Sri Venkata Seetaramanjaneya Rice ... vs State Of Andhra Pradesh Etc on 25 March, 1964

Equivalent citations: 1964 AIR 1781, 1964 SCR (7) 456

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Bench: P.B. Gajendragadkar, K.N. Wanchoo, J.C. Shah, N. Rajagopala Ayyangar, S.M. Sikri

PETITIONER:
SRI VENKATA SEETARAMANJANEYA RICE ANDOIL MILLS AND ORS.

Vs.

RESPONDENT:
STATE OF ANDHRA PRADESH ETC.

DATE OF JUDGMENT:
25/03/1964

BENCH:
GAJENDRAGADKAR, P.B. (CJ)
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GAJENDRAGADKAR, P.B. (CJ)
WANCHOO, K.N.
SHAH, J.C.
AYYANGAR, N. RAJAGOPALA
SIKRI, S.M.

CITATION:
1964 AIR 1781 1964 SCR (7) 456
CITATOR INFO :
RF 1967 SC 997 (22,34,45,51)
R 1989 SC2105 (7)

ACT:
Madras Essential Arcticales Control and Requisitioning (Temporary) Powers Act, 1949 (Mad. 29 of 1949), ss. 3(1) (2)Applicability of the Act to electricity supplied by State-Intention of Legislature, consideration of-Notified orders enhancing agreed rate by State-Whether valid under s. 3-Regulate, meaning of-Increase of tariff-If reasonable and in interest of general public-Whether contravenes Arts. 14 and 19(1)-Constitution of India, Arts. 14 and 19(1)(g) and (f).

HEADNOTE:

Electricity was supplied to the appellants by the respondent-state for many years past, and several individual agreements were passed between them prescribing the terms and conditions for the supply. One of these terms stipulated the rate at which the supply had to be charged. These agreements did not contain any provision authorising the State to increase the rates during their operation. The respondent-state issued two notified orders enhancing the agreed rates. The orders indicated that the main reason which inspired the increase was that the existing electricity tariffs which were formulated several years before, had become completely uneconomic and meant continuously growing loss to the State. A large number of consumers challenged the validity of the two orders in the High Court under Art. 226. The writ petitions were allowed and the respondent was restrained from enforcing the revised rates. These decisions were challenged by the respondent by appeals in the High Court, which took a different view and dismissed the writ petitions. On appeals to this Court, it was contended, inter alia that the respondent had no authority to increase the rate changing this important term of the contract by taking recourse to s. 3(1) of the Madras Essential Articles Control and Requisitioning (Temporary) Powers Act, that the power to regulate the supply of essential articles had to be applied in regard to transactions between citizens and citizens and could not be applied to an essential article which the State itself supplied; that the power to regulate conferred on the respondent by s. 3(1) could not include the power to increase the tariff rate, that the notified orders were invalid as they contravened the provisions of Art. 19(1)(f) and (g) and that of Art. 14 of the Constitution.

Held: (i) The challenge to the validity of the notified orders on the ground that they were outside the purview of s. 3(1) of the Act could not be sustained.

The State is not bound by a statute unless it is so provided in express terms or by necessary implication. In applying this rule, the court must attempt to ascertain the intention of the Legislature by considering all the relevant provisions of the statute together and not concentrating its attention on a particular provision which may be in dispute. Where the question is not so much as to whether the State is bound by the statute, but whether it can claim the benefit of the provision of a statute, the same rule of construction

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may have to be applied' Where the statute may be for the public good and by claiming the benefit conferred on it by its provisions the State may allege that it is serving the public good, it would still be necessary to ascertain whether the intention of the legislature Was to make the relevant provisions applicable.

Director of Rationing and Distribution v. Corporation of Calcutta, [1961] 1 S.C.R. 158 and Province of Bombay v. Municipal Corporation of the City of Bombay, [1945-46] L.R. 73 I.A. 271, applied.

