure for PG NO 476 recovery etc. and to apply the Act insorfar as it may be beneficial for the proper working of the notified area. Although in Ss. 4 to 7 a provision for hearing of objections has been made, but no similar provision has been made in section 241. Section 241 is however, not ultra vires article 14 of the Constitution merely because there is no provision therein for inviting- objections from the inhabitants of the area before declaring a notified area. No provision of law can be struck down as ulta vires merely because it does not contain a provision for affording a hearing to the persons concerned. No violation of the principles of natural justice arises in construing the statutory provisions."

The Full Bench, with which we are in agreement, clearly laid down that the provisions of section 241 are not liable to challenge on grounds similar to those raised in the present petition.

Basing itself on this Full Bench decision, it was argued for the State that the same principle would be applicable in the case of section 244 as well. The f-High Court repelled this contention by saying that the criteria spelt out in section 241 could have no relevance to the preconditions which might be necessary for its denotification. The Court observed:

> "For instance, one -of the pre-requisites for the creation of a Notified Area Committee laid down in sub- section (3) is the existence of a town or a bazar therein. Some modicum of urbanization or semi-urbanization is thus a pre-requisite for the creation of a Notified Area Committee. Now it is manifest that this cannot have the remotest relevance when subsequently the question of the denotification or the dissolution of

an existing Notified Area Committee arises. Clearly the statute was not visualising an earthquake which would raze the town or hazar to shambles and consequently obliterate one of the pre- requisites for the creation. An urban area in the shape of a town or bazar having already come into existence, it is too remote a possibility that the same would vanish into thin air and in this manner provide a guideline or policy for de-notifying the Committee under Section 244 of the Act. Again the other criterion negatively put for the creation of a Notified Area Committee is that the area PG NO 477 comprised therefor is not a purely agricultural village. Now once this is satisfied that the area loses its pristine rural or agricultural nature so as to warrant the creation of a Notified Area Committee. It seems rather inconceivable, if not impossible, that the same would revert again to a purely agricultural village so as to necessitate a de- notification. Indeed, it appears to me that the learned counsel for the petitioner is on a sound footing that at least for the limited purpose of the statute before usz the guidelines for the constitution and creation of a Notified Area Committee would be totally alien to the considerations which might later require its de-notification. The Bench concluded that:

Once it is held as above, it appears to be plain and beyond cavil that in the language of Section 244, there is not the least hint of any legislative policy or any inkling of a guideline for the de-notification of a Committee. lndeed,the language excels in its absoluteness and confers powers on the State Government to cancel ar any time any notification under ,section 241 of the Act without more. There is no manner of doubt that a de-notification of a corporate urban area is fraught with grave and material Legal and civil consequences not merely to the individual members of the Committee, but to the corporate existence of all the citizens composed there of. Nevertheless, section 244 is wholly silent, both as to policy and as to guideline for the exercise of a totally arbitrary power vested in the Government to de-notify an existing Committee. It seems to be now well settled that where such an unlimited and uncanalised power is vested without even remotely indicating a legislative policy or the rational criteria, the same would be hit by Article 14 of the Constitution, even though the repository of the power is the State or the Central Government itself."

With respect to the learned judges, we are unable to concur in this conclusion. It is true that ,section 244, by itself, does not in express words spell out the circumstances in which a notification issued under section 241 or an order under section 242 may be cancelled or modified. But in our opinion, section 244 should not be read or construed in isolation from the rest of the chapter PG NO 478 dealing with this subject matter. The whole purpose of notifying areas under Chapter XIII of the act is to grant a degree of self autonomy to an area which is comprised in a village. The circumstances in which such a notification can be issued are set out in section 241 with sufficient particularity. The section postulates that the State Government is to be satisfied in regard to a particular area that it may be allowed to carry on its own local administration, that such administration should be run by a committee appointed by the Government, that the committee should be empowered to collect taxes and finally, that the committee should be empowered to take over the onerous responsibility of providing for various types of civic amenities and facilities as may be entrusted to it. But at the same

time the Government should be of the opinion that either because of its location, population, lack of affluence, backwardness or other considerations, it is not possible to constitute the area into a regular municipality fully governed by the provisions of the Municipal Act. The Government, therefore, should consider that it is sufficient if the area is carved out as a notified area, to be given such powers as may be considered fit and proper in regard to its administration. The State Government is also empowered to gradually notify, if necessary, from time to time the various provisions of the Act which would be applicable in respect of such notified area. In our opinion, the provision makes clear the guidelines for declaring an area as a notified area.

