

THE ESSENTIAL SUPPLIES ACT

VALIDITY UPHELD BY SUPREME COURT

(FROM OUR LEGAL CORRESPONDENT.)

NEW DELHI, May 16.

The Constitution Bench of the Supreme Court has held that the Essential Supplies (Temporary Powers) Act, 1946, which had been challenged as unconstitutional, was valid. The Court gave this decision in its judgment delivered on today, by which it dismissed an appeal preferred by Harishankar Jha and his wife, who were arrested at Itarsi by the Railway Police on November 29, 1948, for contravention of Section 7 of the Essential Supplies (Temporary Powers) Act, 1946, read with Clause 100 of the Cotton Textiles (Control and Movement) Order, 1948, against the judgment of the Nagpur High Court which had held the impugned Act valid except for Section Six.

The case against the accused was that they were in possession of new cotton cloth weighing over six pounds which, it was alleged, was being taken by them from Bombay Kanpur without any permit.

Before the trial commenced, the case was withdrawn by the High Court to itself as it involved a decision on constitutional issues, and by order dated September 15, 1953, the High Court upheld the provisions of Sections Three and Four of the Essential Supplies (Temporary Powers) Act as constitutional. It also upheld the constitutionality of the impugned order. Section Six of the Act was held to be inconsistent with the provisions of the Railway Act, but it was held that its constitutionality did not affect the prosecution in this case.

Against this decision of the High Court, the accused came in appeal to the Supreme Court under Articles 132 and 134 of the Constitution. They also appealed against the decision of the High Court holding Section Six of the Act to be unconstitutional.

The validity of the Act was questioned in the Supreme Court by counsel for the appellant, Mr. H. J. Umrigar, on four grounds. Firstly, it was contended by him that Sections Three and Four of the Essential Supplies (Temporary Powers) Act, 1946, and the provisions of the Cotton Textiles Control Order contravened the fundamental right of the appellants guaranteed by Article 19 (F) and (G) of the Constitution. Counsel also contended that Sections Three and Four of the Essential Supplies (Temporary Powers) Act, and in particular Section Four were ultra vires of the Legislature on the ground of excessive delegation of legislative powers.

Mr. Umrigar also contended that Section Six having been found ultra vires of Section Three, was inextricably connected with it and both the provisions should have been declared ultra vires on that ground. He also urged that the impugned Control Order contravened the existing laws, namely the provisions of Sections 27, 30 and 41 of the Indian Railways Act, and was thus void in its entirety.

The respondent challenged the judgment of the High Court that Section Six of the Act was unconstitutional.

The Chief Justice, who delivered the judgment of the Court in the appeal, said that none of the points urged by Mr. Umrigar had any validity.

On the other hand, they were of the opinion that the High Court was in error in declaring Section Six of the Act as unconstitutional.

As the result the Court dismissed the appeal and directed the trial court to proceed expeditiously with the case in accordance with the law.