(ii) In construing s. 3 of the Act of the usual rule of construction must be adopted, s. 3 must not be read in isolation, but must be considered in its proper setting and due regard must be had for the other provisions of the Act and its general scheme and purpose.

(iii) The purpose of the Act is to secure the supply of essential articles at fair prices, it would be irrelevant as to who makes the supply; what is relevant is to regulate the supply at a fair price.

(iv) It is well-settled that the function of a clause like cl. (2) of s. 3 is merely illustrative. In other words the proper approach to adopt in construing cls. (1), and (2) of s. 3 is to assume that whatever is included in cl. (2) is also included in cl. (1).

King Emperor v. Sibnath Banerjee, 72 I.A. 241 and Santosh Kumar Jain v. State, [1951] S.C.R. 303, applied.

(v) The word 'regulate' is wide enough to confer power on the State to regulate either by increasing the rate or decreasing the rate, the test being what is it that is necessary or expedient to be done to maintain, increase or secure supply of the essential articles in question and to arrange for its equitable distribution and its availability at fair prices.

(vi) Having regard to all the circumstances in this case, the change made in the tariff were reasonable and in the interests of the general public.

(vii) There was absolute no material on the record of the appeals on which a plea under Art. 14 of the Constitution could even be raised.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 429 439, 591, 592, 597, 689, 694, 724, 725 and 727 of 1962 and 15, 139, 140, 159, 267 to 269, 331, 334, 337, 340, 342, 343, 347, 352, 389, 746 and 748 of 1963. Appeals from the judg- ments and order dated December 19, 1958, March 7, 1959, March 11, 1959, April 22, 1959, April 24, 1959 in Writ Appeals Nos. 135, 122 of 1957 etc. T. V. R. Tatachari, for the appellants (in C.A. Nos. 429 to 434 and 694 of 1962 and C.A. No. 269/63).

M. C. Setalvad, P. Kodandaramayya, E. V. Bhagarathi Rao and T. V. R. Tatachari, for the appellants (in C.A. Nos. 438 and 439/62).

M. C. Setalvad, and R. Ganapathi Iyer, for the appellants (in C. A. Nos. 436, 437, 724, 725 and 727/62).

K. Srinivasamurthy and Naunit Lal, for the appellants (in C. As. Nos. 591, 582, 597, and 689/62 and 140, 267 and 268/63). K. Jayaram and R. Thiagarajan, for the appellants (in C.A. Nos. 139, 159, 330, 334, 337, 340, 342, 343, 347 and 352/63).

K. R. Chaudhuri, for the appellants (in C.A. Nos. 15 and 389 of 63).

A. Vedavalli and A. V. Rangam, for the appellant (in C. As. Nos. 746, and 748 of 63).

D. Narsaraju, T. Anantha Babu, M. V. Goswami and B. R. G. K. Achar, for the respondents (in C. As. Nos. 435437, 724, 725 and 727/62).

D. Narsaraju, T. Anantha Babu, Yogeshwar Prasad and B. R. G. K. Achar, for the respondents (in C. As. Nos. 429434, 438, 439 and 694/62 and 269 of 63).

D. Narsaraju, T. Anantha Babu, M. S. K. Sastri and B. R. G. K. Achar, for the respondents (in C.A. Nos. 591, 597 and 689/62 and 140, 267 and 268/63) and respondent No. 1 (in C.A. No. 592/62).

J.V.K. Sharma and T.Satyanarayana, for respondent No. 2 (in C.A. No. 592/62).

D. Narsaraju, T. Anantha Babu, R. Gopalakrishnan and BR. G. K. Achar, for the respondents (in C. As. Nos. 15, 139, 331, 334, 337, 340, 342, 343, 347, 352, 159, 389 and 746-748 /63).