Sub-section (3) of section 241 contains specific provisions against a purely agricultural village being converted into a notified area and, again, against the declaration of an area as a notified area, if it does not contain any town or bazar. The learned judges of the High Court have referred to the provisions of sub-section (3) and have pointed out that once these requirements are satisfied then it is practically impossible to conceive of a situation when these requirements would cease to exist warranting the cancellation of the notification already issued under section 241. There is substance in this comment of the learned judges. But, in our opinion, the crux of section 241 lies in sub-section (1) to which we have a~ready referred. The whole scheme of sections 241 to 244 is to be taken together. The idea is that as and when the economy of a particular area develops, the State Government should see to it that arrangements for its administration also improve and provide for more efficient local administration. Thus section 241(1) envisages the criteria of the development of a purely rural area into a township or commercial centre, with increased trade and commerce, with increased population and with increased economic activities justifying its PG NO 479 evolution into a notified area to which a certain amount of local autonomy could be granted. The whole process, however, is one of gradual evolution. The Act does not contemplate the sudden conferment of all types of local administrative powers to a notified area committee. The provisions of sections 24l to 244 of the Act make it clear that it is really an evolutionary process. The provisions that a notified area will exercise only such powers as are entrusted to it by the State Government under section 242 and that only such provisions of the Act as the State Government considers fit can be applicable to a notified area show that the principal consideration is the economic and administrative viability of the particular unit to look after its own local affairs. If the area develops further and further and proves viable and self sufficient economically and efficient administratively it may be eventually converted into a municipal area. If on the other hand, the area does not come up to expectations is not financially solvent or is administratively weak, the status quo ante may have to be restored. If section 244 is read in this context and background, it will be very clear that it is intended as a power enabling the Government to go forward or backward in the process of this evolution depending upon the circumstances of each case. It may turn out that a particular area is not economically viable and hence the notification issued under section 241 has to be cancelled. It may be that too much powers are found to have been entrusted to a particular notified area committee and some of the powers need to be withdrawn. It may again be that this type of administration does not property work in a particular situation and that the experiment undertaken in that particular area is somewhat pre-mature. The situations, in which a cancellation or modification of a notification under section 241 may be called for, will be numerous and impossible to be spelt out in a statutory provision. But all the same if one considers that sections 241 to 244 form a compact group of sections of the Act which deal with a particular topic and if one bears in mind the contents of sections 241 to 244, it will

be clear that the power of cancellation or modification is not an arbitrary and unguided one but is one intended to be exercised in the light of the implementation of the notification in a particular local area having regard to the main principle and purpose behind section 241. It is, therefore, difficult to agree with the High Court that section 244 contains no guidelines whatever or that the guidelines admittedly discernible in section 241 cannot be read into section 244 also.

It is necessary to make a reference to the decision in Dewan Chand's case. That decision was rendered in a different context of provisions to which we have earlier referred. From the scheme of Chapter II of the Act, it could PG NO 480 be seen that a specific procedure was prescribed for the constitution of a municipality as well as for the exclusion therefrom, or inclusion therein, of other areas. Section 5 to 9 are elaborate provisions under which, before any one of these exercises was undertaken, the inhabitants of the area were entitled to participate therein and the State Governments were to issue the notification only after considering such objections. In particular, if it was decided that a particular local area should be excluded from a municipality, the prescribed procedure had to be gone through. It was in this context that section 10 and the purpose thereof became unintelligible One could not even conceive in what respects this would be different from the power to exclude an area from a municipality for which an elaborate procedure was laid down. It was in these circumstances that the High Court held that Section 10 contained a drastic power with no limits or guidelines regarding the circumstances in which the power could be invoked. We may mention that, subsequent to this decision, section 10 of the Act has been amended.

We have pointed out that the scheme of sections 241 to 244 is totally different and should be treated as an integral whole. Section 244 has to be understood, as section 10 was viewed, in the context of the preceding sections and, doing so, we are of opinion that there are sufficient guidelines or indications available in the statute as to the circumstances in which the power can be invoked. It cannot be said to be a naked and arbitrary power. In the present case, the appellants have attempt of to explain the reasons why the order of cancellation of the notifications was issued. After pointing out that 31 areas were cancellation as notified areas in the State, the counter affidavit of the State Government filed before the High Court proceeded to say that:

> ". . . . . the working of all the 31 Notified Area Committees ill the State was considered and examined thoroughly because it was felt that these Committees art:
>
> not functioning properly and in other words failed to provide civic amenities to the residents of the area with their lean resources. In the case of some of the Notified Area Committees the income was not sufficient to justify their existence because major portion of the income was spent on the establishment and the development of the area remained altogether neglected, Area very purpose for which the Notified Area Committees were created for providing better civil amenities to the area stands forfeited. Moreover, the Notified Area Committee lacked democratic PG NO 481 character because it consists of nominated members which were not liked by the inhabitants of the area concerned. The State Government also received many representations from the inhabitants of the entire area for the dissolution of the Notified Area Committee, Nadala, Bholath, Begowal and Dhilwan for the dissolution

> of the Notified Area Committees in these areas. The State Govt. after having through probe and proper application of mind came to the conclusion that the Notified Area Committee, Nadala has failed to achieve the very purpose for which it was created and its income could not justify its existence and as such the State Govt. exercised its legal right to cancel the notification constituting the Notified Area Committees u/s 244 of the Act, having less than annual income of Rs.5 lakhs. As such the State Government exercised its legal right to cancel the notification constituting Notified Area Committee u/s 241 of the Act. The action taken by the State Govt. is perfectly legal and in accordance with the provisions of law. The provisions of Section 344 of the Act as already stated in para 5 of the written statement provide sufficient guideline to the State Government and are not arbitrary in nature."

It is not necessary for us to go into the correctness or otherwise of these averments because as we have already mentioned. what was argued before us was a pure question of law that section 244 does not contain any indications or gaudiness for the action to be taken there-under. No questions of fact are at all involved in the contention as urged before: the High Court and before us. We are not called upon to express any opinion as to whether, in the case of any particular notification involved in these cases, the cancellation was, justified or not in the light of the foregoing discussion and in the light of what has been stated in the counter-affidavit. It is sufficient for that present purposes to say that Section 244 contains sufficient guidelines to act thereunder and it is not possible to accept the plea that section 244 itself is ultra vires and should be declared void.

For the reasons discussed above, we hold that the provisions of section 244 of the Act are valid. They cannot be said to be had being violative of article 14 of the Constitution. The appeals are allowed. There will, however, be no order as to costs.

S.L. Appeals allowed.