March 25, 1964. The judgment of the Court was delivered by GAJENDRAGADKAR, C. J.-The principal question of law which arises in this group of 37 civil appeals relates to the construction of section 3 of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949 (No. 29 of 1949) (hereinafter called 'the Act'). The dispute which has given rise to these appeals centres round the validity of two notified orders issued by the respondent, State of Andhra Pradesh on the 28th January, 1955, and 30th January, 1955 respectively, and it is the contention of the appellants that the said notified orders are outside the purview of s. 3. The appellants in all these appeals are supplied electricity by the respondent for many years past, and several individual agreements have been passed between them and the respondent during the period 1946 to 1952 prescribing the terms and conditions on which the said supply would be made to them. One of these terms stipulated the rate at which the supply of electricity had to be charged against the consumers. The impugned orders have purported to increase this rate, and the appellants contend that the respondent had no authority to change this important term of the contract to their prejudice by taking recourse to s. 3(1) and issuing notified orders in that behalf. That, in substance, is the nature of the controversy between the parties before us.

It appears that the Government of Madras, and subsequently, its successor, the respondent, had a single power grid system for the whole State comprising Tungabhadra and Machkund Hydro Electric System and the Thermal System of Nellore. The entire energy was integrated into one power system. The Government of Madras entered into agreements with several consumers in the State, including the appellants, for the supply of energy in bulk at the specified rates which were called tariffs, for the years 1951 and 1952. These agreements were to be in operation for ten years. It is

common ground that these agreements did not contain any provision authorising the Government to increase the rates during their operation. The charges fixed were calculated at graded regressive rates according to increasing slabs of consumption units, and the overall unit rates including the demand charge were not to exceed 66 annas without prejudice to the monthly minimum payment and the guaranteed consumption. The Government of Andhra then issued the two impugned orders relating to Machkund and Nellore, and Tungabhadra and Chittoore District areas respectively, enhancing the agreed rates. These enhanced rates were specified in Schedules A and B attached to the said orders. According to these orders, these increased tariffs were to take effect from the date on which meter readings were to be taken in the month of February, 1955 and were to operate for the future. The increase in the rates effected by these orders was thus to operate not retrospectively, but prospectively. The impugned orders indicate that the main reason which inspired the said orders was the knowledge that the existing electricity tariffs which were formulated nearly 15 years before, had become completely uneconomic; the charges of labour and the price level of all material had enormously increased; and that in- evitably meant continuously growing loss to the Government. The Accountant-General made queries in respect of this recurring loss and drew pointed attention of the State Government to the deficits in the working of the Power System. Accordingly, the question of revision of tariffs was considered in the State of Madras, but was not decided because reorganisation of the States was then in contemplation. After the respondent State wits born, its Chief Engineer sumbitted proposals for revisions of tariffs in all the areas covered by the relevant schemes. That is how the impugned notified orders came to be issued by the respondent.

The appellants were naturally aggrieved by these orders, because they added to their liability to pay the rates for the supply of electricity by the respondent to them. Accordingly, a large number of consumers moved the Andhra Pradesh High Court under Art. 226 of the Constitution, and challenged the validity of the two impugned orders. The learned single Judge who heard these writ petitions upheld the appellants' plea and came to the conclusion that the impugned orders were not justified by the authority conferred on the respondent by s. 3 of the Act, and were unauthorised, illegal and inoperative. In the result, the writ petition filed by some of the appellants before us were allowed and an appropriate order was issued against the respondent restraining it from enforcing the revised tariff rates.

These decisions were challenged by the respondent by preferring several Letters Patent Appeals. The Division Bench which heard these Letters Patent Appeals took a different view; it held that on its fair and reasonable con- struction, s. 3 did confer authority on the respondent to issue the impugned orders, and so, the challenge made to the validity of the said orders could not be sustained. That is why the Letters Patent Appeals preferred by the respondent were allowed and the writ petitions filed by the appellants were dismissed. It is against these orders that the appel- lants have come to this Court with a certificate issued by the said High Court.

After the Division Bench had pronounced its decision on this point, several other writ petitions were filed by other consumers, and naturally the single Judge who heard them followed the decision of the Division Bench and dismissed the said writ petitions. The consumers who were aggrieved by the decision of the learned single Judge were then allow- ed to come to this Court directly by special

leave, because the points which they wanted to raise were exactly the same as were raised by the other consumers who had come to this Court against the principal decision of the Division Bench. The present group of appeals thus consists of matters which have been decided by a Division Bench of the Andhra Pradesh High Court, as well as those which have been decided by a learned single Judge, and they all raise the same common question about the construction of s. 3 of the Act, and the validity of the impugned notified orders.

Before addressing ourselves to the question of construing s. 3, it is necessary to recapitulate the legislative history of the Act. It will be recalled that during the Second World War, the Government of India passed the Defence of India Act (No. 35 of 1939) on the 29th of September, 1939. By virtue of the powers conferred on the Central Government by s. 2 of the said Act, several Rules came to be framed by Central Government known as the Defence of India Rules. Amongst these Rules was Rule 81(2) which clothed the Central Government with power to issue orders which may appear to the Central Government to be necessary or expedient for securing "the defence of British India, or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community". These Rules were in operation during the continuance of the war. After the war came to an end, it was realised that the eco- nomic situation in the country continued to be serious, and for the proper regulation of economic affairs, it was thought necessary to continue the orders issued under the Defence of India Rule 81(2), because shortage of supply of essential articles was very much in evidence then. The purpose of continuing the orders was to ensure the supply of essential articles to the community at large at reasonable prices and to secure their equitable distribution. In due course, the Defence of India Act came to an end in 1946, but the Central Legislature thought it necessary to pass another Act to take its place and that was the Essential Supplies (Temporary Powers) Act, 1946 (No. 24 of 1946). On the same lines, the Madras Legislature passed an Act in 1946 (No. 14 of 1946). Later, it was replaced by Act No. 29 of 1949 with which we are concerned in the present appeals. After the respondent State was created under the Scheme of Reorganisation of States, it passed Act No. 1 of 1955 and this Act received the assent of the President on the 21st of January, 1955. By this Act, the Legislature of the respondent State virtually adopted the Madras Act. As a result, the impugned orders are, in substance, referable to s. 3 of the Madras Act.

Before we part with this topic, it may be mentioned that when the Madras Act was passed, its Schedule gave a list of the essential articles as defined by s. 2(a) and these articles were 12 in number. When the Andhra Legislature passed Act No. 1 of 1955 and adopted the Schedule of essential articles for its purpose, the number of these articles was reduced to two; they are charcoal and electrical energy. The Andhra Act was originally intended to be in operation until the 25th January, 1956, but it was later continued from time to time. It is common ground that when the impugned orders were passed, section 3 of be Act was in operation and the present appeals have been argued on the basis that the said section is constitutionally valid, so that the main point which calls for our decision is the construction of the said section.

Mr. Setalvad for the appellants contends that in construing s. 3, we ought not to concentrate on the words used in s. 3 in isolation, but must look at the said section along with the other provisions of the Act. The rule of harmonious construction, he urges, requires that we must so construe all the provisions of the Act as to avoid any conflict or repugnancy between them. So construed, section 3,

according to him, cannot be said to confer power on the respondent to enhance the tariff rate chargeable against the appellants in respect of the supply of energy made by the respondent to them. The whole scheme of the Act indicates clearly that the power to regulate the supply of an essential article which has been conferred on the State Government has to be applied in regard to transaction between citizens and citizens and cannot be applied to an essential article:

> which the State itself supplies. It would be odd, he suggests, if the State Government is given the power to issue a notified order regulating the rates at which it should supply energy which it itself produces. Therefore, the dealings by the State Government in the matter of supply of energy to the consumers should be deemed to be outside the provisions of s. 3, and that would make the impugned orders invalid.
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> The question as to whether the State Government would be bound by the provisions of legislative enactments passed by the State Legislature has sometimes led to difference in judicial opinion; but the decision of this Court in the Director of Rationing and Distribution v. The Corporation of Calcutta and Ors.(1) must be taken to have settled this question. The effect of the majority decision rendered in that case is to recognise the validity of the rule of interpretation of statutes enunciated by the Privy Council in Province of Bombay v. Municipal Corporation of the City of Bombay (2) and that rule is that the State is not bound by a statute unless it is so provided in express terms or by necessary implication. In applying this rule, it is obviously necessary that the Court must attempt to ascertain the intention of the Legislature by considernig all the relevant provisions of the statute together and not concentrating its attention on a particular provision which may be in dispute between the parties. If, after reading all the relevant provisions of the statute, the Court is satisfied that by necessary implication the obligation imposed by the statute should be enforced against the State, that conclusion must be adopted. If there are express terms to that effect, there is, of course, no difficulty. In dealing with this vexed question, sometimes it is necessary also to enquire whether the conclusion that the State is not bound by the specific provision of a given statute, (1) [1961] 1 S.C.R. 158.
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> (2)73 I.A. 271.

would hamper the working of the statute, or would lead to the anomalous position that the statute may lose its effi- cacy, and if the answer to either of these two questions indicates that the obligation imposed by the statute should be enforced against the State, the Court would be inclined to infer by necessary implication that the State, in fact, is bound by the statute.

Where, however, the question is not so much as to whether the State is bound by the statute, but whether it can claim the benefit of the provision of a statute, the same rule of construction may have to be applied. Where the statute may be for the public good, and by claiming the benefit conferred on it by its provisions the State may allege that it is serving the public good, it would still be necessary to ascertain whether the intention of the legislature was to make the relevant provisions applicable to the State. This position is also established by the decision of the Privy Council in

Province of Bomboy(1) and it still continues to be a law in this Country.

Incidentally, we may add that where the Crown seeks to take advantage of a statute and urges that though it is not bound by the statute, it is at liberty to take advantage of it, English Law does not easily entertain such a plea, though there are observations made in some judicial pronouncements to the contrary. As Halsbury points out, "it has been said that, unless it is expressly or impliedly prohibited from doing so, the Crown may take advantage of a statute not- withstanding that it is not bound thereby." Having made this statement, Halsbury has added a note of caution by ,,saying that "there is only slender authority for this rule, and since both the rule and such authority as does exist have also been doubted, the rule cannot, perhaps, be regarded as settled law(2)".

To the same effect is the comment made by Maxwell when be quotes with approval the view expressed by Sir John Simon that the decisions which recognise the right of the Crown to take advantage of a statutory provision "start with a passage in an unsuccessful argument of a law officer which was not even relevant to the case before the court, but which has been taken out by a text-writer and repeated for centuries until it was believed that it must have some foundation(3)".

Therefore, in construing s. 3 of the Act, we cannot permit the respondent to rely upon the artificial rule that since (1) 73 T.A. 271.

(2)", Halsbury's Laws of England, Vol. 36, p. 432, para 654. (3) Maxwell on Interpretation of Statutes, 11th Ed. p. 136 the respondent claims a benefit under s. 3, that construc- tion should be adopted which supports such a claim. Thus, the position is that when we construe s. 3, we must adopt the usual rule of construction; we must not read s. 3 in isolation, but must consider it in its proper setting and must have due regard for the other provisions of the Act, and its general scheme and purpose.

Reverting then to Mr. Setalvad's main argument, it may be conceded that when the Act was passed in 1949, mainly and primarily the power conferred by s. 3 on the State Government must have been intended to regulate the supply of essential articles made by one citizen to another. The State had not then entered commercial activities on a large scale and when s. 3(1) contemplated notified orders issued for the purpose of securing equitable distribution and availability at fair prices of essential articles, the legislature could not have in its mind supply of essential articles made by the State itself. That is one point in favour of Mr. Setalvad's construction. If we examine the scheme of the Act, it may also have to be conceded that some of the provisions may not be applicable to the State. Take, for instance, the provision of s. 4 which relate to the powers of requisitioning and acquisition of properties, and the subsequent two sections that deal with payment of compensation and release from requisition respectively; these provisions may not be applicable to the State. Take, again, the control of agriculture which is contemplated by s. 7; it would not be applicable to the State. Section 12 which deals with penalties may also be inapplicable to the State, and so, would s. 13 be inapplicable, because it deals with abetment and assistance of contravention of the provisions of the Act. Therefore, the general scheme of the Act and some of its provisions seem to suggest that the State may not have been within the contemplation of the Act. But it is obvious that the rule of harmonious construction on which Mr. Setalvad has solely rested his case, can be invoked

successfully by him only if the words used in s. 3 are capable of the construction which he suggests. If the said words are capable of two constructions one of which supports the appellants' case and the other that of the res- pondent, it would be legitimate to adopt the first construc- tion, because it has the merit of harmonising the provisions of s. 3 with the general scheme and purpose of the Act. On the other hand, if the words used in s. 3(1) are not reason- ably capable of the construction for which the appellants contend, then it would be unreasonable and illegitimate for the Court to limit the scope of those words arbitrarily solely for the purpose of establishing harmony between the assumed object and the scheme of the Act. Therefore, it is necessary to examine the words used in s. 3 very carefully. Let us first read s. 3(1):-

> "The State Government so far as it appears to them to be necessary or expedient for maintaining, increasing or securing supplies of essential articles or for arranging for their equitable distribution and availability at fair prices may, by notified order, provide for regulating or prohibiting the supply, distribution and transport of essential articles and trade and commerce therein".

Sub-section (2) provides that without prejudice to the gene- rality of the powers conferred by sub-section (1), an order made thereunder may provide for objects specified in clauses

(a) to (k). The majority of these objects may not be appli- cable to the State, while, conceivably, some may be appli- cable to it.

Section 3(1) is obviously intended to secure supplies of essential articles and to arrange for their equitable distribution and availability at fair prices. If electrical energy is one of the essential articles mentioned in the Schedule, there can be no difficulty in holding that a notified order can be issued under s. 3(1) for regulating the supply of the said energy and making it available at a fair price. Indeed, it is not disputed and cannot be disputed that if electrical energy is produced by a private licensee and is then supplied to the consumers, such a supply would fall within the mischief of s. 3(1), and the terms on which it can and should be made to the consumers can be regulated by a notified order. There can also be no serious dispute that the terms of a contract entered into between a private supplier of electrical energy and the consumer could be modified by a notified order. Section 3(1) undoubtedly confers power on the State Government to vary and modify contractual terms in respect of the supply or distribution of essential articles. If that be so, on a plain reading of s. 3(1) it seems very difficult to accept the argument that the supply of electrical energy which is included in s. 3(1) if it is made, by a private producer should go outside the said section as soon as it is produced by the State Government. The emphasis is not on who pro- duces and supplies, but on the continuance of the equitable distribution and supply of essential articles at fair prices. If the object which s. 3(1) has in mind is such equitable distribuiton and availability at fair prices of essential articles, then that object would still continue to attract the provisions of s. 3(1) even though the essential article may be produced by the State and may be supplied by it to the consumers.

The words used in s. 3(1) are so clear, unambiguous and wide that it would be unreasonable to limit their scope arti- ficially on the ground that by giving effect to the wide language of the section, we

might reach a result which is not completely harmonious or consistent with the assumed object and purpose of the Act. Indeed, as we have just indicated, if the purpose of the Act is to secure the supply of essential articles at fair prices, it would be irrelevant as to who makes the supply; what is relevant is to regulate the supply at a fair price. Therefore, we are not prepared to accede to Mr. Setalvad's argument that s. 3(1) does not confer on the respondent the power to modify the terms of agreements between it and the appellants.

Mr. Setalvad, no doubt, contended that in construing s. 3(1), we may have regard to the fact that most of the clauses under s. 3(2) would be inapplicable to the respondent State, and so, he virtually suggests that even though the words in s. 3(1) may be wide, their width should be controlled by the limited scope of the clauses prescribed by subsection (2). We are not prepared to accept this argument. After the decision of the Privy Council in King Emperor v. Sibnath Banerjee(1), it is well-settled that the function of a clause like clause (2) of s. 3 merely illustrative (vide also Santosh Kumar Jain v. The State(3)). In other words, the proper approach to adopt in construing clauses (1) and (2) of s. 3 is to assume that whatever is included in clause (2) is also included in clause (1). That is not to say that if the words of clause (1) are wide enough to include cases not included in clause (2), they must, for that reason, receive a narrower construction. Therefore, we must ultimately go back to clause (1) to decide whether the supply of electrical energy made by the respondent to the appellants can be regulated by a notified order issued under it or not, and the answer to that question must, in our opinion, be in the affirmative. In this connection, it may be pertinent to refer to s. 3(2)(b) which provides for controlling the prices at which any essential article may be bought or sold. It is not easy to see why this clause cannot take in articles which may be purchased or sold by the State. The clause is so worded that the transactions of sale and purchase of all essential articles would be included in it. It is true that where the State wants to sell its essential articles, it may be able to regulate the prices and control them by means of an executive order; but that is not relevant and material in construing the effect (1) 72 I.A. 241 at p. 248.

(2) 1951 S.C.R. 303.

of the words; if the words take within their sweep essential articles sold by the State, there is no reason why it should not be competent to the State to issue a notified order con- trolling the prices in that behalf.

In regard to the purchase of essential articles by the State, the position is still clearer. If the State wants to purchase essential articles, power to regulate the prices of such, articles would seem to be clearly included in s. 3(2)(b). In-' deed, during the course of his arguments, Mr. Setalvad did not seriously dispute this position. Therefore, when the State wants to purchase essential articles, it can regulate the price in that behalf by means of a notified order issued under s. 3(1) and that shows that in the cases of both sale and purchase of essential articles by the State, s. 3(2)(b) read with s. 3(1) would clothe the State with the power to issue the relevant notified order. Then, it was faintly argued by Mr. Setalvad that the power to regulate conferred on the respondent by s. 3(1) cannot include the power to increase the tariff rate; it would include the power to reduce the rates. This argument is en- tirely misconceived. The word "regulate" is wide enough to confer power on the respondent to regulate either by in- creasing the rate, or decreasing the rate, the test being what is it that is

necessary or expedient to be done to maintain, increase, or secure supply of the essential articles in question and to arrange for its equitable distribution and its availability at fair prices. The concept of fair prices to which s. 3(1) expressly refers does not mean that the price once fixed must either remain stationary, or must be reduced in order to attract the power to regulate. The power to regulate can be exercised for ensuring the payment of a fair price, and the fixation of a fair price would inevitably depend upon a consideration of all relevant and economic factors which contribute to the determination of such a fair price. If the fair price indicated on a dispassionate consideration of all relevant factors turns out to be higher than the price fixed and prevailing, then the power to regulate the price must necessarily include the power to increase the price so as to make it fair. That is why we do not think Mr. Setalvad is right in contending that even though the respondent may have the power to regulate the prices at which electrical energy should be supplied by it to the appellants, it had no power to enhance the said price. We must, therefore, hold that the challenge to the validity of the impugned notified orders on the ground that they are outside the purview of s. 3(1) cannot be sustained.

That takes us to the next question as to whether the im- pugned notified orders are invalid, because they contravene the provisions of Art. 19(1)(f) and (g) of the Constitution. The impugned orders have been notified by virtue of the fore, be treated as law for the purpose of Art. 19. We may also assume in favour of the appellants that the right to receive the supply of electricity at the rates specified in the agreements is a right which falls within Art. 19(1)(f) or (g). Even so, can it be said that the impugned notified orders are not reasonable and in the interests of the general public'? That is the question which calls for an answer in dealing with the present contention. It is true that by issuing the impugned notified orders, the respondent has successfully altered the rates agreed between the parties for their respective contracts and that, prima facie, does appear to be unreasonable. But, on the other hand, the evidence shows that the tariff which was fixed several years ago had become completely out of date and he reports made by the Accountant-General from time to time clearly indicate that the respondent was supplying electricity to the appellants at the agreed rates even though it was incurring loss from year to year. Therefore, it cannot be said that the impugned notified orders were not justified on the merits. The prices of all commodities and labour charges having very much increased meanwhile, a case had. certainly been made out for increasing the tariff for the supply of electrical energy. But it could not be possible to hold that the restriction imposed on the appellants' right by the increase made in the rates is reasonable and in the interests of the general public solely because the impugned orders have saved the recurring loss incurred by the respondent under the contracts. If such a broad and general. argument were accepted, it may lead to unreasonable and even anomalous consequences in some cases. This question, however, has to be considered from the point of view of the community at large; and thus considered, the point which appears to support the validity of the impugned orders is that these orders were passed solely for the pur- pose of assuring the supply of electrical energy and that would clearly be for the good of the community at large. Unless prices were increased, there was risk that the supply of electrical energy may itself have come to an end. If the respondent thought that the agreements made with the appel- lants were resulting in a heavy loss to the public treasury from year to year, it may have had to consider whether the supply should not be cut down or completely stopped. It may well be that the respondent recognised its obligation to the public at large and thought that supplying electrical energy to the consumers who were using it for profit-making purposes, at a loss to the public

exchequer would not be reasonable and legitimate, and it apprehended that the legislature may well question the propriety or wisdom of such a course; and so, instead of terminating the contracts, decided to assure the supply of electrical energy at a fair price and that is why the impugned notified orders were issued. We ought to make it clear that there has been no suggestion before us that the prices fixed by the impugned notified orders are, in any sense, unreasonable or excessive, and it is significant that even the revised tariff has to come into operation prospectively and not retrospectively. Therefore,(having regard to all the circumstances in this case, we are disposed to hold that the change made in the tariff by the notified orders must be held to be reasonable and in the interests of the general public.

Mr. Setalvad also attempted to challenge the validity of the impugned orders on the ground that they contravene Art. 14 of the Constitution. In support of this contention, he invited our attention to the allegation made in Writ Petition No. 923 of 1956. In that writ petition, one of the petitioners stated that the rate prescribed under the agree- ments had not changed and had remained stationary as far as consumers under the State Government's licensees were concerned. The affidavit appears to concede that certain ,other licensees had increased their rates, but that increase, it is claimed, was negligible or nominal; and so, the argument was that the rates which are widely divergent between consumer and consumer constitute a contravention of Art. 14. Mr. Setalvad fairly conceded that these allegations are vague and indefinite and no other material has been pro- duced either by the petitioner who has made this affidavit, or by any of the other petitioners who moved the High Court for challenging the validity of the impugned orders. In fact, we do not know what the rates charged by other licensees are and have been, and how they compare with the rates prescribed by the original contracts as well as the rates enhanced by the impugned notified orders. We ought to add that the Division Bench of the High Court appears to be in error when it assumed that the respondent was the sole supplier of electrical energy in the State of Andhra. It is true that the bulk of the energy is supplied by the respon- dent; but there are some other private licensees which are licensed to supply electrical energy to the consumers and in that sense, at the relevant time the respondent was not a monopolist in the matter of supply of electricity. This Court has repeatedly pointed out that when a citizen wants to challenge the validity of any statute on the ground that it contravenes Art. 14, specific, clear and unambiguous alle gations must be made in that behalf and it must be shown that the impugned statute is based on discrimination and that such discrimination is not referable to any classification which is rational and which has nexus with the object in- tended to be achieved by the said statute. Judged from that point of view, there is absolulety no material on the record of any of the appeals forming the present group on which a plea under Art. 14 can even be raised. Therefore, we do not think it is necessary to pursue this point any further. The result is the appeals fail and are dismissed with costs. One set of hearing fees.

Appeals dismissed.